

**Subject:** Proposal

**From:** San Juan Excursions - Whale and Wildlife Tours <sanjuanex@watchwhales.com>

**Date:** Tue, 06 Oct 2009 14:49:28 -0700

**To:** Orca.Plan@noaa.gov

Hello Lynne,

Thank you for meeting with the PWWA this morning to discuss and answer questions regarding the NOAA proposed rule for the SRKW (Southern Resident Killer Whales) recovery plan. As you have heard many times in the last few weeks and months, there is not enough backing from our local community or the science community to support the proposed rules as they are currently written. Please consider using the proposed position set forth by the Pacific Whale Watching Association which include:

1. Vessels may not negligently be within 100 meters of SRKW in Washington, Oregon and California, except non-commercial and research vessels under special permit issued by NOAA.
2. Vessels must avoid the established path of SRKW
3. Vessels must obey the 7 knot speed restriction year round from Eagle Point to Mitchell Point, along San Juan Island, out ½ mile, except for official law enforcement vessels or vessels engaged in emergency and rescue situations.

The new proposed vessel regulations represent a combination of Scenario #1 and #2 from the Draft Environmental Assessment, and an additional element which is supported by the available vessel/killer whale science that we have seen to date.

This recommendation is more restrictive than the current state law and is within the spirit of the Marine Mammal Protection Act. This recommendation, in cooperation with the PWWA viewing guidelines provides vessel physical and acoustic presence protection for SRKWs.

Please consider the PWWAs recommendations.

Thank you,

Erin Ancich  
San Juan Island resident and PWWA member

**Subject:** J-Pod

**From:** "Island Adventures, Inc." <whales@islandadventurecruises.com>

**Date:** Wed, 09 Dec 2009 12:14:53 -0800

**To:** Orca.Plan@noaa.gov

To:

Assistant Regional Administrator  
Protected Resources Division  
Northwest Regional Office  
National Marine Fisheries Service  
7600 Sand Point Way NE  
Seattle, WA 98115

I have had many conversations with Lynne Barre regarding the newly proposed legislation regarding SRKW viewing. She has told me over and over that NOAA is looking anything new that they may have overlooked in their decision-making process. It appears that there is one very obvious factor that may have been overlooked.

J-Pod (the most commonly viewed group in the San Juans) has been stable or increasing in numbers for the last decade and has shown consistent population size since the early 70's. If J-Pod is flourishing (which appears to be overlooked consistently) why would NOAA need to further restrict viewing from these animals? I would like to use this comment to again endorse the PWWA recommendation for SRKW's.

The population of J-Pod can easily be validated through the Center for Whale Research or by reviewing the recovery plan part 2, page 110.

Our recommendation for the new proposed vessel regulations is a combination of Scenario #1 and Scenario #2 from the Draft Environmental Assessment, and an additional element which is supported by the available vessel/killer whale science that we have seen to date.

The PWWA recommends:

- 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.
- Vessels must avoid the established path of Southern Resident Killer Whales.
- 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 recommendation is more restrictive than the current state law and is within the spirit of the Marine Mammal Protection Act. This recommendation, in cooperation with the PWWA viewing guidelines provides vessel physical and acoustic presence protection for SRKW's. The PWWA recommendation takes into account sound and proximity issues, foraging, travelling,

socializing and resting behaviors, important habitat protection and further reduces the potential for vessel strikes. It is in accordance with the precautionary principles used to date for the whales protection and does not diminish the important educational elements of commercial whale watching. The PWWA recommendation will not negatively contribute to the economy, and is a fair and reasonable law that is less likely to be challenged and overturned in the future.

Shane Aggergaard

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1-360-293-2428  
[www.islandadventurecruises.com](http://www.islandadventurecruises.com)

**Subject:** PWWA's Emended Recommendation to NOAA  
**From:** "Island Adventures, Inc." <whales@islandadventurecruises.com>  
**Date:** Tue, 29 Sep 2009 10:58:27 -0700  
**To:** whales@islandadventurecruises.com

PWWA has made some minor language changes to our recommendation to NOAA regarding vessel regulations for SRKW's. If you have received our previous recommendation please let this addition stand as our current position as of September 29th, 2009.

Our recommendation for the new proposed vessel regulations is a combination of Scenario #1 and Scenario #2 from the Draft Environmental Assessment, and an additional element which is supported by the available vessel/killer whale science that we have seen to date.

The PWWA recommends:

- 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.
- Vessels must avoid the established path of Southern Resident Killer Whales.
- 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 recommendation is more restrictive than the current state law and is within the spirit of the Marine Mammal Protection Act. This recommendation, in cooperation with the PWWA viewing guidelines provides vessel physical and acoustic presence protection for SRKW's. The PWWA recommendation takes into account sound and proximity issues, foraging, travelling, socialising and resting behaviours, important habitat protection and further reduces the potential for vessel strikes. It is in accordance with the precautionary principals used to date for the whales protection and does not diminish the important educational elements of commercial whale watching. The PWWA recommendation will not negatively contribute to the economy, and is a fair and reasonable law that is less likely to be challenged and overturned in the future.

Shane Aggergaard  
President PWWA

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**Subject:** Science Evaluation Parts 1 and 2, of 3 and PWWA Recommended Vessel Restrictions  
**From:** "Island Adventures, Inc." <whales@islandadventurecruises.com>  
**Date:** Mon, 28 Sep 2009 11:54:14 -0700  
**To:** whales@islandadventurecruises.com

Assistant Regional Administrator  
Protected Resources Division  
Northwest Regional Office  
National Marine Fisheries Service  
7600 Sand Point Way NE  
Seattle, WA 98115

After reviewing the Regulatory Impact Review, The Environmental Assessment, and the majority of the work that supports these two documents, The Pacific Whale Watch Association, after consulting with the sports fishing community, commercial fisherman, recreational and commercial kayak companies, dive charters, and many other whale enthusiasts in the area, would like to propose a solution.

We have attached parts one and two of our three part scientific review that support our recommendation. After reading it in its entirety, we would be surprised if you do not agree that our proposal is the best solution for humans and orcas alike.

Our recommendation for new proposed vessel regulations is a combination of scenario #1 and scenario #2, from the regulatory impact review, and another element which is supported by all of the science that we have seen to date.

PWWA recommends:

- 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.
- Vessels must avoid the established path of Southern Resident Killer Whales.
- 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 recommendation is more restrictive than the current state law. This recommendation, in cooperation with PWWA viewing guidelines provides ample protection for SRKW's. The PWWA recommendation takes into account sound, foraging, and potential vessel strikes. It is precautionary for the whales and does not hurt the educational element of commercial whale watching. The PWWA recommendation will not hurt the economy and is a fair and reasonable law that will not be challenged and overturned in the future.

Captain Shane Aggergaard  
President, Pacific Whale Watch Association

**Subject:** Re: Orca Regulations

**From:** San Juan Safaris-Whale Watching Wildlife Tours FUN! <fun@sanjuansafaris.com>

**Date:** Wed, 13 Jan 2010 10:58:11 -0800

**To:** NOAA Orca Recovery Plan <Orca.Plan@noaa.gov>

To: NOAA

RE: Orca Regulations

January 13, 2010

I am reluctant to get excited about the surge of new orca calves, but I feel compelled to state the obvious.

Do you really believe now that boats have any thing to do with past declines in orca numbers?

Using the “science” you have shown me so far, we must now believe the more the orcas are watched, the more babies they will have.

It also seems that you are making decisions based on data collected five years ago which is currently not valid do to new state regulations in place.

What we need is more enforcement and

1. Vessels may not negligently be within 100 meters of the Southern Resident Killer Whales (SRKW)
2. Vessels must avoid the established path of SRKW
3. Vessels must obey a 7 knot speed restriction year round from Eagle Point to Mitchell Point, along San Juan Island, out ½ mile

Anything imposed on the whale watching industry over the above, is not supported by science, isn't rational and would be over reaching with no up side for the orcas.

Bill Wright  
San Juan Safaris