

Appendix

III

Glossary

Acute behavioral response – Repeated, prolonged or excessive instances of behavior, brought on by any act or omission of the researcher and manifested by, among other actions on the part of an animal, a rapid change in direction or speed; escape tactics such as prolonged diving, underwater course changes, underwater exhalation, or evasive swimming patterns; interruptions of breeding, nursing, or resting activities, attempts by a whale to shield a calf from a vessel or human observer by tail swishing or by other protective movement; movement away from researchers by pinnipeds, including a stampede or the abandonment of a rookery or haul-out site.

Animal and Plant Health Inspection Service (APHIS) – Part of the U.S. Department of Agriculture that has responsibility for administering the provisions of the Animal Welfare Act to regulate the care and treatment of warm blooded animals bred for commercial sale, used in research, transported commercially, or exhibited to the public, except those animals used for agricultural purposes, and has established regulations and standards for animal care, including “Specifications for the Humane Handling, Care, Treatment, and Transportation of Marine Mammals” (9 CFR Ch. 1, Subpart E).

Most U.S. facilities maintaining animals as defined under the AWA, including marine mammals, are required to be licensed or registered by APHIS. For information concerning the AWA and its requirements and the name and address of the Veterinarian in Charge in the State concerned, contact the Regulatory Enforcement and Animal Care staff, USDA/APHIS (301/734-7833) or visit <http://www.aphis.usda.gov/>.

Animal Welfare Act (AWA; 7 U.S.C. 2131 *et seq.*) – Federal statute created in 1966 to “(1) insure that animals intended for use in research facilities or for exhibition purposes or for use as pets are provided humane care and treatment; (2) assure the humane treatment of animals during transportation in commerce; and (3) protect the owners of animals from the theft of their animals by preventing the sale or use of animals which have been stolen.”

Applicant/ Permit Holder – The person, institution, or agency that is ultimately responsible for all activities of any individual who is operating under the authority of the permit. Where the Permit Holder is an institution or agency, the Responsible Party is the official who has the legal authority to bind the organization.

Approach – For the purposes of cetacean research: a continuous sequence of maneuvers (episode) involving a vessel, aircraft, or researcher's body in the water, including drifting, directed toward a cetacean or group of cetaceans for the purposes of conducting authorized research which involves one or more instances of coming closer than 100 yards to that cetacean or group of cetaceans.

Attempt – An effort made to accomplish some permitted activity (for example, a tag or biopsy dart deployment from a crossbow, air gun, or pole that may or may not result in a successful deployment).

Biological Opinion – Under Section 7 of the Endangered Species Act, all federal agencies are required, “in consultation with and with the assistance of the Secretary, to insure that any action authorized, funded, or carried out by such agency is not likely to jeopardize the continued existence of any threatened or endangered species or result in the destruction or adverse modification of designated critical habitat.” Prior to issuing a permit to take threatened or endangered species, a Section 7 consultation with the National Marine Fisheries Service (NMFS) or U.S. Fish and Wildlife Service (FWS) must occur. Such consultation results in “a written statement setting forth the Secretary’s opinion and a summary of the information on which the opinion is based” that the issuance of the permit is not likely to jeopardize any protected species.”

A Biological Opinion/Section 7 consultation may also be used as federal authorization for the handling of listed fish under an Oregon Scientific Take Permit. The opinion may be issued by either NMFS or FWS depending on the species involved.

Bona fide scientific research (as defined under the MMPA) – Scientific research on marine mammals conducted by qualified personnel, the results of which: (1) likely would be accepted for publication in a refereed scientific journal; (2) are likely to contribute to the basic knowledge of marine mammal biology or ecology; or (3) are likely to identify, evaluate or resolve conservation problems. Research that is not on marine mammals, but that may incidentally take marine mammals, is not included in this definition.

Code of Federal Regulations (CFR) – Regulations created by various federal agencies to support and explain federal statutes. The NMFS and FWS have created wildlife and fisheries regulations to support and clarify sections of the MMPA and ESA (50 CFR 1 – 599). Specifically, parts 17, 18, 216, 222-226, and 402 are applicable to research and enhancement permits for marine mammals and endangered and threatened species under NMFS and USFWS jurisdiction.

Co-investigator (CI) – Individuals who are qualified and authorized to conduct or directly supervise activities conducted under a permit issued for scientific research or enhancement purposes without the on-site supervision of the Principal Investigator.

Distinct Population Segment (DPS) – A DPS is a vertebrate population or group of populations that is discrete from other populations and significant to its taxon. A group of organisms is discrete if it is markedly separated from other populations of the same taxon as a consequence of physical, physiological, ecological, and behavioral factors. The ESA provides for listing species, subspecies, or DPSs of vertebrate fish or wildlife.

Endangered Species Act – The Endangered Species Act (ESA) (7 U.S.C. 16; 16 U.S.C. 4660 *et seq.*) was enacted in 1973 to conserve threatened and endangered plants and animals and their habitats. The law prohibits any action that results in a “taking¹” of a species listed as threatened or endangered, or that adversely affects its habitat. The law also prohibits the import, export, and interstate and foreign commerce of listed species with the appropriate authorizations.

The ESA provides for the issuance of permits to take threatened or endangered species for scientific research purposes and/or to enhance a species propagation or survival. Under the ESA, NMFS and FWS share management responsibility for marine mammals and for threatened and endangered sea turtles (NMFS for sea turtles in the water, and FWS for sea turtles on land). NMFS has sole responsibility under the ESA for salmon, shortnose sturgeon, smalltooth sawfish, and white abalone. NMFS regulations implementing the provisions of the ESA can be found at 50 CFR Parts 216 and 222-226; FWS regulations can be found at 50 CFR Part 17.

Enhancement permits – Permits “issued for the recovery of a marine mammal species or stock where taking or importation: (1) is likely to contribute significantly to maintaining or increasing distribution or numbers necessary to ensure the survival or recovery of the species or stock; and (2) is consistent with any conservation plan adopted by the Secretary (NMFS or USFWS) for the species or stock, or if there is no conservation or recovery plan in place, with the Secretary’s evaluation of action required to enhance the survival or recovery of the species or stock...”

Evolutionary Significant Unit (ESU) – An ESU is a population or group of populations that is reproductively isolated from other conspecific population units and that represents an important component in the evolutionary legacy of the species. Isolation does not have to be absolute, but it must be strong enough to permit evolutionarily important differences to accrue in different population units. The second criterion would be met if the population contributed substantially to the ecological/genetic diversity of the species as a whole.

¹Take (as defined in the ESA): *To harass, harm, pursue, hunt, shoot, wound, kill, trap, capture, or collect, or to attempt to engage in any such conduct.*

Freedom of Information Act – The Freedom of Information Act (FOIA) (5 U.S.C. 552) was enacted in 1966 to ensure that the federal government makes government information available to the public when requested. Certain restrictions apply to the release of information (e.g., classified documents).

Fur Seal Act – The Fur Seal Act (FSA) (16 U.S.C. 1151-1187) was enacted in 1966 to prohibit the taking of North Pacific fur seals, except by Alaska natives for subsistence purposes or by a permit issued by NMFS. NMFS' regulations implementing the FSA for Alaska native purposes can be found at 50 CFR Part 215. Applications for permits for scientific research on northern fur seals are processed under the MMPA regulations of 50 CFR Part 216.

Handling/restraint time – The amount of time that an animal is physically handled.

Harassment (as defined in the MMPA) – Any act of pursuit, torment, or annoyance that (1) has the potential to injure a marine mammal or marine mammal stock in the wild (**Level A harassment**); or (2) has the potential to disturb a marine mammal or marine mammal stock in the wild by causing a disruption of behavioral patterns, including, but not limited to, migration, breathing, nursing, breeding, feeding, or sheltering (**Level B harassment**).

Harassment includes the disruption of the normal behavior or prior activity of an animal by any act or omission. This disruption of normal behavior may be manifested by, among other actions on the part of the animal, interruptions of breeding, nursing, or resting activities; a rapid change in direction or speed; escape tactics such as prolonged diving, underwater course changes, underwater exhalation, or evasive swimming patterns; attempts by a cetacean to shield a calf from a vessel or human observer by tail swishing or by other protective movement; movement away from researchers by pinnipeds, including a stampede; or the abandonment of a previously frequented area.

For Oregon Scientific Take Permits, harassment includes stream bank spawning surveys and snorkeling. These activities do not require federal authorization for listed Pacific salmonids, however, if you also require an Oregon Scientific Take Permit, please include information on the locations and species you expect to encounter during these surveys in your application.

Hard parts – Any bone, tooth, baleen, treated pelt, or other part of a marine mammal that is relatively solid or durable.

Holding time – The time between capture and release.

Humane (as defined in the MMPA) – The method of taking, import, export, or other activity that involves the least possible degree of pain and suffering practicable to the animal involved.

Intrusive research (as defined under the MMPA) – A procedure conducted for bona fide scientific research involving: A break in or cutting of the skin or equivalent, insertion of an instrument or material into an orifice, introduction of a substance or object into the animal's immediate environment that is likely either to be ingested or to contact and directly affect animal tissue (*i.e.*, chemical substances), or a stimulus directed at animals that may involve a risk to health or welfare or that may have an impact on normal function or behavior (*i.e.*, audio broadcasts directed at animals that may affect behavior). For captive animals, this definition does not include: (1) A procedure conducted by the professional staff of the holding facility or an attending veterinarian for purposes of animal husbandry, care, maintenance, or treatment, or a routine medical procedure that, in the reasonable judgment of the attending veterinarian, would not constitute a risk to the health or welfare of the captive animal; or (2) A procedure involving either the introduction of a substance or object (*i.e.*, as described in this definition) or a stimulus directed at animals that, in the reasonable judgment of the attending veterinarian, would not involve a risk to the health or welfare of the captive animal.

Live car – A tank of flowing and/or oxygenated water on a boat or shore where fish are placed to keep them alive.

Marine Mammal Commission – The Marine Mammal Commission is an independent agency of the U.S. Government, established under Title II of the Marine Mammal Protection Act. In enacting the Act in 1972, Congress recognized that those federal agencies with primary regulatory responsibility for marine mammal programs may have potentially conflicting missions and had, in some instances, failed to prevent the over harvesting and endangerment of stocks. Thus, the Marine Mammal Commission was created to provide independent oversight of the marine mammal conservation policies and programs being carried out by the federal regulatory agencies. The Commission is charged with developing, reviewing, and making recommendations on domestic and international actions and policies of all federal agencies with respect to marine mammal protection and conservation and with carrying out a research program.

Marine Mammal Protection Act - The Marine Mammal Protection Act (MMPA) (16 U.S.C. 1361-1407) was enacted in 1972 in partial response to growing concerns among scientists and the general public that certain species and populations of marine mammals were in danger of extinction or depletion as a result of human activities. The MMPA includes a general moratorium on the taking² and importing of marine mammals, with certain exceptions, on the taking and importing of marine mammals and marine mammal products. One exception provides for the issuance of permits by either NMFS or FWS, depending on the species involved, to take marine mammals for purposes of scientific research, public display, enhancing the survival or recovery of a species or stock, or educational or commercial photography. NMFS and USFWS regulations implementing the permit provisions of the MMPA can be found at 50 CFR Part 216 and 50 CFR Part 18, respectively.

National Environmental Policy Act – The National Environmental Policy Act (NEPA) (42 U.S.C. 4321 *et seq.*) was enacted in 1969 to ensure that the government gives proper consideration to the environment prior to undertaking any major federal action that could significantly affect the environment. Issuance of a permit is considered a major federal action and NMFS is required to comply with NEPA. Some applications may require additional environmental analyses under NEPA, which can substantially increase the time required for processing. If a threatened or endangered species is involved in a proposed research or enhancement activity, if the activity is considered controversial, or under other certain circumstances, preparation of an Environmental Assessment (EA) or an Environmental Impact Statement (EIS) may be necessary.

Net checking – A complete and thorough visual check of a net either by snorkeling the net in clear water or by pulling up on the top line such that the full depth of the net is viewed along the entire length.

²Take (as defined in the MMPA): *To harass, hunt, capture, collect, or kill, or attempt to harass, hunt, capture, collect, or kill any marine mammal. This includes by regulatory definition, 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.*

Ports, Designated – U.S. Customs ports designated for the importation or exportation of wildlife.

Designated Ports of Etr

Designated Ports of Entry

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| 1) Anchorage, AK | 10) Louisville, KY |
| 2) Atlanta, GA | 11) Memphis, TN |
| 3) Baltimore, MD | 12) Miami, FL |
| 4) Boston, MA | 13) New Orleans, LA |
| 5) Chicago, IL | 14) New York, NY |
| 6) Dallas/Fort Worth, TX, | 15) Newark, NJ |
| 7) Honolulu, HI | 16) Portland, OR |
| 8) Houston, TX | 17) San Francisco, CA |
| 9) Los Angeles, CA | 18) Seattle, WA |

Principal Investigator (PI) – The individual primarily responsible for the taking, importation, exportation, and any related activities conducted under a permit issued for scientific research or enhancement purposes. The PI must have qualifications, knowledge and experience relevant to the type of research activities authorized by the permit

Rehabilitation (as defined under the MMPA) – Treatment of beached and stranded marine mammals taken under section 109(h) of the MMPA with the intent of restoring the marine mammal's health and, if necessary, behavioral patterns, for release back to the wild.

Researchers – Researchers include the Permit Holder, Principal Investigator, and Co-investigator(s).

Responsible Party - The Responsible Party is an official who has the legal authority to bind the organization. For applications where it is requested that the permit be issued to an organization/institution/agency rather than an individual, the application must be signed by the Responsible Party. In addition, the permit, which is a legally binding document, must be signed by the Responsible Party to validate it.

Sanctuary net - A fish net that holds water during transfer.

Secretary – The Secretary of Commerce (NMFS) or the Secretary of the Interior (USFWS).

Serious injury - Any injury that will likely result in a mortality.

Soft parts - Any marine mammal part that is not a hard part, *e.g.* blood, blubber, or other tissue samples. Soft parts do not include urine or fecal material.

Stranded marine mammal (as defined under the MMPA) - A marine mammal specimen under the jurisdiction of the Secretary of Commerce, if: (1) the specimen is dead and is on a beach or shore, or is in the water within the Exclusive Economic Zone of the U.S.; or (2) the specimen is alive, and is on a beach or shore and is unable to return to the water, or is in the water within the Exclusive Economic Zone of the U.S. where the water is so shallow that the specimen is unable to return to its natural habitat under its own power.

Take – As defined in the MMPA: To harass, hunt, capture, collect, or kill, or attempt to harass, hunt, capture, collect, or kill any marine mammal. This includes by regulatory definition, 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. **As defined in the ESA:** To harass, harm, pursue, hunt, shoot, wound, kill, trap, capture, or collect, or to attempt to engage in any such conduct.