



**Billing Code 3510-22-P**

**DEPARTMENT OF COMMERCE**

**National Oceanic and Atmospheric Administration**

**RIN 0648-XE355**

**Endangered and Threatened Species; Initiation of 5-Year Review for Southern Resident Killer Whales**

**AGENCY:** National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

**ACTION:** Notice of initiation of 5-year review; request for information.

**SUMMARY:** We, NMFS, announce a 5-year review of Southern Resident killer whales (*Orcinus orca*) under the Endangered Species Act of 1973, as amended (ESA). The purpose of these reviews is to ensure that the listing classification of a species is accurate. The 5-year review will be based on the best scientific and commercial data available at the time of the review; therefore, we request submission of any such information on Southern Resident killer whales that has become available since their original listing as endangered in November 2005 or since the previous 5-year review completed in 2011. Based on the results of this 5-year review, we will make the requisite determination under the ESA.

**DATES:** To allow us adequate time to conduct this review, we must receive your information no later than *[insert date 90 days after the date of publication in the FEDERAL REGISTER]*.

However, we will continue to accept new information about any listed species at any time.

**ADDRESSES:** You may submit information on this document identified by NOAA-NMFS-

2016-0006 by either of the following methods:

- Electronic submission: Submit all electronic public comments via the Federal e-Rulemaking Portal [www.regulations.gov](http://www.regulations.gov). To submit comments via the Federal e-Rulemaking Portal, first click the “submit a comment” icon, then enter NOAA-NMFS-2016-0006 in the keyword search. Locate the document you wish to comment on from the resulting list and click on the “Submit a Comment” icon on the right of that line.
- Mail or hand-delivery: Lynne Barre, NMFS West Coast Region, 7600 Sand Point Way NE, Seattle, WA 98115.

Instructions: Comments must be submitted by one of the above methods to ensure that the comments are received, documented, and considered by NMFS. Comments sent by any other method, to any other address or individual, or received after the end of the comment period, may not be considered. All comments received are a part of the public record and will generally be posted for public viewing on [www.regulations.gov](http://www.regulations.gov) without change. All personal identifying information (e.g., name, address, etc.) submitted voluntarily by the sender will be publicly accessible. Do not submit confidential business information, or otherwise sensitive or protected information. NMFS will accept anonymous comments (enter “N/A” in the required fields if you wish to remain anonymous).

**FOR FURTHER INFORMATION CONTACT:** Lynne Barre, West Coast Regional Office, 206-526-4745.

**SUPPLEMENTARY INFORMATION:** Under the ESA, the U.S. Fish and Wildlife Service maintains a list of endangered and threatened wildlife and plant species at 50 CFR 17.11 (for

animals and 17.12 (for plants). Section 4(c)(2)(A) of the ESA requires that we conduct a review of listed species at least once every five years. On the basis of such reviews under section 4(c)(2)(B), we determine whether or not any species should be delisted or reclassified from endangered to threatened or from threatened to endangered. Delisting a species must be supported by the best scientific and commercial data available and only considered if such data substantiates that the species is neither endangered nor threatened for one or more of the following reasons: (1) the species is considered extinct; (2) the species is considered to be recovered; and/or (3) the original data available when the species was listed, or the interpretation of such data, were in error. Any change in Federal classification would require a separate rulemaking process. The regulations in 50 CFR 424.21 require that we publish a notice in the **Federal Register** announcing those species currently under active review. This notice announces our active review of the Southern Resident killer whale distinct population segment (DPS) currently listed as endangered (70 FR 69903; November 18, 2005).

Background information on Southern Resident killer whales including the endangered listing, critical habitat designation, recovery planning and protective regulations is available on the NMFS West Coast Region web site at <http://www.westcoast.fisheries.noaa.gov/>. Below is a brief list of several significant actions since the endangered listing of the Southern Resident killer whale DPS. Critical habitat was designated in November 2006 (71 FR 69054) and includes 2,560 square miles (6,630 sq km) of marine habitat in Haro Strait and waters around the San Juan Islands, Puget Sound, and the Strait of Juan de Fuca. The final Recovery Plan was released in January 2008 (73 FR 4176), and contains detailed information on status, threats and recovery

actions for Southern Residents. Regulations to protect Southern Resident killer whales from vessel effects were released in April 2011 (76 FR 20870). A five year review was completed in 2011 and concluded that no change was needed to the endangered status (NMFS 2011). In 2014 we released a report summarizing research and recovery efforts over the last 10 years. The report and other supporting documents and media are available on our web site at [http://www.nwfsc.noaa.gov/news/features/killer\\_whale\\_report/index.cfm](http://www.nwfsc.noaa.gov/news/features/killer_whale_report/index.cfm). In 2015 Southern Resident killer whales were named as a Species in the Spotlight, one of eight species among the most at risk of extinction in the near future. For more information on the Species in the Spotlight program, please visit our web site at [http://www.nmfs.noaa.gov/stories/2015/05/05\\_14\\_15species\\_in\\_the\\_spotlight.html](http://www.nmfs.noaa.gov/stories/2015/05/05_14_15species_in_the_spotlight.html).

### **Determining if a Species is Threatened or Endangered**

Section 4(a)(1) of the ESA requires that we determine whether a species is endangered or threatened based on one or more of the five following factors: (1) The present or threatened destruction, modification, or curtailment of its habitat or range; (2) overutilization for commercial, recreational, scientific, or educational purposes; (3) disease or predation; (4) the inadequacy of existing regulatory mechanisms; or (5) other natural or manmade factors affecting its continued existence. Section 4(b) also requires that our determination be made on the basis of the best scientific and commercial data available after taking into account those efforts, if any, being made by any State or foreign nation, to protect such species.

### **Public Solicitation of New Information**

To ensure that the 5-year review is complete and based on the best available scientific and

commercial information, we are soliciting new information from the public, governmental agencies, Tribes, the scientific community, industry, environmental entities, and any other interested parties concerning the status of Southern Resident killer whales. The 5-year review considers the best scientific and commercial data and all new information that has become available since the listing determination or most recent status review. Categories of requested information include: (1) species biology including, but not limited to, population trends, distribution, abundance, demographics, and genetics; (2) habitat conditions including, but not limited to, amount, distribution, and important features for conservation; (3) status and trends of threats; (4) conservation measures that have been implemented that benefit the species, including monitoring data demonstrating effectiveness of such measures; (5) need for additional conservation measures or updates to the Recovery Plan, (6) adequacy of the recovery criteria, including information on recovery criteria that have or have not been met; and (7) other new information, data, or corrections including, but not limited to, taxonomic or nomenclatural changes, identification of erroneous information contained in the list of endangered and threatened species, and improved analytical methods for evaluating extinction risk.

Any new information will be considered during the 5-year review and may also be useful in evaluating the ongoing recovery program for Southern Resident killer whales. For example, information on conservation measures will assist in tracking implementation of actions in the Recovery Plan. Habitat information received during the 5-year review process may also be useful in our consideration of a revision to the designated critical habitat for Southern Resident killer whales. In February 2015, we published a 12-month finding notice on a petition requesting

that we revise critical habitat (80 FR 9682). The 12-month finding describes how we intend to proceed with the requested revision and lays out a timeline. The critical habitat designation process is separate from this 5-year review and will include a separate opportunity for public comment.

If you wish to provide information for this 5-year review, you may submit your information and materials electronically or via mail (see **ADDRESSES** section). We request that all information be accompanied by supporting documentation such as maps, bibliographic references, or reprints of pertinent publications. We also would appreciate the submitter's name, address, and any association, institution, or business that the person represents; however, anonymous submissions will also be accepted.

**Authority:** 16 U.S.C. 1531 *et seq.*

Dated: January 20, 2016.

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Angela Somma,  
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Office of Protected Resources, National Marine Fisheries Service.  
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