



State of Washington  
DEPARTMENT OF FISH AND WILDLIFE

Mailing Address: P.O. Box 43200, Olympia, WA 98504-3200 • (360) 902-2200 • TDD (360) 902-2207  
Main Office Location: Natural Resources Building, 1111 Washington Street SE, Olympia, WA

**DETERMINATION OF SIGNIFICANCE  
AND REQUEST FOR COMMENTS ON SCOPE OF EIS**

**Name of Proposal:** DS/Scoping 20-026: COMMERCIAL WHALE WATCHING  
LICENSING PROGRAM

**Description of Proposal:** In spring 2019, the Washington Legislature (via [RCW 77.65.620](#)) directed the Washington Department of Fish and Wildlife (WDFW) to establish a license process for commercial whale watching of Southern Resident Killer Whales (SRKW) in Puget Sound and the Strait of Juan de Fuca and adopt rules for commercial whale-watching license holders. SRKW are the only known resident population of orcas in the United States. They spend the spring and summer months primarily in the inland marine waters of Washington and British Columbia and spend the winter months primarily in the coastal waters of the Pacific Ocean between California and British Columbia. SRKW are listed as endangered under federal and Washington State law, and vessel disturbance and noise have been identified as stressors that threaten the viability of SRKW in Washington waters. Current state and federal regulations establish limits on how fast vessels can travel when near SRKW and on how closely SRKW can be approached. These regulations apply to all vessel operators. This proposal would establish additional requirements associated with licensing commercial whale watching and defining rules for commercial whale watching of SRKW.

The purpose of creating a new licensing program and establishing regulations for commercial vessels is to enable sustainable whale watching while reducing the impacts of vessel noise and disturbance so whales can effectively forage, rest, and socialize. WDFW will consider protections for SRKW by establishing requirements for or limits on different aspects of commercial whale watching, including:

- the number of commercial whale watching operators that may view SRKW at one time;
- the number of days and hours that commercial whale watching operators can operate;
- the duration spent in the vicinity of SRKW;
- the areas in which commercial whale watching operators may operate; and
- the use of an automatic identification tracking system (AIS) to enable monitoring and compliance.

WDFW convened the Commercial Whale Watching Advisory Committee to help develop these proposed rules and processes for commercial whale watching and provide recommendations to WDFW. The Advisory Committee is comprised of members of whale watching industry, including the Pacific Whale Watching Association, SoundWatch, the nonprofit community, and the public. More information on the committee process can be found here:

<https://wdfw.wa.gov/species-habitats/at-risk/species-recovery/orca/rule-making>, and here:  
<https://wdfw.wa.gov/about/advisory/cwwlp>.

WDFW must use the best available science in establishing the rules and implementing them through an adaptively managed program. An independent panel of scientists from the Washington State Academy of Sciences is reviewing the current body of best available science regarding impacts to SRKW by small vessels and commercial whale watching due to disturbance and noise. As part of the rulemaking process, WDFW will evaluate and consider the economic impact on small businesses and the economic viability of license holders. Finally, this SEPA process will assist in the scoping of rule alternatives and evaluation of proposed alternatives.

**Proponent/Applicant:** Washington State Department of Fish and Wildlife (WDFW)  
Contact: Julie Watson, Killer Whale Policy Lead  
P.O. Box 43200  
Olympia, WA 98504  
(360) 790-4528  
[Julie.Watson@dfw.wa.gov](mailto:Julie.Watson@dfw.wa.gov)

**Location of Proposal, including street, if any:** Puget Sound and Strait of Juan de Fuca

**Lead Agency:** Washington Department of Fish and Wildlife (WDFW)

**EIS to be Prepared:** WDFW has determined that this proposal may have a significant impact on the environment. An environmental impact statement (EIS) will be prepared under RCW 43.21C.030(2)(c).

**Scoping:** WDFW is seeking public input throughout the EIS process. Specifically, WDFW hopes to learn about public opinion on which commercial whale watching regulations or limits might be most effective in ensuring sustainable whale watching practices and reducing negative impacts on SRKW, and the potential economic impacts that may result in these types of rules. Rules might address things like: whale watching seasons or days when viewing SRKW is not permitted, certain whale behaviors (e.g., feeding) that trigger restrictions on commercial viewing of SRKW, how many vessels could be around a pod, family, or other grouping of SRKW, watching zones or exclusion zones, education requirements for licensees and/or education materials to be provided on vessels, tracking of licensed operators to monitor compliance with requirements, performance standards or metrics for licensees, and other measures related to regulation of sustainable commercial whale watching with reduced impacts on SRKW.

WDFW encourages commenters to include specific suggestions. For example, if you believe it is important to place limits on how many commercial whale watching vessels can watch a SRKW at one time: what impacts from those activities do you believe are appropriate to evaluate, how would you suggest defining a grouping of whales, and how many vessels in the vicinity of a group of SRKW do you believe are appropriate in order to ensure sustainability of whale watching and reduce negative impacts?

Agencies, tribes, and members of the public are invited to comment on the scope of the EIS. You may comment on alternatives, mitigation measures, probable significant adverse impacts, and licenses or other approvals that may be required. Comments received through these procedures are part of the official SEPA record for this proposal. For Washington State tribes, participating

in the SEPA process does not preclude individual consultation, which may be requested at any time.

We must receive your comments within 21 days of the date of this letter. The comment period and survey will close at **5:00 pm on Monday, June 8, 2020.**

**Method of Comment:**

The following procedures shall govern the method to comment on agency SEPA proposals. Comments received through these procedures are part of the official SEPA record for this proposal. *Please provide the title of this proposal in the subject area of your comment.*

You can submit your comments any one of the two following ways:

- Fill out an online survey at: <https://wdfw.wa.gov/licenses/environmental/sepa/open-comments>.
- Mail a written comment to the address below.

**Responsible Official:** Lisa Wood

**Position/Title:** SEPA/NEPA Coordinator, WDFW Habitat Program, Protection Division

**Address:** P.O. Box 43200, Olympia, WA 98504-3200

Comments must be received by **5:00 pm on June 8, 2020.**

**Public Meeting:** WDFW has scheduled a two-hour virtual public scoping meeting on **Thursday, May 28, 2020, from 3:00pm to 5:00pm** to collect additional public comments and answer questions about the SEPA process. The meeting will be held as a webinar on the web conferencing platform Zoom. Registration information will be available online at: <https://wdfw.wa.gov/about/advisory/cwwlp>.

After the comment period closes, applicants may view the updated status of this proposal on the WDFW SEPA website: <https://wdfw.wa.gov/licenses/environmental/sepa/closed-final>. Once the status is posted as final, applicants and permittees may take action on the proposal.

If you have questions about this DS/Scoping or the details of the proposal, contact Lisa Wood at the address, e-mail, or fax number above; you can also call her at (360) 902-2260.

**DATE OF ISSUE:** May 18, 2020

**SIGNATURE:**



SEPA Log Number: 20-026.ds/scoping

*Individuals who need to receive this information in an alternative format or language, or who need reasonable accommodations to participate in WDFW-sponsored public meetings or other activities may contact Dolores Noyes at (360-902-2349), or TTY 771, or email ([dolores.noyes@dfw.wa.gov](mailto:dolores.noyes@dfw.wa.gov)). For more information [https://wdfw.wa.gov/accessibility/reasonable\\_request.html](https://wdfw.wa.gov/accessibility/reasonable_request.html).*