



UNITED STATES DEPARTMENT OF COMMERCE
National Oceanic and Atmospheric Administration
NATIONAL MARINE FISHERIES SERVICE
Silver Spring, MD 20910

Jenny Atkinson
The Whale Museum
PO Box 945
Friday Harbor, Washington 98250

JUN 05 2012

Dear Ms. Atkinson:

The National Marine Fisheries Service has issued Permit No. 16160 to The Whale Museum, for research activities on marine mammals. This permit is effective upon your signature and valid through the expiration date indicated in Condition A.1.

Before using this permit, please:

- Read the permit, including attachments. If you have questions, call your permit analyst – Joselyd Garcia-Reyes or Kristy Beard – at 301-427-8401 before signing the permit.
- Sign and date the original signature page and the signature page marked “file copy.”
- Keep the original signature page with your permit. You need both as proof of your authorization to conduct the permitted activities.
- Send the “file copy” signature page to our office as proof of your acceptance of the permit.
- Ensure all personnel who will be working under the permit have read and understand the terms and conditions.

Please keep your email contact information current in our online database (<https://apps.nmfs.noaa.gov/>). You will receive automated email reminders of due dates for annual and final reports, and a notice prior to expiration of your permit.

Please return the signature page marked “file copy” to the Permits Division (F/PR1), 1315 East-West Highway, Silver Spring, MD 20910. You may also submit the “file copy” of the signature page by facsimile (FAX number: 301-713-0376) and confirm it by mail.

Sincerely,

P. Michael Payne
Chief, Permits and Conservation Division
Office of Protected Resources
(phone: 301-427-8401)

Enclosure



Printed on Recycled Paper





Permit No. 16160
Expiration Date: June 6, 2017
Reports Due: September 1st, annually

PERMIT TO TAKE PROTECTED SPECIES¹ FOR SCIENTIFIC PURPOSES

I. Authorization

This permit is issued to The Whale Museum (hereinafter "Permit Holder"), Friday Harbor, WA, [Responsible Party: Jenny Atkinson], pursuant to the provisions of the Marine Mammal Protection Act of 1972 as amended (MMPA; 16 U.S.C. 1361 *et seq.*); the regulations governing the taking and importing of marine mammals (50 CFR Part 216); the Endangered Species Act of 1973 (ESA; 16 U.S.C. 1531 *et seq.*) and the regulations governing the taking, importing, and exporting of endangered and threatened species (50 CFR Parts 222-226).

II. Abstract

The objective of the permitted activity, as described in the application, is to monitor and record vessel activities around marine mammal species routinely encountered by commercial and recreational vessels.

III. Terms and Conditions

The activities authorized herein must occur by the means, in the areas, and for the purposes set forth in the permit application, and as limited by the Terms and Conditions specified in this permit, including attachments and appendices. Permit noncompliance constitutes a violation and is grounds for permit modification, suspension, or revocation, and for enforcement action.

A. Duration of Permit

1. Personnel listed in Condition C.1 of this permit (hereinafter "Researchers") may conduct activities authorized by this permit through June 6, 2017. This permit expires on the date indicated and is non-renewable. This permit may be extended by the Director, NMFS Office of Protected Resources, pursuant to applicable regulations and the requirements of the MMPA and ESA.
2. Researchers must immediately stop permitted activities and the Permit Holder must contact the Chief, NMFS Permits, Conservation and Education Division (hereinafter "Permits Division") for written permission to resume:

¹ "Protected species" include species listed as threatened or endangered under the ESA, and marine mammals.



- a. If serious injury or mortality² of protected species occurs. See Condition E.2 for reporting requirements.
- b. If authorized take³ is exceeded, including accidental takes of protected species not listed in this permit. See Condition E.2 for reporting requirements.

B. Number and Kind(s) of Protected Species, Location(s) and Manner of Taking

1. The table in Appendix 1, outlines the number of protected species, by species and stock, authorized to be taken, and the locations, manner, and time period in which they may be taken.
2. Researchers working under this permit may collect visual images (*e.g.*, photographs, video) in addition to the photo-identification or behavioral photo-documentation authorized in Appendix 1 as needed to document the permitted activities, provided the collection of such images does not result in takes.
3. The Permit Holder may use visual images and audio recordings collected under this permit, including those authorized in Appendix 1, in printed materials (including commercial or scientific publications), presentations, and websites provided the images and recordings are accompanied by a statement indicating that the activity was conducted pursuant to Permit No. 16160. This statement must accompany the images and recordings in all subsequent uses or sales.
4. The Chief, Permits Division may grant written approval for photography, filming, or audio recording activities not essential to achieving the objectives of the permitted activities, including allowing persons not essential to the research (*e.g.*, a documentary film crew) to be present, provided:
 - a. The Permit Holder submits a request to the Permits Division specifying the location and nature of the activity, approximate dates, and number and roles of individuals for which permission is sought.

² This permit does not allow for unintentional serious injury and mortality caused by the presence or actions of researchers. This includes, but is not limited to; deaths of dependent young by starvation following research-related death of a lactating female; or while attempting to avoid researchers. Note that for marine mammals, a serious injury is defined by regulation as any injury that will likely result in mortality.

³ By regulation, a take under the MMPA means to harass, hunt, capture, collect, or kill, or attempt to harass, hunt, capture, collect, or kill any marine mammal. This includes, without limitation, any of the following: The collection of dead animals, or parts thereof; the restraint or detention of a marine mammal, no matter how temporary; tagging a marine mammal; 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. Under the ESA, a take means to harass, harm, pursue, hunt, shoot, wound, kill, trap, capture, or collect, or attempt to do any of the preceding.

- b. Non-essential photography, filming, or recording activities will not influence the conduct of permitted activities or result in takes of protected species.
 - c. Persons authorized to accompany the Researchers for the purpose of such non-essential activities will not be allowed to participate in the permitted activities.
 - d. The Permit Holder and Researchers do not require compensation from the individuals in return for allowing them to accompany Researchers.
5. Researchers must comply with the following conditions related to the manner of taking:

Counting and Reporting Takes

- a. Any “approach”⁴ of a cetacean constitutes a take by harassment and must be counted and reported.
- b. Regardless of success, any attempt, which includes the associated close approach, to photograph and videotape an animal constitutes a take and must be counted and reported.
- c. No individual animal may be taken more than 3 times in one day.

General

- d. To minimize disturbance of the subject animals the Permit Holder must exercise caution when approaching animals and must retreat from animals if behaviors indicate the approach may be interfering with reproduction, feeding, or other vital functions.
- e. Where females with calves are authorized to be taken, Researchers:
 - i. Must immediately terminate efforts if there is any evidence that the activity may be interfering with pair-bonding or may be lifethreatening;
 - ii. Must not position the research vessel between the mother and calf;
 - iii. Must approach mothers and calves gradually to minimize or avoid any startle response; and

⁴ An "approach" is defined as a continuous sequence of maneuvers (episode) [involving a vessel], including drifting, directed toward a cetacean or group of cetaceans closer than 100 yards for large whales, or 50 yards for smaller cetaceans.

- iv. Must not approach any mother or calf while the calf is actively nursing.

- f. For research in the inland waters of Washington state:
At all times when vessels engaging in research activities are in the inland waters of Washington, such vessels must fly a clearly visible triangular pennant. The pennant must be yellow in color with minimum dimensions of 18"H x 26"L and with the permit number displayed in 6" high black numerals.

Non-target Species

- g. This permit does not authorize takes of any protected species not identified in Appendix 1, including those species under the jurisdiction of the USFWS. Should other protected species be encountered during the research activities authorized under this permit, researchers must exercise caution and remain a safe distance from the animal(s) to avoid take, including harassment.

C. Qualifications, Responsibilities, and Designation of Personnel

- 1. At the discretion of the Permit Holder, the following Researchers may participate in the conduct of the permitted activities in accordance with their qualifications and the limitations specified herein:
 - a. Principal Investigator – Eric Eisenhardt
 - b. Co-Investigator(s) – John Calogero and Jeff Hogan
 - c. Research Assistants – personnel identified by the Permit Holder or Principal Investigator and qualified to act pursuant to Conditions C.2, C.3, and C.4 of this permit

- 2. Individuals conducting permitted activities must possess qualifications commensurate with their roles and responsibilities. The roles and responsibilities of personnel operating under this permit are as follows:
 - a. The Permit Holder is ultimately responsible for activities of individuals operating under the authority of this permit. Where the Permit Holder is an institution/facility, the Responsible Party is the person at the institution/facility who is responsible for the supervision of the Principal Investigator.
 - b. The Principal Investigator (PI) is the individual primarily responsible for the taking, import, export and related activities conducted under the permit. The PI must be on site during activities conducted under this

permit unless a Co-Investigator named in Condition C.1 is present to act in place of the PI.

- c. Co-Investigators (CIs) are individuals who are qualified to conduct activities authorized by the permit without the on-site supervision of the PI. CIs assume the role and responsibility of the PI in the PI's absence.
 - d. Research Assistants (RAs) are individuals who work under the direct and on-site supervision of the PI or a CI. RAs cannot conduct permitted activities in the absence of the PI or a CI.
3. Personnel involved in permitted activities must be reasonable in number and essential to conduct of the permitted activities. Essential personnel are limited to:
 - a. Individuals who perform a function directly supportive of and necessary to the permitted activity (including operation of vessels or aircraft essential to conduct of the activity);
 - b. Individuals included as backup for those personnel essential to the conduct of the permitted activity; and
 - c. Individuals included for training purposes.
 4. Persons who require state or Federal licenses to conduct activities authorized under the permit (*e.g.*, veterinarians, pilots) must be duly licensed when undertaking such activities.
 5. Permitted activities may be conducted aboard vessels or aircraft, or in cooperation with individuals or organizations, engaged in commercial activities, provided the commercial activities are not conducted simultaneously with the permitted activities.
 6. The Permit Holder cannot require or receive direct or indirect compensation from a person approved to act as PI, CI, or RA under this permit in return for requesting such approval from the Permits Division.
 7. The Permit Holder or PI may add CIs by submitting a request to the Chief, Permits Division that includes a description of the individual's qualifications to conduct and oversee the activities authorized under this permit. If a CI will only be responsible for a subset of permitted activities, the request must also specify the activities for which they would provide oversight.
 8. Where the Permit Holder is an institution/facility, the Responsible Party may request a change of PI by submitting a request to the Chief, Permits Division that includes a description of the individual's qualifications to conduct and oversee the activities authorized under this permit.

9. Submit requests to add CIs or change the PI by one of the following:
 - the online system at <https://apps.nmfs.noaa.gov>
 - an email attachment to the permit analyst for this permit
 - a hard copy mailed or faxed to the Chief, Permits Division

D. Possession of Permit

1. This permit cannot be transferred or assigned to any other person.
2. The Permit Holder and persons operating under the authority of this permit must possess a copy of this permit when engaged in a permitted activity.

E. Reports

1. The Permit Holder must submit written annual, final, and incident reports to the Permits Division.
 - a. Reports must be submitted to the Permits Division by one of the following:
 - the online system at <https://apps.nmfs.noaa.gov>
 - an email attachment to the permit analyst for this permit
 - a hard copy mailed or faxed to the Chief, Permits Division, Office of Protected Resources, NMFS, 1315 East-West Highway, Room 13705, Silver Spring, MD 20910; phone (301)427-8401; fax (301)713-0376
 - b. You must contact your permit analyst for a reporting form if you do not submit reports through the online system.
2. Incident reports: must be submitted within two weeks of serious injury and mortality events or exceeding authorized takes, as specified in Conditions A.2.
 - a. The incident report must include a complete description of the events and identification of steps that will be taken to reduce the potential for additional serious injury or exceedence of authorized take.
 - b. In addition to the written report, the Permit Holder must contact the Permits Division by phone (301-427-8401) as soon as possible, but no later than within two business days of the incident.
 - c. The Permits Division may grant authorization to resume permitted activities based on review of the incident report and in consideration of the Terms and Conditions of this permit.
3. Annual reports describing activities conducted during the previous permit year (from June 1st to May 31st) must:

- a. be submitted by September 1st each year for which the permit is valid; and
 - b. include a tabular accounting of takes and a narrative description of activities and effects.
4. A final report summarizing activities over the life of the permit must be submitted by (December 1, 2017), or, if the research concludes prior to permit expiration, within 180 days of completion of the research.
 5. Research results must be published or otherwise made available to the scientific community in a reasonable period of time. Copies of technical reports, conference abstracts, papers, or publications resulting from permitted research must be submitted the Permits Division.

F. Notification and Coordination

1. The Permit Holder must provide written notification of planned field work at least two weeks prior to initiation of each field trip/season. If there will be multiple field trips/seasons in a permit year, a single summary notification may be submitted per year.
 - a. Notification must include the
 - i. locations of the intended field study and/or survey routes
 - ii. estimated dates of activities
 - iii. number and roles of participants (for example: PI, CI, veterinarian, boat driver, safety diver, animal restrainer, Research Assistant “in training”)
 - b. Notification must be sent to the following Assistant Regional Administrator(s) for Protected Resources:

Alaska Region, NMFS, P.O. Box 21668, Juneau, AK 99802-1668; phone (907)586-7235; fax (907)586-7012
2. To the maximum extent practical, the Permit Holder must coordinate permitted activities with activities of other Permit Holders conducting the same or similar activities on the same species, in the same locations, or at the same times of year to avoid unnecessary disturbance of animals. The appropriate Regional Office(s) listed in F.1.b may be contacted for information about coordinating with other Permit Holders.

G. Observers and Inspections

1. NMFS may review activities conducted pursuant to this permit. At the request of NMFS, the Permit Holder must cooperate with any such review by:

- a. Allowing an employee of NOAA or other person designated by the Director, NMFS Office of Protected Resources to observe permitted activities; and
- b. Providing all documents or other information relating to the permitted activities.

H. Modification, Suspension, and Revocation

1. Permits are subject to suspension, revocation, modification, and denial in accordance with the provisions of subpart D [Permit Sanctions and Denials] of 15 CFR part 904.
2. The Director, NMFS Office of Protected Resources may modify, suspend, or revoke this permit in whole or in part:
 - a. In order to make the permit consistent with a change made after the date of permit issuance with respect to applicable regulation prescribed under section 103 of the MMPA and section 4 of the ESA;
 - b. In a case in which a violation of the terms and conditions of the permit is found;
 - c. In response to a written request⁵ from the Permit Holder;
 - d. If NMFS determines that the application or other information pertaining to the permitted activities (including, but not limited to, reports pursuant to Section E of this permit and information provided to NOAA personnel pursuant to Section G of this permit) includes false information; and
 - e. If NMFS determines that the authorized activities will operate to the disadvantage of threatened or endangered species or are otherwise no longer consistent with the purposes and policy in Section 2 of the ESA.
3. Issuance of this permit does not guarantee or imply that NMFS will issue or approve subsequent permits or amendments for the same or similar activities requested by the Permit Holder, including those of a continuing nature.

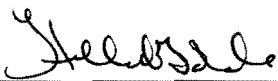
I. Penalties and Permit Sanctions

⁵ The Permit Holder may request changes to the permit related to: the objectives or purposes of the permitted activities; the species or number of animals taken; and the location, time, or manner of taking or importing protected species. Such requests must be submitted in writing to the Permits Division in the format specified in the application instructions.

1. A person who violates a provision of this permit, the MMPA, ESA, or the regulations at 50 CFR 216 and 50 CFR 222-226 is subject to civil and criminal penalties, permit sanctions, and forfeiture as authorized under the MMPA, ESA, and 15 CFR part 904.
2. NMFS shall be the sole arbiter of whether a given activity is within the scope and bounds of the authorization granted in this permit.
 - a. The Permit Holder must contact the Permits Division for verification before conducting the activity if they are unsure whether an activity is within the scope of the permit.
 - b. Failure to verify, where NMFS subsequently determines that an activity was outside the scope of the permit, may be used as evidence of a violation of the permit, the MMPA, the ESA, and applicable regulations in any enforcement actions.

J. Acceptance of Permit

1. In signing this permit, the Permit Holder:
 - a. Agrees to abide by all terms and conditions set forth in the permit, all restrictions and relevant regulations under 50 CFR Parts 216, and 222-226, and all restrictions and requirements under the MMPA, and the ESA;
 - b. Acknowledges that the authority to conduct certain activities specified in the permit is conditional and subject to authorization by the Office Director; and
 - c. Acknowledges that this permit does not relieve the Permit Holder of the responsibility to obtain any other permits, or comply with any other Federal, State, local, or international laws or regulations.



Helen M. Golde
Actin Director, Office of Protected Resources
National Marine Fisheries Service

JUN 05 2012

Date Issued

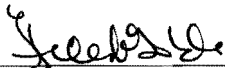
Jenny Atkinson
Responsible Party
The Whale Museum

Date Effective

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 Helen M. Golde
 Actin Director, Office of Protected Resources
 National Marine Fisheries Service

JUN 05 2012

 Date Issued

 Jenny Atkinson
 Responsible Party
 The Whale Museum

 Date Effective

FILE COPY

Appendix 1: Table Specifying the Kinds of Protected Species, Locations, and Manner of Taking

Table 1: Annual Takes⁶ for Marine Mammals during Vessel Surveys in inland waters of Washington State Year-round. Both males and females could be harassed.

SPECIES	LISTING UNIT/STOCK	LIFESTAGE	NO. OF ANIMALS PER YEAR	TAKES PER ANIMAL	OBSERVE/ COLLECT METHOD	PROCEDURES
Dolphin, Pacific white-sided	California/Oregon/Washington - Northern and Southern Stocks	All	20	1	Survey, vessel	Observations, behavioral; Photograph/Video
Porpoise, Dall's	California/Oregon/Washington Stock	All	10	1	Survey, vessel	Observations, behavioral; Photograph/Video
Porpoise, harbor	Inland Washington Stock	All	10	1	Survey, vessel	Observations, behavioral; Photograph/Video
Whale, gray	Eastern North Pacific	All	5	1	Survey, vessel	Observations, behavioral; Photograph/Video
Whale, humpback	Eastern North Pacific Stock (NMFS Endangered)	All	10	1	Survey, vessel	Observations, behavioral; Photograph/Video
Whale, killer	Eastern North Pacific Offshore Stock	All	10	1	Survey, vessel	Count/survey; Observation, monitoring; Observations, behavioral; Photograph/Video
Whale, killer	Eastern North Pacific Southern Resident Stock (NMFS Endangered)	All	50	1	Survey, vessel	Count/survey; Observation, monitoring; Observations, behavioral; Photograph/Video
Whale, killer	Eastern North Pacific Transient Stock	All	50	1	Survey, vessel	Count/survey; Observation, monitoring; Observations, behavioral; Photograph/Video
Whale, minke	California/Oregon/Washington stock	All	10	1	Survey, vessel	Observations, behavioral; Photograph/Video

⁶ Takes = the maximum number of animals that may be targeted for research annually in each row of the table