

Information for Applicants - Marine Mammals Protection Regulations Permits

Criteria for issuing permits:

Before issuing a permit, the Director-General shall be satisfied that there is a substantial compliance with the following criteria:

- (a) That the commercial operation should not be contrary to the purposes and provisions of the Act;
- (b) That the commercial operation should not be contrary to the purposes and provisions of the general policy statements approved under section 3B of the Act, conservation management strategies approved under section 3C of the Act, or conservation management plans approved under section 3D of the Act;
- (c) That the commercial operation should not have any significant adverse effect on the behavioural patterns of the marine mammals to which the application refers, having regard to, among other things, the number and effect of existing operations;
- (d) That it should be in the interests of the conservation, management, or protection of the marine mammals that a permit be issued;
- (e) That the proposed operator, and such of the operator's staff who may come into contact with marine mammals, should have sufficient experience with marine mammals;
- (f) That the proposed operator, and such of the operator's staff who may come into contact with marine mammals, should have sufficient knowledge of the local area and of sea and weather conditions;
- (g) That the proposed operator, and such of the operator's staff who may come into contact with marine mammals, should not have convictions for offences involving the mistreatment of animals;
- (h) That the commercial operation should have sufficient educational value to participants or to the public.

BEHAVIOUR AROUND MARINE MAMMALS

Part 3 of the Regulations

Section 17: Application of this Part

Nothing in regulation 18 or regulation 19 or regulation 20 of these regulations shall apply to persons, vessels, aircraft, or vehicles rendering assistance to stranded or injured marine mammals.

Section 18: Conditions governing commercial operations and behaviour of all persons around any marine mammal

Every commercial operation, and every person coming into contact with any class of marine mammal, shall comply with the following conditions:

- (a) Persons shall use their best endeavours to operate vessels, vehicles, and aircraft so as not to disrupt the normal movement or behaviour of any marine mammal;
- (b) Contact with any marine mammal shall be abandoned at any stage if it becomes or shows signs of becoming disturbed or alarmed;
- (c) No person shall cause any marine mammal to be separated from a group of marine mammals or cause any members of such a group to be scattered;
- (d) No rubbish or food shall be thrown near or around any marine mammal;
- (e) No sudden or repeated change in the speed or direction of any vessel or aircraft shall be made except in the case of an emergency;
- (f) Where a vessel stops to enable the passengers to watch any marine mammal, the engines shall be either placed in neutral or be switched off within a minute of the vessel stopping;
- (g) No aircraft engaged in a commercial aircraft operation shall be flown below 150 metres (500 feet) above sea level, unless taking off or landing;
- (h) When operating at an altitude of less than 600 metres (2000 feet) above sea level, no aircraft shall be closer than 150 meters (500 feet) horizontally from a point directly above any marine mammal or such lesser or greater distance as may be approved by the Director-General, by notice in the *Gazette*, from time to time based on the best available scientific evidence;
- (i) No person shall disturb or harass any marine mammal;
- (j) Vehicles must remain above the mean high water spring tide mark and shall not approach within 50 metres of a marine mammal unless in an official car park or on a public or private slipway or on a public road;
- (k) No person, vehicle, or vessel shall cut off the path of a marine mammal or prevent a marine mammal from leaving the vicinity of any person, vehicle, or vessel;
- (l) Subject to paragraph (m) of this regulation, the master of any vessel less than 300 metres from any marine mammal shall use his or her best endeavours to move the vessel at a constant slow speed no faster than the slowest marine mammal in the vicinity, or at idle or "no wake" speed;
- (m) Vessels departing from the vicinity of any marine mammal shall proceed slowly at idle or "no wake" speed until the vessel is at least 300 metres from the nearest marine mammal, except that, in the case of dolphins, vessels may exceed idle or "no wake" speed in order to outdistance the dolphins but must increase speed gradually, and shall not exceed 10 knots within 300 metres of any dolphin;

(n) Pilots of aircraft engaged in a commercial aircraft operation shall use their best endeavours to operate the aircraft in such a manner that, without compromising safety, the aircraft's shadow is not imposed directly on any marine mammal.

Section 19: Special conditions applying to whales

In addition to complying with the provisions set out in regulation 18 of these regulations, every commercial operation and every person coming into contact with whales shall also comply with the following conditions:

(a) No person in the water shall be less than 100 metres from a whale, unless authorised by the Director-General:

(b) No vessel shall approach within 50 metres of a whale, unless authorised by the Director-General:

(c) If a whale approaches a vessel, the master of the vessel shall, wherever practicable,—

(i) Manoeuvre the vessel so as to keep out of the path of the whale; and

(ii) Maintain a minimum distance of 50 metres from the whale:

(d) No vessel or aircraft shall approach within 300 metres (1000 feet) of any whale for the purpose of enabling passengers to watch the whale, if the number of vessels or aircraft, or both, already positioned to enable passengers to watch that whale is 3 or more:

(e) Where 2 or more vessels or aircraft approach an unaccompanied whale, the masters concerned shall co-ordinate their approach and manoeuvres, and the pilots concerned shall co-ordinate their approach and manoeuvres:

(f) No person or vessel shall approach within 200 metres of any female baleen or sperm whale that is accompanied by a calf or calves:

(g) A vessel shall approach a whale from a direction that is parallel to the whale and slightly to the rear of the whale:

(h) No person shall make any loud or disturbing noise near whales:

(i) Where a sperm whale abruptly changes its orientation or starts to make short dives of between 1 and 5 minutes duration without showing its tail flukes, all persons, vessels, and aircraft shall forthwith abandon contact with the whale.

Section 20: Special conditions applying to dolphins or seals

In addition to complying with the conditions set out in regulation 18 of these regulations, any commercial operation and any person coming into contact with dolphins or seals shall also comply with the following conditions:

(a) No vessel shall proceed through a pod of dolphins:

(b) Persons may swim with dolphins and seals but not with juvenile dolphins or a pod of dolphins that includes juvenile dolphins:

- (c) Commercial operators may use an airhorn to call swimmers back to the boat or to the shore:
- (d) Except as provided in paragraph (c) of this regulation, no person shall make any loud or disturbing noise near dolphins or seals:
- (e) No vessel or aircraft shall approach within 300 metres (1000 feet) of any pod of dolphins or herd of seals for the purpose of enabling passengers to watch the dolphins or seals, if the number of vessels or aircraft, or both, already positioned to enable passengers to watch that pod or herd is 3 or more:
- (f) Where 2 or more vessels or aircraft approach an unaccompanied dolphin or seal, the masters concerned shall co-ordinate their approach and manoeuvres, and the pilots concerned shall co-ordinate their approach and manoeuvres:
- (g) A vessel shall approach a dolphin from a direction that is parallel to the dolphin and slightly to the rear of the dolphin.