

Subject: Comments on the Proposed Regulations protecting the Southern Resident Killer Whales
From: Jeff Lamarche <jefflamarche@hotmail.com>
Date: Wed, 13 Jan 2010 22:24:47 -0800
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Wednesday, January 13, 2010

**Assistant Regional Administrator,
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7600 Sand Point Way NE,
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Comments on NOAA's Proposed Protective Regulations for Killer Whales in the Northwest Region Under the Endangered Species Act and Marine Mammal Protection Act

**DEPARTMENT OF COMMERCE
National Oceanic and Atmospheric Administration
50 CFR Part 224
RIN 0648-AV15
Protective Regulations for Killer Whales in the Northwest Region Under the Endangered Species Act and
Marine Mammal Protection Act**

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

First, thank you very much for this opportunity to comment.

I strongly support the proposed Marine Mammal Viewing Regulations put forward by the Pacific Whale Watch Association (PWWA), namely:

The PWWA recommends:

1. "Vessels may not negligently be within 100 meters of Southern Resident Killer Whales in Washington, Oregon, and California, except under special permit issued by NOAA."

Why? Because this would take the 100m Viewing Distance that is Internationally Recognized as PRECAUTIONARY and makes it a REGULATION enforceable by

law.

I also encourage all levels of Government to increase funding to the San Juan County Sheriff, Washington State Fish and Wildlife Enforcement Officers and NMFS/NOAA Enforcement Officers to hold accountable any and all people who NEGLIGENTLY operate their vessels within 100m of Southern Resident Killer Whales.

I encourage all levels of Government in Oregon and California to do the same, because the SRKW now spend significant time in the waters off Oregon and California, especially in the Winter, looking for their favourite food (Chinook Salmon) that used to be much more available and abundant in the waters of Washington State.

Studies that support this proposal include:

Erbe, C. 2002. "Underwater noise of whale-watching boats and potential effects on killer whales (*Orcinus orca*), based on an acoustic impact model". Marine Mammal Science. Volume 18, 394 to 418. (Erbe 2002, Williams et al. 2002a,b, 2006, Williams & Ashe 2007)

Bain, D. E., J. C. Smith, R. William, and D. Lusseau. 2006. "Effects of vessels on behavior of Southern Resident killer whales" (*Orcinus spp.*). NMFS Contract Report No. AB133F03SE0950 and AB133F04CN0040. 61 pages.

K.M. Parsons, K.C. Balcomb, J.K.B. Ford, J.W. Durban. (2009). "The social dynamics of southern resident killer whales and conservation implications for this endangered population" (In Press) Animal Behaviour xxx (2009) 1–9

Ford, J. K. B., G. M. Ellis, and K. C. Balcomb. 2000. "Killer whales: the natural history and genealogy of *Orcinus orca* in British Columbia and Washington State". 2nd edition. UBC Press, Vancouver, British Columbia. 104 pages.

Supporting this need for special vigilance by Enforcement during the Winter months is:

Ford JKB, Ellis GM, Olesiuk PF (2005) "Linking prey and population dynamics: Did food limitation cause recent declines of 'resident' killer whales (*Orcinus orca*) in British Columbia?" C S A S

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"Resident killer whales may be especially dependent on Chinook during winter, when this species is the primary salmonid available in coastal waters, and the whales may be subject to nutritional stress leading to increased mortality if the quantity and/or quality of this prey resource declines".

2. "Vessels must avoid the established path of Southern Resident Killer Whales."

Why? This addresses the POSSIBLE impact of vessels simply being in the path of SRKW at the surface whether under power or simply floating.

D. P. Noren^{1,*}, A. H. Johnson², D. Rehder³, A. Larson¹ "Close approaches by vessels elicit surface active behaviors by southern resident killer whales" ENDANGERED SPECIES RESEARCH Vol. 8: 179–192, 2009

Lusseau, D., D. E. Bain, R. Williams and J. C. Smith. (In Press, now 2009). "Vessel traffic disrupts the foraging behavior of southern resident killer whales *Orcinus orca*". Endangered Species Research. Volume 6, pages 211-221.

Williams, R., D. E. Bain, J.C. Smith, and D. Lusseau. (In Press, now 2009). "Effects of vessels on behaviour patterns of individual southern resident killer whales *Orcinus orca*". Endangered Species Research. Volume 6, pages 199-209.

3 "Vessels must obey a 7 knot speed restriction year round from Eagle Point to Mitchell Point, along San Juan Island, out 1/2 mile, except for official law enforcement vessels or vessels engaged in emergency and rescue situations."

This addresses the noise produced by vessels operating at speed and possibility that the "MASKING" that occurs may make it more difficult for SRKW to find prey using echolocation and may increase their energy expenditure by requiring them to make more and louder vocalizations.

I believe that these proposed amended regulations are fair and effective because:

THESE PROPOSALS DO NOT DISCRIMINATE AGAINST BOATS BASED ON WHO IS DRIVING THE BOAT, BUT FROM THE POINT OF VIEW OF THE BOAT'S POTENTIAL IMPACT ON THE SOUTHERN RESIDENT KILLER WHALES

Holt, M. M., D. P. Noren, V. Viers, C.K. Emmons, and S. Viers. 2009. "Speaking up: killer whales (*Orcinus orca*) increase their call amplitude in response to vessel noise". Journal of the Acoustical Society of America 125(1),12 pages.

Again, I support the amendment of the Proposed Regulations to the following:

1. **"Vessels may not negligently be within 100 meters of Southern Resident Killer Whales**
2. **"Vessels must avoid the established path of Southern Resident Killer Whales."**
3. **"Vessels must obey a 7 knot speed restriction year round from Eagle Point to Mitchell Point, along San Juan Island, out 1/2 mile.**

Thank you for this opportunity to comment, and very much look forward to working with National Marine Fisheries Service in promoting Research, Education and Responsible

Wildlife Viewing.

Sincerely,

Jeff Lamarche

Biologist/Captain

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