

1 Interim Photography Permit Application Requirements

Introduction

Under the Marine Mammal Protection Act (MMPA), a permit may be issued for photography of marine mammals in the wild for educational or commercial purposes where the photography activities will not exceed Level B harassment¹. This permit is designed to accommodate professional photographers and filmmakers who have discrete projects and time frames that will result in products such as documentary films or commercial photographs.

This permit is not available for photography directed toward or that may affect marine mammals listed as endangered or threatened under the Endangered Species Act (ESA). Please contact the National Marine Fisheries Service (NMFS), Permits, Conservation and Education Division at (301) 713-2289 for inquiries regarding photography of ESA-listed species.

Application Instructions for Photography (50 CFR 216.42, Reserved) have not yet been proposed. Applicants are provided with the following interim guidance for photography permit applications. This guidance is similar to that required for the General Authorization (GA) because the level of harassment authorized under photography permits and the GA is the same.

Applicants (i.e., the Principal Investigator [PI] or Responsible Party) must submit a permit application to the Chief, Permits, Conservation and Education Division at the address provided below. The PI is the individual primarily responsible for the activities conducted under a photography permit. The PI must have qualifications, knowledge and experience relevant to the type of photographic activities proposed. The Responsible Party is an individual who has the legal authority to bind an organization and who is responsible for supervision of the PI.

Once the submitted application is determined complete, the application will be forwarded to the Marine Mammal Commission for review, and notice of receipt of the application will be published in the *Federal Register* for a 30-day public comment period. Processing of a photography permit may take up to six months.

Please contact the Permits and Conservation Division at the number above if you have any questions regarding preparation of an application for a photography permit.

¹ **Harassment:** Under the 1994 Amendments to the MMPA, harassment is statutorily defined as, any act of pursuit, torment, or annoyance which—

(Level A harassment) has the potential to injure a marine mammal or marine mammal stock in the wild; or, **(Level B harassment)** 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 but which does not have the potential to injure a marine mammal or marine mammal stock in the wild.

Marine Mammal Photography Permit Application

The applicant must provide the following information:

1. The date of the application.
2. The name, address, telephone number, email address, duties, and qualifications of the applicant (i.e., Principal Investigator [PI] or Responsible Party), Co-investigators [CI]², and other personnel (e.g., boat handlers) to be conducting the proposed photography activities. Provide a curriculum vitae, resume, or summary of qualifications for each individual, which must include accomplishments and experience relevant to the proposed activities each person will be performing.
3. The species or stocks of marine mammals that may be photographed, and any other species that may be incidentally disturbed or harassed by the activities. The description must include the species name (common and scientific names), number of animals that may be photographed, and number of animals that may be indirectly affected during photographic activities. Also include the number of times the animals may be approached and photographed and incidentally harassed within a specified time period.
4. The geographic location(s) in which the photography is to be conducted. Locations should be identified as specifically as possible within a general area (e.g., specific islands, bays, and latitude/longitude, within a specified geographic region or state). Include a map of the area if available. Indicate whether the location you will be working in has been given any special status (e.g., National Marine Sanctuary, State Reserve, etc.).
5. The time periods over which the photography will be conducted, including start date, approximate dates and/or field seasons if appropriate, and the duration of the overall photography project.
6. The rationale and objectives for such activity and how the products will be made available to the public.
7. The type of photography or filming to be performed and methods to be used. This information includes, but is not limited to, the following: platforms to be used (e.g., small boat, helicopter), description of photographic equipment (e.g., digital camera with telephoto lens and size of lens), deployment techniques if applicable, and approach distances to animals, etc. Include a justification of how such activities will result in only taking by Level B harassment of marine mammals and will not disturb, harass, or harm ESA-listed species.

² **Co-investigator** means the on-site representative of a principal investigator. CI's are individuals who are qualified and authorized to conduct or directly supervise activities in the absence of the PI. CI's assume the role and responsibility of the PI in the PI's absence.

NOTE: NMFS may determine that certain activities, such as underwater photography or filming activities, may exceed Level B harassment. In these cases, the activities would not be authorized.

8. A description of the anticipated responses the subject marine mammals will have to the proposed photography and likely impacts on any other species that may be incidentally affected during the proposed activities.

9. The application must include the following certification statement, signed and dated by the applicant:

"I hereby certify that the foregoing information is complete, true and correct to the best of my knowledge and belief. I understand that this information is submitted for the purpose of obtaining a permit under the Marine Mammal Protection Act of 1972 (16 U.S.C. 1361-1407) and regulations (50 CFR Part 216). I also understand that any false statement may subject me to the criminal penalties of 18 U.S.C. 1001, or to the penalties provided under the Endangered Species Act of 1973, the Marine Mammal Protection Act of 1972, or the Fur Seal Act of 1966, whichever are applicable."

Please send an original signed photography permit application, one copy of the completed and signed application, and an electronic copy of the application to the following address:

Chief, Permits Conservation and Education Division
Office of Protected Resources, F/PR1
NOAA/National Marine Fisheries Service
1315 East-West Highway, Room 13705
Silver Spring, MD 20910
Phone: (301) 427-8401
Fax: (301) 713-0376

Additional Information:

Under Section 104(c)(6)the Marine Mammal Protection Act (MMPA), a permit may be issued for photography of marine mammals in the wild for educational or commercial purposes where the photography activities do not exceed Level B harassment. Application Instructions for Photography (50 CFR 216.42, Reserved) have not yet been proposed. MMPA section 104 is available at the following web site: <http://www.nmfs.noaa.gov/pr/pdfs/laws/mmpa104.pdf>.

Paperwork Reduction Act Statement:

The information requested in this application is required and is used to determine whether the proposed activity is likely to exceed Level B harassment of a marine mammal in the wild, whether the photography methods are adequate to meet the project objectives, whether the applicants are qualified to carry out the proposed activities, and how the products of such activities will be made available to the public.

Public reporting burden for this collection of information is estimated to average 10 hours per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to the Chief, Permits Conservation and Education Division, Office of Protected Resources, F/PR1, NOAA/National Marine Fisheries Service, 1315 East-West Highway, Silver Spring, MD 20910.

The permit application and any associated documents, including any reports required under the permit, are considered public information and as such, are subject to the Freedom of Information Act.

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