

# General Authorization Letter of Intent and Photography Permits - Justification

**OMB No. 0648-0084**

**Expires: mm/dd/yyyy**

## Background

Under section 104(c)(3)(C) of the MMPA, as amended, persons may be authorized under the General Authorization (GA) to take marine mammals in the wild by Level B harassment<sup>1</sup>, as defined in 50 CFR 216.3, for purposes of *bona fide* scientific research. Interested persons are required to submit a letter of intent (LOI) in accordance with the interim final rule published on October 3, 1994, and submit certain information outlined at 50 CFR 216.45(b) and provided in the instructions.

Under section 104(c)(6) of the 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 harassment. 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. Regulations for photography permits (50 CFR 216.42, Reserved) have not yet been proposed. Applicants are provided with guidance similar to that required for the GA because the level of harassment authorized under photography permits and the GA is the same.

The information requested in these applications is required and is used to determine whether the activities described are likely to exceed Level B harassment of a marine mammal in the wild, whether the activities will be conducted in a humane manner, and whether the purpose of the activities are consistent with the MMPA and implementing regulations.

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<sup>1</sup> **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.

Persons issued a Letter of Confirmation (LOC) under the GA or a photography permit must conduct the activities as described in the LOI or photography application, respectively. Activities authorized are limited to those conducted for the purposes, by the means, in the locations, and during the time periods described in the application.

Regulations implementing the GA may be found at 50 CFR 216.45 [59 FR 50376, Oct. 3, 1994] and are available at the following web site: <http://www.gpo.gov/>.

MMPA section 104 is available at the following web site:  
<http://www.nmfs.noaa.gov/pr/pdfs/laws/mmpa104.pdf>.

### Pre-application Guide (PAG)

The information obtained when filling out the PAG is necessary to determine if the appropriate authorization or permit needed.

### Project Information

#### ***File Number***

Automatically generated by APPS. This number is necessary for identification of the application in the APPS system/database, during correspondence with the applicant, and to identify the administrative record. This number is also used as the LOC or permit number when issued.

#### ***Project Title*** (enter up to 255 characters)

Necessary for identification of subject matter.

#### ***Project Status***

Automatically selected by APPS based on answers in PAG.

#### ***Previous Federal or state permit #***

Not required. If entered, this information provides permit analysts with the applicant's previous permit or authorization number to determine compliance.

#### ***Permits Requested***

Automatically selected by APPS based on answers in PAG.

#### ***Where will the activities occur?***

One or more general locations will be listed based on answers in the PAG. The application must specify the geographic locations in which the research is to be conducted. This information is necessary for considering impacts to protected species and for conducting the appropriate environmental analyses and assessment of impacts to the species or stock. Activities authorized are limited to those conducted for the purposes, by the means, in the locations, and during the time periods described in the LOI. Applicable statute/regulations: MMPA section 104(c)(3)(C)(ii), and 50 CFR 216.36(a)(1)(iii), 216.45 (b)(2)(iii), 216.45(d)(1).

### ***Research Timeframe and Sampling Season/Project Duration***

The applications must specify the period of time over which the activities will be conducted. LOC's and permits are valid for five years unless a shorter time period is requested. This information provides a basis to determine (1) whether it is likely that the objectives will be met during the time allotted with the available resources; (2) when the LOC or permit is needed (i.e., the start date); (3) impacts to the affected species during sensitive periods such as nursing and breeding; and (4) potential cumulative impacts that may arise from multiple holders working on the same species, in the same location, and at the same time. Applicable statute/regulations: MMPA sections 104(c)(3)(C), 104(c)(6), and 50 CFR 216.35(b), 216.45(b)(2)(iv).

### **Project Description**

#### ***Project Purpose: Hypothesis/Objectives and Justification***

For the GA, this information is required to determine the purpose of the research and how the proposed research qualifies as “*bona fide* scientific research.” For photography permits, to determine the takes will be used for valid commercial or educational photography purposes. Applicable statute/regulations: MMPA sections 104(c)(3)(C), 104(c)(6), and 50 CFR 216.45(a).

#### ***Project Description***

This section requires the applicant to describe the methods to be used to conduct the research. For the GA, this information is used to determine if the research is “*bona fide*” and for the GA and photography permits, this information is used to determine whether the activities are humane, do not present any unnecessary risks, and will only result in Level B harassment of marine mammals. Applicable statute/regulations: MMPA sections 104(c)(3)(C), 104(c)(6), 50 CFR 216.33(a)(1), 216.36 (a)(1)(ii), and 50 CFR 216.45(a).

### **Project Location**

The application must specify the geographic locations in which the research is to be conducted. This information is necessary for considering impacts to protected species and for conducting the appropriate environmental analyses and assessment of impacts to the species or stock. Activities authorized are limited to those conducted for the purposes, by the means, in the locations, and during the time periods described in the application. Applicable statute/regulations: MMPA section 104(c)(3)(C)(ii), 104(c)(6), and 50 CFR 216.36(a)(1)(iii), 216.45 (b)(2)(iii), 216.45(d)(1).

### **Take Information**

Applicants are required to identify the species, number of animals taken by Level B harassment, and location in the form of a table. This table is used to verify the number of animals by species requested to be taken as described in the narrative portion of the project description. Section 104(b) of the MMPA requires permits to specify the number and kind of marine mammals authorized to be taken, the manner and location of the taking, and the period of validity for the permit. Applicable regulations: 50 CFR 216.36(a)(1)(i-iii), 216.45(b)(2)(ii) and (b)(2)(vi).

## National Environmental Policy Act (NEPA) Considerations

In addition to information contained in other sections of the application as noted, the questions posed in this section of the application are necessary considerations under NEPA. These questions address such things as whether new or novel techniques will be used and adopted by others (i.e., if a precedent will be set); whether there is risk from hazardous substances or infectious agents; what impacts may occur to unique or protected geographic areas, including refuges, sanctuaries, or critical habitats; whether the work could cause loss or destruction of scientific, cultural, or historic resources; and whether there could be introduction or spread of non-indigenous or invasive species as a result of the permitted activity. Applicable regulations: NEPA CEQ regulations.

## Project Contacts

This section is necessary for identification and contact purposes as well as accountability and enforcement. The Principal Investigator/applicant is responsible for the overall project. The application must include contact information, qualifications, and experience of the applicant and any Co-investigators, relevant to objectives, methodology, or other aspects of the research. This is necessary to determine if the individuals operating under the permit are qualified to successfully accomplish the objectives, whether they have violated any environmental laws, whether they are qualified to be conducting bona fide research or commercial photography/filming. Applicable regulations: 50 CFR 216.33, 216.35(i), 216.45(b)(1) and (b)(2)(i).

## Authentication and Certification

Applicants must authenticate their identity by signature and certify that the information in the application is accurate and in accordance with the MMPA. Applicable regulations: 50 CFR 216.33(a) and 216.45(b)(3); also required by 18 U.S.C. 1001.