



# National Marine Fisheries Service, Northwest Region

## *Whale Watching Guidelines*

In order to protect and conserve marine mammals and promote public awareness of the need to avoid harassment of marine mammals, NMFS is providing the following information and guidelines for viewing marine mammals. These guidelines are directed towards those whose interests and enthusiasm for watching marine mammals may inadvertently disturb or harm the animals being viewed. Although these guidelines are generally directed at whale watching, they apply to viewing other marine mammal species such as killer whales, dolphins, and porpoise and include specific guidelines for seals and sea lions (pinnipeds) on land.

Marine mammals are protected under the Marine Mammal Protection Act of 1972 (MMPA). Large whales such as sperm whales and humpback whales are also protected under the Endangered Species Act. These laws prohibit the "take" of any marine mammal except by permit or exception. The term "take" means to harass, hunt, capture, or kill any marine mammal or attempt to engage in any such conduct. Thus, any actions by persons or vessels or aircraft that they are operating in the vicinity of marine mammals that substantially alter the behavior of marine mammals may be a violation of the law unless such persons have specific legal authority or a permit issued under the MMPA. Violators of the MMPA may be subject to a civil penalty of up to \$10,000 for each violation, or criminal prosecution with a fine of up to \$100,000 or imprisonment for up to one year, or both.

Human activities in the vicinity of marine mammals may harass these animals resulting in a range of impacts varying from no observable effect, to modifying their behavior, to causing physical harm to the animals. Activities that harass marine mammals can cause detrimental effects such as: separation of mother whales and their calves; disruption of migratory patterns; disruption of social groupings such as killer whale pods; interference in breeding and reproductive activities; and abandonment of nursing pups and/or rearing activities. These guidelines are intended to not only protect the animals, but also to benefit and protect the general public since an occurrence such as a vessel/whale collision could be detrimental to both the animal and the people involved.

### Guidelines

People should not perform any action that substantially disrupts the normal behavior of a marine mammal. Such actions include the negligent or intentional operation of an aircraft or vessel, or individual acts that result in a substantial disruption of a marine mammal's normal behavior. These actions could be considered harassment and thus would be violations of the MMPA.

Substantial disruption of a marine mammal's normal behavior is actions by the marine mammal in response to vessel approach such as, but not limited to:

- a rapid change in direction or speed;
- escape tactics such as prolonged diving, underwater course changes, or underwater exhalation;
- evasive swimming patterns such as rapid swimming or "porpoising" at the surface;
- a rapid departure off land by seals or sea lions;
- attempts by a female whale to shield a calf from a vessel or a human observer by tail swishing or other protective movements.

Vessels

1. While underway, vessels should avoid intentionally approaching closer than 100 yards to a marine mammal. Activities within 100 yards of marine mammals require caution and approaching closer than 50 yards involve a high risk of harassing the animal.
2. Vessels should not be used to herd or chase marine mammals, nor to separate any groups of marine mammals.
3. Vessels should not be used to put people in the water in the vicinity of marine mammals.
4. When whale watching within 100 yards of a whale:
  - Do not take actions that may evoke a reaction from the whales or result in physical contact.
  - Maintain a constant speed while in the vicinity of a whale.
  - Avoid following behind a whale or approaching directly in front of a whale. Vessel movements should parallel the whale movements. When approaching whales, it should be from an oblique angle.
  - Avoid excessive speed. Vessels should not operate at speeds faster than a single whale or the slowest whale in a group.
  - Avoid radical speed or direction changes when approaching or leaving whales.
  - If possible, put the vessel in neutral and allow the whales to approach the vessel.
  - Avoid positioning the vessel such that it restricts or modifies the whale's normal movements.
  - Avoid going through or separating any groups or pairs of whales such as mother/calf pairs.

Aircraft

1. Aircraft should avoid flying lower than 1,000 feet over any marine mammal.
2. Aircraft should not hover or circle over marine mammals.

Individual Actions

1. Individuals should restrict their activities when within 100 yards of marine mammals to prevent an alteration of the animal's behavior due to the person's presence.
2. Swimmers or divers should not approach within 50 yards of marine mammals.

Seals and Sea Lions

Pinnipeds (seals and sea lions) are also protected under the MMPA and should not be disturbed by humans or by dogs accompanying them. Pinnipeds on land (haul-out areas) are especially sensitive to human and vessel disturbance. Intentional or negligent actions by persons, their pets, or the vessels/aircraft that they are operating in the vicinity of pinniped haul-outs that cause the pinnipeds to flee can be MMPA violations.

1. People/vessels should not intentionally approach pinnipeds hauled-out on land any closer than 100 yards.
2. The following reactions by the pinnipeds may indicate disturbance and should be avoided:
  - a number of animals raise their heads;
  - a few animals hurriedly enter the water;
  - a number of animals move closer to the water;
  - increased vocalizations by sea lions.

Summary

People should exert caution when in close proximity to marine mammals. Some activities may result in harassment of the animals even in instances when these guidelines are being adhered to. For example, in some circumstances, vessels operating outside the minimum approach distances may still result in disruption of the marine mammal's behavior, and therefore could be viewed as harassment. Failure to observe these guidelines may result in harassment of marine mammals which is a violation of the MMPA. Public cooperation in adherence to these guidelines is essential for the protection of these animals. Observations of marine mammal harassment should be reported to NMFS or State law enforcement offices.