

# Whale SENSE Alaska Program Framework



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## **Whale SENSE Program Partners:**

NOAA Fisheries Alaska Regional Office

Whale and Dolphin Conservation

NOAA Fisheries Greater Atlantic Regional Fisheries Office

## **I. Program Overview**

- A.** The mission of Whale SENSE is to promote responsible stewardship of large whales in Alaska and the Greater Atlantic US and recognize commercial whale-watching companies that set positive standards for responsible practices and education.
- B.** This program is voluntary and offered to participating whale-watching companies at no charge.
- C.** Participating companies will be included on the current year's list of Whale SENSE program

participants. Participants may utilize the current year Whale SENSE logo in their advertisements once they have met the program requirements as specified by the program partners.

- D.** The program partners in administering this agreement are the NOAA Fisheries Alaska Regional Office, Whale and Dolphin Conservation (WDC), and NOAA Fisheries Greater Atlantic Regional Fisheries Office. It is important to note that the Alaska program was developed in close collaboration with Juneau area whale-watching companies. Members of the whale-watch industry continue to play a significant role in the development and advancement of the Whale SENSE program.
- E.** The purpose of this program is to:
- Empower whale-watching industry leadership to serve as conservation stewards in the preservation of large whale species;
  - Minimize the potential harassment of whales that may result from commercial viewing activities;
  - Reduce inappropriate expectations of members of the public arising from wanting to closely interact with whales in a manner that may cause harassment (e.g., pressuring commercial vessels to intentionally approach animals in a manner that does not adhere to NOAA's Alaska Regional Humpback Whale-Watching Regulations and Marine Mammal Viewing Guidelines);
  - Educate potential whale-watchers on whale protection and conservation measures;
  - Reduce the potential causes of whale harassment that may result from inexperienced or aggressive operators maneuvering vessels around whales, lack of education about guidelines/regulations and laws applicable to responsible whale-watching, lack of awareness about large whale behavior and signs of disturbance;
  - Increase reliable and consistent educational messaging to whale-watch passengers;
  - Ensure participating whale-watching companies emphasize a conservative, respectful, and educated approach to whale-watching;
  - Enhance the visitor experience of whale-watching in Alaska through this approach; and
  - Promote the Whale SENSE program's commitment to responsible whale-watching practices, whale conservation, and ocean stewardship.

***Whale SENSE is an education and public awareness program, not a law enforcement***

**program. Any suspected violations of the Marine Mammal Protection Act (MMPA) or other laws will continue to be passed on to the NOAA Fisheries Office of Law Enforcement.**

## **II. Program Objectives**

- A.** The goal of the program partners is to develop a voluntary education and recognition program for commercial operators to increase their awareness and knowledge, and ultimately that of their customers, about responsible marine mammal viewing practices, whale behavior and biology/ecology, the laws and guidelines protecting whales, and stewardship of the marine environment. This in turn will provide a quality experience for passengers aboard participating operators. Objectives in support of this goal are as follows:
- 1) Program partners will develop criteria that will assist participants in achieving voluntary compliance with legal requirements, policies, and guidelines, as well as best practices aimed at preventing harassment of whales.
  - 2) Program partners will develop outreach and education materials to ensure participants' awareness of the issues surrounding whale conservation and how to promote large whale conservation by preventing harassment.
  - 3) Program criteria will promote marine stewardship and ocean literacy.
  - 4) Program partners will determine the program's overall effectiveness in Alaska by developing an evaluation component to measure adherence to the program criteria.
  - 5) Program partners will establish a platform for public recognition of operators complying with the program criteria.

## **III. Eligibility for Program Recognition**

- A.** Businesses conducting dedicated commercial whale-watching tours from Alaskan ports are eligible for Whale SENSE participation. Because unannounced and undisclosed ride-along evaluation is a required. The business must have non-overnight trip options available to the public for purchase. Accreditation applies to an entire company, therefore all vessels, whether they are underway as a fishing boat or ferry, must adhere to the program.

#### IV. Criteria for Whale SENSE Participation<sup>1 2</sup>

##### A. Conduct educational briefing onboard vessel.

- 1) Prior to viewing whales, naturalists/interpreters/narrators from participating companies will brief passengers about the Whale SENSE program. It is recommended that the briefing include:
  - a) What the program is;
  - b) Why it is important;
  - c) The code of conduct that participants agree to follow;
  - d) Who the program partners are; and
  - e) Where to obtain additional educational information.

This can be a brief or of longer duration, depending on a company's individual style and preference. As an example, an announcement could be made that could go something like this: "As we head out of the harbor to begin our trip, we'd like to let you know that our company belongs to a program called Whale SENSE. Whale SENSE is a voluntary education and recognition program to promote responsible marine mammal viewing and stewardship of the marine environment and we are excited/proud to be a part of it. It's a partnership between NOAA Fisheries, Whale and Dolphin Conservation, and whale-watch operators. As members of the program, our company follows certain guidelines like slowing our speed, managing our time near whales, and communicating with other operators. If you're interested in learning more, feel free to ask me about WhaleSENSE during our trip." (When read aloud, this sample narrative runs under a minute.)

- 2) At some point during the trip, naturalists should also identify and explain applicable marine mammal protection laws and the purpose and importance of viewing regulations/guidelines to passengers onboard each trip. For humpback whale viewing in Alaska, naturalists should explain NOAA Fisheries 2001 Humpback Whale Approach

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<sup>1</sup> *Participation in the Whale SENSE Program does not create any right to renewal and does not represent a waiver by NOAA to seek penalties that are provided by law if law violations are discovered. Nor does it imply that the vessel complies with the United States Coast Guard safety inspection or other applicable safety and insurance requirements. Passengers are encouraged to ask businesses if they maintain current inspection, license, and insurance documentation.*

<sup>2</sup> *For Charter businesses that take customers to view whales but also conduct other types of charters, such as fishing trips and ferry services: Whale SENSE participants agree to follow the program criteria if they encounter whales, even if they are running another type of charter when the encounter occurs.*

Regulations and the agency's additional Alaska Marine Mammal Viewing Guidelines. They should also educate passengers that humpback whales are protected under the Endangered Species Act and the Marine Mammal Protection Act.

**B. Distribute outreach materials.**

- 1) Participating companies will make Whale SENSE materials available to passengers, or direct passengers to sources where materials are available. Program partners will supply outreach materials at no charge.

**C. Naturalist Facebook Group**

- 1) Naturalists may sign up for the "Whale SENSE Naturalists" Group on Facebook. This group serves as a way to facilitate communications among naturalists, promote professional development opportunities, and update naturalists of entangled whale sightings and field research activities.

**D. Comply with applicable laws.**

- 1) Participating companies will comply with all applicable resource protection laws and regulations (e.g. Marine Mammal Protection Act, Endangered Species Act, and Alaska Humpback Whale Approach Regulations).

**E. Report problems to the appropriate networks.**

- 1) Participants agree to report ship struck, stranded, injured, dead, or entangled marine mammals to the NOAA's Alaska Marine Mammal Stranding Hotline: 1-877-925-7773, NOAA Fisheries Alaska Protected Resources Office at 907-586-7235, or USCG via CH-16. If an entangled whale is reported, where possible, stand-by and keep the whale in sight or arrange for another vessel to maintain sight of the whale.
- 2) Participants are encouraged to report Marine Mammal Protection Act and/or Endangered Species Act violations<sup>3</sup> to NOAA's Office of Law Enforcement's hotline: 1-800-853-1964
- 3) Participants will keep important contact information readily available in the wheelhouse.

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<sup>3</sup> *Whale SENSE is an education and public awareness program, not a law enforcement program. Any suspected violations of the Marine Mammal Protection Act (MMPA) or other laws will continue to be dealt with through the appropriate law enforcement agency and will not be dealt with through the SENSE program.*

**F. Follow NOAA's regulations, policies, guidelines, and recommendations to prevent harassment.**

- 1) Follow NOAA's Fisheries' policy statement on marine mammal harassment: *"Interacting with wild marine mammals should not be attempted, and viewing marine mammals must be conducted in a manner that does not harass the animals. NOAA's Fisheries cannot support, condone, approve or authorize activities that involve closely approaching, interacting or attempting to interact with whales, dolphins, porpoises, seals or sea lions in the wild. This includes attempting to swim with, pet, touch, or elicit a reaction from the animals."*
- 2) Utilize best practices and follow NOAA Fisheries Alaska Humpback Whale Approach Regulations and Marine Mammal Viewing Guidelines to the best of vessel's operational ability (available online at <https://www.fisheries.noaa.gov/alaska/marine-life-viewing-guidelines/alaska-marine-mammal-viewing-guidelines-and-regulations>).
- 3) If adequate space aboard the vessel, post a graphic, brochure, placard, or poster, describing Alaska Humpback Whale Approach Regulations and Marine Mammal Viewing Guidelines in an area accessible for public viewing. Program partners will supply these materials upon request.

**G. Exceed standards specified by law, policies, and guidelines to promote stewardship.**

- 1) Participants will create and/or participate in at least one project exemplifying marine stewardship.
  - a) Projects are developed by each company and must be linked to NOAA's Ocean Literacy Principles. Multiple companies may work together on stewardship projects under the program. It is recommended that the goals of the project be shared with passengers onboard each trip.
  - b) The stewardship project will be identified in writing (by May 15) by the participating company to the Whale SENSE Coordinators. Whale SENSE Coordinators will assist participant in identifying, designing, and crafting messaging for stewardship project if requested.
  - c) Examples of projects may include (but are not limited to):
    - Participation in marine debris and beach clean-ups;
    - Recycling programs;

- Sponsorship of internship programs;
  - Supporting marine mammal research;
  - Taking classrooms out for educational whale-watches;
  - Hosting educational talks at public venues, such as libraries and schools; or
  - Creating a new stewardship project (prior approval required from Whale SENSE Coordinators)
- 2) Whale SENSE operators agree to not deploy and fly unmanned aircraft (i.e. drones) from their vessels in an effort to reduce disturbance to wildlife and other vessels on the water.
  - 3) Whale SENSE objectives should not be compromised if the company also participates in other business activities such as ferry or fishing services, companies agree to uphold a standard of responsible practices and code of conduct if marine mammals are viewed during these additional activities.

#### **G. Participate in SENSE training.**

- 1) Participating operators, captains, and naturalists/interpreters/narrators must participate in training provided by the program partners to attain an accurate knowledge standard on laws protecting whales, whale viewing etiquette, natural versus disturbed behaviors, research and conservation messaging, anthropogenic interaction, and reporting.
- 2) Participating owners/managers are responsible for ensuring all of their company's naturalists, operators, and captains complete the training. Training needs to be completed by crewmembers by May 15 or within two weeks of starting a position.

#### **H. Engage in responsible advertising<sup>4 5 6</sup>.**

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<sup>4</sup> "Advertising" includes any print or electronic advertisements that mention the business's name or those linked to the business, search engine listings, and any posted photos. This also includes, but is not limited to, pitch sheets, print, web, visual, and radio. Flexibility will be given to new companies that enrolled after their seasonal brochures are printed. In these cases, meeting these criteria will only be applied to electronic sources (i.e. websites, social media sites, etc.).

<sup>5</sup> The advertising guidelines are intended to help participants advertise responsible marine mammal viewing by avoiding advertisements that raise the public's expectation to engage in inappropriate, close human interactions with marine mammals.

<sup>6</sup> Participants will be encouraged to familiarize themselves with the Federal Trade Commission's rules for "truth-in-advertising" to ensure advertisements are truthful and non-deceptive about marine mammal viewing experiences.

- 1) Participants agree to engage in advertising that promotes responsible wildlife viewing and follow NOAA Fisheries “Recommendations for Advertising Wild Marine Mammal Viewing” (see Appendix 1):
  - a) Do not depict people touching, pursuing, chasing, attempting to swim with, or closely interacting with wild marine mammals or any activities that would violate the MMPA or ESA or other regulatory measures.
  - b) Do not show vessels underway within close approach zones (e.g. vessels with wakes within 100 yards of a humpback whale or other marine mammal species).
  - c) Include a prepared statement or photo caption about responsible whale viewing in advertisements with close approach pictures. An example “This vessel adheres to NOAA Fisheries Alaska Humpback Whale Approach Regulations and does not intentionally approach whales within 100 yards. For the safety of whales and our passengers, if a whale approaches our vessel within 100 yards, we place the engine in neutral and wait until the animal is located safely away from the vessel before reengaging the engines.” (If this statement is too long for available page space, the first sentence can be considered adequate.)

**I. Promote the Whale SENSE Program.**

- 1) Participants will help promote the Whale SENSE program by posting SENSE annual placards onboard each vessel, ticket booth, and souvenir shop as space allows (to be provided by partners at no cost).
- 2) Participants should link their company website to the Whale SENSE website ([www.whalesense.org](http://www.whalesense.org)).

**J. Engage in the feedback process.**

- 1) Participants agree to provide constructive feedback to program partners before, during, and after each season.
- 2) Participants agree to participate in pre and post season meetings or teleconferences.
- 3) Participants agree to review program materials and provide suggestions, comments, and concerns to program partners when applicable.

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*Participation in this program does not ensure adherence to the Federal Trade Commission’s advertising policies.*

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**K. Participate in annual evaluation.**

- 1) Participating companies agree to participate in annual evaluation processes described in section VI of this Framework.
- 2) Program evaluation will assess Whale SENSE's effectiveness and measure the program's success in meeting the program objectives.

**V. Process for Program Participation**

**A. Initiating Participation:**

- 1) Business owner or manager completes the Google Form application for the current year. Applications for enrollment are accepted from Jan-March and close on April 1. NOAA's Whale SENSE Coordinator provides business owner/manager with a checklist of Whale SENSE program components and criteria, as well as materials to help the business prepare for an evaluation before Coordinator confirms company participation and recognition. There will be a compliance check on May 15, if all May 15 criteria are met by this day, the participant will become an official Whale SENSE partner for that calendar year.

May 15 criteria include:

- (a) All of the company's Captains and Naturalists/Guides have completed the online Whale SENSE training prior to May 15 or within 2 weeks of their starting date.
- (b) Posted the current year WS Logo on the company website.
- (c) Posted the current year placard on all vessels where passengers can see them.
- (d) Poster the humpback whale approach diagram and Whale SENSE creed on all vessels where passengers can see them.
- (e) Current year stewardship projects have been completed or planned. In either case, the project has been communicated in writing with the program coordinator and signed off on.
- (f) Review of all advertising materials to ensure that they are in compliance with the "Recommendations for Advertising Wild Marine Mammal Viewing" (see Appendix 1):

## B. Renewing Participation:

- 1) Recognition materials, such as vessel decals that publicize participation in the program, display the current year. Only a current-year decal indicates active participation in the Whale SENSE program. Recognition for all Whale SENSE participants automatically expires at the end of each calendar year.
- 2) Companies renewing their participation must reapply each year to show their continued interest and commitment in the Whale SENSE program. Previous participants, who remain in good standing in the program, will receive an email notification with a link to the application at the start of the calendar year.
- 3) New, current year decals and placards will be distributed to participants after preliminary enrollment.
- 4) Whale SENSE public awareness materials (e.g. press releases, website content, blog posts) will be updated as appropriate to reflect the current list of participants in good standing.

## VI. Program Evaluation

### A. Purpose of Annual Evaluation:

- 1) Evaluation of participants annually is essential to gauge the program's effectiveness and success. This success relies on participants continuing to follow the program criteria after their initial evaluation and after receiving recognition as a Whale SENSE participant. The annual evaluation will typically take place between **June & August**.
  - a) **The goal of annual evaluation is to ensure that the Whale SENSE criteria are followed and encourage constructive dialogue, not to eliminate participants from the program.** Therefore, the focus of the annual evaluation process is to provide participants with constructive feedback related to meeting the Whale SENSE criteria. While program participants are expected to adhere to NOAA's Alaska Humpback Whale Approach Regulations and Marine Mammal Viewing Guidelines to the best of their ability, partners acknowledge that some of the parameters may not be observable by an evaluator on deck. Therefore, program partners will work to limit evaluation criteria to only easily observable operational guidelines.
  - b) Whale SENSE Coordinators ensure all Whale SENSE participating companies

conducting regular whale-watching trips, regardless of how many vessels and captains are associated with their business, are evaluated at least every-other-year either using unannounced and undisclosed in-person observation.

**B. In-person observation process for commercial whale-watches:**

- 1) The evaluator will book, pay for, and attend a regularly scheduled departure. The evaluator will evaluate the voyage for adherence to the Whale SENSE program criteria using a standard, predetermined reporting form.

**C. Evaluation results:**

- 1) NOAA's Whale SENSE Alaska Coordinator will summarize survey results from individual operators and share these results only with that operator. If the company has shown a discrepancy from the Whale SENSE criteria, and this discrepancy is not related to a federal law violation (i.e. vessel strike), NOAA's Whale SENSE Coordinator will engage in discussions with the company to determine how to better adhere to the principles of the program. If the Whale SENSE Coordinators are unable to come to an adequate resolution as to whether or not the potential discrepancy represents a program violation, the Whale SENSE Coordinators will convene the Operation Evaluation Panel detailed below for a more detailed review.

**D. Operation Evaluation Panel:**

- 1) If the Whale SENSE Coordinators are unable to come to a resolution regarding a vessel's behavior suspected of representing a program violation (not a federal violation) and disputed by the operator, the program partners will convene an independent evaluation panel consisting of third party representative who has experience operating whale-watching vessels, but who is not currently employed by an Alaskan whale-watching company.
- 2) The name of the company and operator will be redacted during the panel review to minimize bias among parties not involved with conducting the onboard evaluation.
- 3) The panel will make a determination on whether or not the action represented the most reasonable course of action given the specific circumstances of the situation (ex. weather may influence vessel changes in behavior that may not coincide with program criteria, but may be necessary for safety reasons).

**E. Discrepancies from third-party and passenger feedback evaluation process:**

- 1) If Whale SENSE Coordinators receive reports of program discrepancies from third-party evaluators or passengers, Coordinators will follow the “Complaints Procedure” outlined in section VII of this Framework.

**F. If a program deviation is determined:**

- 1) The participant will be notified within 48 hours of the deviation by email or phone.
- 2) The participant will have 14 days from the date of the notification to revise their practices.
- 3) Participant re-evaluation will occur after the 14-day timeframe mentioned above through a spot check, passenger evaluation, meeting with Whale SENSE program coordinator, or pre-arranged ride-along by the program coordinator, volunteer, or third party.
- 4) If the company fails to revise their practices after being given **no more than three opportunities** to meet the Whale SENSE standards, the company must remove the SENSE logo from its vessel(s) and advertisements, and the company name will be removed from the Whale SENSE website and future seasonal program promotions.

**G. Providing feedback:**

- 1) Participants are welcome and encouraged to provide feedback on the evaluation process to the SENSE Coordinators at all times.

**VII. Complaints Procedure<sup>7</sup>**

*The following procedure establishes a process to address complaints received from the public regarding Whale SENSE participants not meeting the program criteria.*

**A. Telephone Complaints:**

- 1) A record of the conversation will be made and the complainant asked to put their

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<sup>7</sup> *If any complaint is investigated by NOAA Office of Law Enforcement as a take under the Marine Mammal Protection Act, Endangered Species Act results in a judgment against the participant, the participant is dropped from the Program. Future reinstatement will be at the discretion of the SENSE program partners.*

concerns in writing.

- 2) The complainant will be advised that a copy will be provided to the participant against whom the complaint was made.
- 3) No further action will be taken unless a written complaint is received by NOAA or WDC.
- 4) If a written complaint is received, the Complaints Procedure (detailed below in Whale SENSE Framework section VII (B)) will then be applied.

**B. Complaints Procedure:**

- 1) The NOAA Whale SENSE Coordinator will assess whether the complaint is from a reliable source and if the complaint relates to the program's criteria. If the complaint does not relate to the program criteria, no further action will be taken.
- 2) If the complaint does relate to the SENSE program criteria, NOAA's Whale SENSE Coordinator will forward a copy of the complaint to the participant involved, outlining the main points of the complaint. The complainant's personally identifiable information (i.e.name, address, email, etc.) will be used for internal use only and will not be made public or available to the company in question.
- 3) In the copy of the complaint submitted to the participating company, the Whale SENSE Coordinator will request a response from the participating company (i.e. was there a specific reason recorded in the vessel's logbook, or does the captain/naturalist recall the circumstances of the program deviation). Responses should be returned to the Whale SENSE Coordinator, in writing, within 5 days of receiving the complaint copy, unless the Coordinator grants an extension.
- 4) Whale SENSE Coordinators will review the participant's response, and consider whether or not the points have been adequately addressed. If the Whale SENSE Coordinators determine the participant has deviated from the program criteria, the participant will be given 2 weeks to address areas of concern. The participant will then be then re-evaluated utilizing options outlined in section VI of this Framework. The program coordinators will select the most appropriate evaluation method.
- 5) If a second written complaint is received by NOAA or WDC within one year, the participant will undergo additional evaluation in accordance with the procedures described in Whale SENSE Framework section VI.
- 6) If three valid complaints are received and upheld within one year, the participant will be ineligible to participate in the Whale SENSE program for one year. The participant will be

removed from Whale SENSE program materials, and will not receive annual renewal decals. The company agrees to return current year decals and remove references to the Whale SENSE program from their websites and advertisements.

- 7) The participant may request re-evaluation and renewed participation after one full year of non-participation.

## **VIII. Program Framework Review**

### **A. Annual Review:**

- 1) An annual review of the Whale SENSE participation criteria and program framework will ensure the program is functioning as intended and provides the opportunity to address issues that were not foreseen when the criteria were initially developed.

## **IX. Educational Component**

### **A. Education/Outreach Materials:**

- 1) Well-crafted outreach and educational materials provided to the general public may encourage support of whale stewardship in Alaska. As feasible, Whale SENSE partners will develop outreach and education materials to meet SENSE participants' stated outreach needs.

### **B. Continuing Education:**

- 1) Whale SENSE partners will present program framework updates during the annual online.
- 2) Whale SENSE partners may conduct additional educational workshops, upon request by the program participants, on relevant topics of interest such as local research.
- 3) Whale SENSE partners will maintain a Facebook group, "Whale SENSE Naturalists", to promote educational events, professional development opportunities, marine related research updates, and to foster communication amongst whale-watching naturalists.
- 4) Whale SENSE partners will maintain and update an online Naturalist Resource Center ([www.whalesense.org/naturalist-resource-center/](http://www.whalesense.org/naturalist-resource-center/)).

## **X. Whale SENSE Program Public Awareness**

**A. All program partners (NOAA, WDC) and participants (operators) will engage in activities intended to raise public awareness of this program and the importance of responsibly viewing large whales.**

**B. These activities may include (but are not limited to):**

- 1) Whale SENSE program partners will post information on their websites about the Whale SENSE program, including a list of current participants.
- 2) Whale SENSE program partners will conduct outreach about the Whale SENSE program in various publications.
- 3) Whale SENSE program partners will work with other organizations to promote the importance of the Whale SENSE program through their websites and applicable publications.
- 4) Whale SENSE program partners will recognize SENSE program participants through press releases acknowledging the companies' successful completion of the program's training and their agreement to follow the voluntary program criteria.
- 5) Whale SENSE program participants may use the Whale SENSE logo in advertisements that meet the Whale SENSE advertising criteria as outlined earlier in the document, and must remove the logo if dismissed from the program.