

Commercial Whale Watching License Program EIS: Scoping Report

Prepared for Washington Department of Fish and Wildlife

June 30, 2020



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INTRODUCTION

In 2019, the Washington State Legislature (Legislature) passed Senate Bill 5577, which modified Washington state law to protect Southern Resident Killer Whales (SRKW) from vessels by changing distance and speed restrictions around SRKW for all vessels; requiring a license for commercial whale watching; and requiring Washington State Department of Fish and Wildlife (WDFW) to adopt and implement rules regulating viewing of SRKW for holders of commercial whale watching licenses by January 1, 2021.

Per RCW 77.65.620, WDFW's commercial whale watching rules *must*:

- Reduce the daily and cumulative impacts on SRKW;
- Consider the economic viability of commercial whale watching license holders;
- Use the best available science to establish rules and adaptively manage the program; and
- Consider establishing limitations on:
 - The number of commercial whale watching operations that may view SRKW at one time;
 - The number of days and hours commercial whale watching operations can operate;
 - The duration of time commercial whale watching operations can spend near SRKW;
 - The areas in which commercial whale watching operations can operate; and
 - The use of an automatic identification tracking system (AIS) to monitor commercial whale watching operations' compliance with rules.

The State Environmental Policy Act (SEPA) process is one of four information-gathering processes that will support WDFW's Commercial Whale Watching Licensing Program (CWWLP) rulemaking. The other three processes are: 1) the CWWLP Advisory Committee, 2) the Intergovernmental Coordinating Group, and 3) the Washington State Academy of Sciences Independent Science Panel.

SEPA Environmental Review

SEPA protects Washington's environment by requiring all state and local governments to use a systematic, interdisciplinary approach that considers environmental values (along with economic and technical considerations) in planning and decision making that may have an impact on the environment. SEPA's environmental review process involves the identification and evaluation of probable environmental impacts and the development of mitigation measures to reduce adverse environmental impacts. Information gathered during the SEPA process is provided to agencies, applicants, and the public to encourage the development of environmentally sound proposals.

Per WAC 197.11, WDFW is required to perform a SEPA environmental review for all decisions and actions, including adoption of rules and regulations. One of the first steps in the SEPA process is to determine if an action may have significant environmental impacts, which would require the agency to conduct an environmental impact statement (EIS). WDFW determined that the rules required by the Legislature for the CWWLP may have significant environmental impacts and therefore issued a determination of significance and an EIS scoping notice (DS/Scoping) on May 18, 2020, and formally began the EIS process. The DS/Scoping notice was posted on WDFW's CWWLP website, WDFW's SEPA webpage, and circulated via email to agencies, tribes, local governments, and members of the public on WDFW's mailing list (see Appendix A). This notice began a 22-day scoping public comment period that ended June 8, 2020.

Purpose of Scoping

Scoping is the first step in the SEPA EIS process. The purpose of scoping is to narrow the focus of the EIS to significant environmental issues, to eliminate insignificant impacts from detailed study, and to identify alternatives to be analyzed in the EIS. Scoping also provides notice to the public and other agencies that an EIS is being prepared and initiates their involvement in the process. Agencies and the public are encouraged to provide comments on the action being taken (in this case establishment of rules for the CWWLP) and the scope of the EIS, including commenting on alternatives, mitigation measures, and probable significant adverse impacts.¹

The CWWLP EIS scoping notice requested that people offer ideas about 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 might result from these types of rules. (Economic impacts will be studied separately from the EIS in a Small Business Economic Impact Statement.) Commenters were encouraged to share specific suggestions.

¹ [SEPA Handbook](#) pp 48-49.

METHODS TO COLLECT SCOPING PUBLIC COMMENTS & COMMENT ANALYSIS

There were three ways the public could submit comments during the 22-day scoping period:

1. Online form accessed from the WDFW CWWLP website;
2. Physical mail to the WDFW SEPA/NEPA Coordinator; and/or
3. Verbal comments during the 2-hour virtual scoping public meeting (held from 3:00pm – 5:00pm on May 28, 2020, via a Zoom webinar).

The SEPA EIS consultant team considered every comment received through each of the three collection methods and organized comments that fell within the scope of the EIS by theme. If a comment did *not* provide a perspective or information that could be incorporated into the EIS (as outlined by the Legislature in RCW 77.65.620), it was considered outside the scope of the EIS (see related subsection of the Summary of Public Comment Data section below). Comments outside the scope of the EIS addressed topics that do not directly relate to regulating the viewing of SRKW for commercial whale watching holders; these comments included eliminating and/or placing a moratorium on all commercial whale watching; limiting commercial whale watching to occur only on land; enforcement actions on the part of WDFW or SoundWatch; license fee structures; general conservation; other non-licensed vessel activity (e.g., ferries, Victoria Clipper, or recreational boaters); or other threats to SRKW (e.g., access to prey).

Eleven themes emerged from the overall comment review (see Table 1 for a list of themes and more information). Each comment was tagged with one or more themes and then comments were loosely grouped according to their primary theme for analysis (see Summary of Public Comment Data section below). All scoping comments were given equal consideration regardless of the number of individuals or organizations that submitted the comment.

The consultant team assumed that 1) when commenters mentioned whales or orcas, they were referring to SRKW (unless specifically stated otherwise), 2) when commenters mentioned boats or vessels, they were referring to commercial whale watching vessels (unless specifically stated otherwise), and 3) when commenters mentioned whale watching, they were referring to commercial whale watching of SRKW (unless specifically stated otherwise), since it is these activities that are the subject of the CWWLP rulemaking effort.

Table 1: Scoping public comment themes within the scope of the EIS

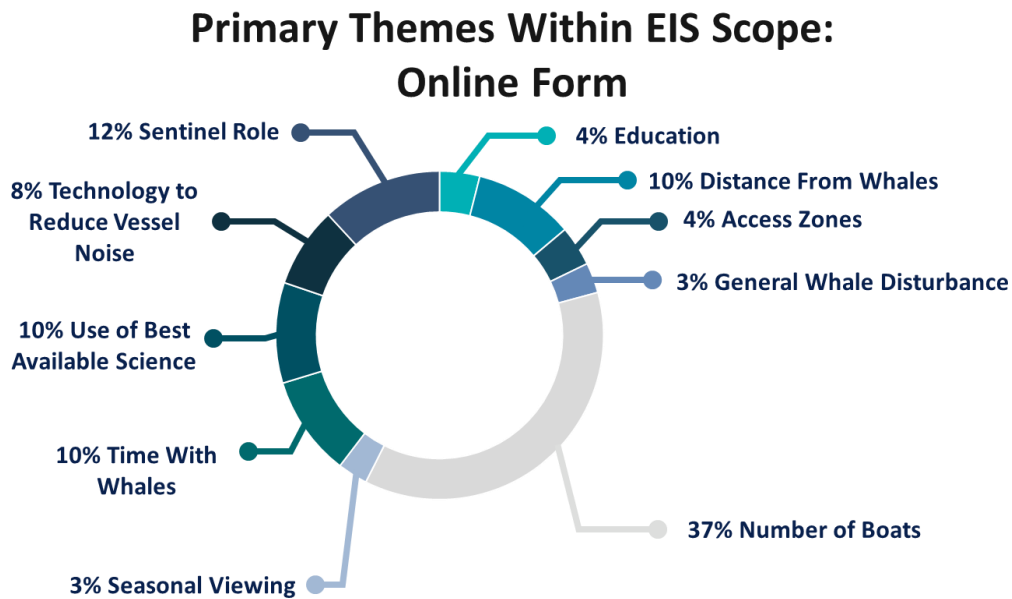
Theme (listed alphabetically)	Description (comment tagged with theme if commenter mentioned the following)
Access zones	Specific areas where commercial whale watching vessels could/could not operate (e.g., no-go zones or temporary closures)
Automated Identification System (AIS)	The use of AIS for commercial whale watching operations (e.g., mandatory installation on vessels)
Distance from whales	The distance or proximity to SRKW that is appropriate for commercial whale watching vessels
Education and communication	The impact of or presence of SRKW/marine science education provided by commercial whale watching operations and commercial whale watching operators' communication with the broader community
General whale disturbance	Ways in which commercial whale watching might disturb whales other than noise/proximity
Number of boats	The number of commercial whale watching vessels that should view a group of SRKW at one time, including zero
Seasonal viewing	Limiting commercial whale watching of SRKW to specific times of the year, (e.g., June, July, and August only)
Sentinel role	The sentinel role commercial whale watching vessels may or may not provide for recreational boaters
Time with whales	The amount of time commercial whale watching vessels should spend near a group of SRKW (e.g. number of hours or number of days)
Use of best available science	The use of best available science to guide the development and analysis of EIS alternatives
Technology to reduce vessel noise	Measures to reduce the impact of underwater noise generated by commercial whale watching vessels on SRKW

SUMMARY OF PUBLIC COMMENT DATA

The public comment data is summarized below and organized by method of collection. This summary reflects big picture themes identified in the qualitative analysis of the public comments collected during the public comment period; it is meant to provide an overview for the reader. All data reflects public comments within the scope of the EIS, except the final section, “Scoping public comments *outside* the scope of the EIS.” Comments tagged with more than one theme are reflected in the data.

Online Form

152 comments were submitted through the online form. Number of boats (mentioned in 37% of comments) and sentinel role (mentioned in 12% of comments) were the most common themes in comments submitted by the online form. The analysis below describes the themes of online form comments (organized from most common to least common) and highlights specific suggestions to be considered in the EIS and for WDFW to consider during the rulemaking process.



Number of boats: 37% of the comments suggested a limit on the number of boats that can view the SRKW.

These comments ranged from a moratorium on CWW boats specifically viewing SRKW to a reduction of boats that can be with a pod of SRKW. Some specific comments include:

- “To help the Southern Resident orcas be as successful as possible when foraging and socializing, we are recommending no commercial whale watching of the Southern Residents from boats at this time with adaptive management triggers when the population is recovering.”
- “I feel there should be no commercial whale watching of the Southern Residents from boats at this time. Commercial whale watch operators can still thrive as there are other marine mammals to watch including Bigg’s killer whales (aka transients), humpbacks, and minke whales.”
- “...A maximum of one [commercial whale watching] motorized boat in the vicinity” of SRKW for a limited time if the boat happens to come upon SRKW without intentionally seeking the group.

- “[Limit the number of commercial whale watching vessels] to no more than five...with the [SRKW] at any one time...until the population growth rate...reaches 2.3% annually over a 14-year period, which is the federal objective to down-list the southern residents from ‘endangered’ to ‘threatened.’”
- “When science-based indicators of [SRKW] population status improve...the number of motorized commercial whale-watching boats could increase...”

Sentinel role of commercial whale watching vessels: 12% of comments emphasized the sentinel role that commercial whale watching companies and operators play. Some specific comments include:

- “The professional whale watch community has taken a proactive approach to consider the best available science and to put guidelines for operation/viewing in place that reflect the best available science before this current process commenced.”
- “Both WDFW and SoundWatch, a local boater education organization, agree that professional whale watch vessels are responsible for very few on-the-water incidents near whales, and that the behavior of other vessels, such as recreational boats, improves when whale watching vessels are present.”

Distance from whales: 10% of comments identified distance from whales as a significant impact on SRKW. Some specific comments include:

- “Align with Canadian policies and implement a mandatory 400-meter setback.”
- “A minimum distance of 400 yards, 650 yards if a calf is present, and 1000 yards if a birth is imminent or occurring.”

Time with whales: 10% of comments identified the need for time restrictions either for the number of hours in a day or specific days of the week that can be spent viewing SRKWs. Some specific comments include:

- A viewing limit of a half-hour per group, “A designated naturalist, crew member, or the Captain should be counting down their vessel’s half hour when they are within the viewing distance... effectively putting them ‘on-scene’ with the SRKWs.”
- A limit of two hours for any vessel and a four-hour limit for any vessels around SRKW.
- A limit for whale watching to an 8, 10, or 12-hour period of each 24-hour day, providing whales with “vessel-free” period for 50-67% of the total day.
- In the case that zero commercial whale watching boats are allowed to view the SRKW, “if a license-holder comes across a SRKW incidentally, without seeking them out, they could be required to continue transiting or they could be allowed to view them briefly (e.g., up to 15 minutes).
- Viewing of SRKWs should be limited to hours between 9am and 5pm and under appropriate conditions for good visibility.

Use of best available science: 10% of comments mentioned the need to let the best available science guide the development and analysis of EIS alternatives and mitigation measures. For example, one comment said, “The EIS should consider what the science-based indicators need to be to trigger adaptive management steps that are tied to the health and recovery of the SRKW population. We recommend evaluating whether a recovery goal of 2.3% per year growth rate with an increase of SRKW population to 84 whales by 2028, essentially 10 more whales in 10 year[s], which has been supported by the Orca Recovery Task Force, should [be] considered for an adaptive management approach that is based on the precautionary principle.”

Technology to reduce vessel noise: 8% of the comments suggested ways in which commercial whale watching vessels could mitigate underwater noise using technology measures. Some specific comments include:

- “Use quieter technologies, such as hybrid or electric motors.”
- Commercial whale watching vessels could have “noise-reducing props and propulsion systems for minimal-impact approach and maneuvering while observing whales.”

The following themes were present in less than 14% of the total online form comments:

Access zones: Commenters suggested adjusting the current voluntary, no-go zone off the west side of San Juan Island and creating additional no-go zones for commercial whale watching vessels to protect SRKW foraging areas. For example, “The voluntary no go zone off the west side of San Juan Island...should be evaluated based on science whether ¼ mile is adequate or should be extended further to provide the best foraging opportunities for SRKW when present.”

Education and communication: Commenters noted the need to further educate passengers viewing the SRKWs to “increase awareness and action” around the challenges SRKW face. They also noted the role of naturalists on commercial whale watching tours: “I believe informed naturalists and operators are on the front lines of communicating science and conservation needs about whales to the public as their passengers.”

Seasonal viewing: Commenters suggested pausing SRKW viewing during specific months to allow SRKWs to feed on salmon and/or pausing SRKW viewing when SRKW demonstrate signs of malnourishment, illness, injuries, or distress. One commenter suggested that seasonal suspensions “should directly correlate with salmon abundance data gathered from the Albion Test Fishery...During the years where spring salmon numbers are low, suspend whale watching on SRKW in the months of April, May, and June...[so the SRKW] are uninterrupted by whale watching vessels and can more accurately echolocate to find salmon.”

General whale disturbance: Commenters expressed general concerns about commercial whale watching in relation to SRKW in comments such as, “If the whale watching activities will interfere with their feeding, communication, travel, etc., they should be altered,” or, “In 20 years as an environmental educator and whale watcher, I never saw the SRKW respond negatively to the presence of a respectfully distanced commercial whale watching boat.”

AIS: “License holders with motorized vessels of all sizes should...use an Automatic Identification System (A or B) in order to foster effective monitoring and compliance.”

Physical Mail

Commenters had the opportunity to mail a physical letter to WDFW’s NEPA/SEPA Coordinator. As of June 12, 2020, no comments have been received by this method.

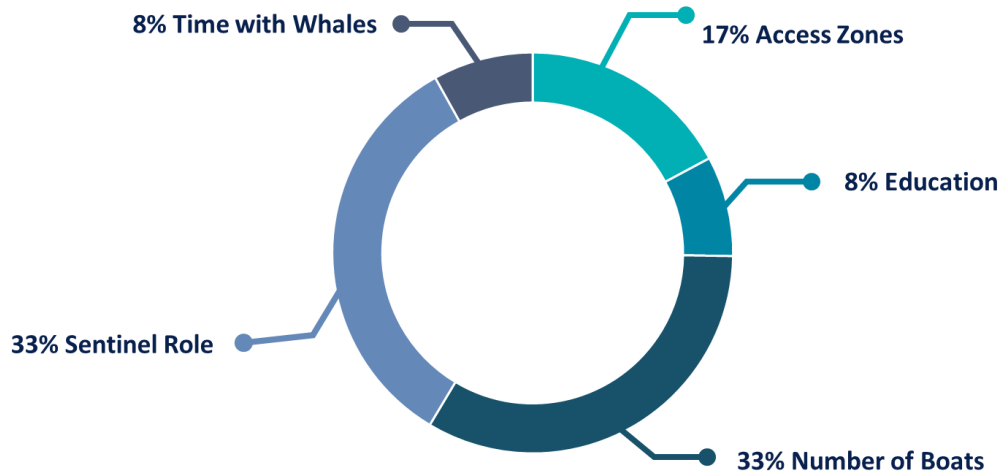
Scoping Public Meeting

The public scoping meeting was held on May 28, 2020. Thirteen people offered comments during the scoping meeting. The analysis below describes the most common to least common themes that emerged from these comments.

Number of boats: 33% of comments mentioned regulations on the number of commercial whale watching boats permitted to view SRKW at any one time. Some specific suggestions for the EIS include:

- Regulate the number of commercial whale watching vessels that can be around the SRKWs to five.
- The threshold for the number of commercial whale watching vessels around SRKW can be tied to population health. If the whales start to recover, the number of boats can increase in a sustainable way.

Primary Themes Within EIS Scope: Public Meeting



Sentinel Role: 33% of comments mentioned the sentinel role that commercial whale watching boats and operators play. Some comments suggested that:

- Commercial whale watching companies collect data and research and provide education for tourists and communicate with other boats if there are whales nearby. Whale watching boats “should be an ally not an enemy,” and a moratorium would not benefit SRKW.
- “The commercial whale watching boats know the waters and whales better than anyone; they are professionals and play a sentinel role.”

Access zones: 17% of comments mentioned the creation of zones where commercial whale watching can and cannot occur to provide areas of refuge for SRKWs. Some suggestions include:

- Use best available science to create no-go zones based on feeding behaviors.
- Establish no-go areas for areas of critical habitat.

The following themes occurred in 16% of the overall comments shared at the public meeting:

Time with whales: There should be regulations on when and how long people can view the whales. When whales are foraging, boats should move back and let the whales forage.

Education and communication: One commenter suggested there should be a required curriculum for all passengers on commercial whale watching boats.

Scoping Public Comments *Outside* the Scope of the EIS

Approximately half of the total public comments fell outside the scope of the EIS. “Outside the scope of the EIS” means that the comment did not provide a perspective or information that can be incorporated into an EIS alternative as outlined by the Legislature in RCW 77.65.620. However, it is important to recognize relevant comments in WDFW’s broader rulemaking process, as they reflect concepts and perspectives of the broader community. These comments occurred in the following categories:

Abolish commercial whale watching: The vast majority of the comments outside the scope of the EIS called to eliminate commercial whale watching altogether. Comment topics include: the need to take every step possible to protect whales; the ability of the state and community to economically support commercial whale watching operators as they develop a new line of work; and shifting commercial whale watching to be a land-based activity.

Enforcement: Many commenters recognized the need for enforcement of commercial whale watching vessels, recreational boaters, and other vessels (e.g., ferries or commercial ships) to support SRKW. Some specific suggestions include: limit large vessels’ access to salmon spawning areas (e.g., the Frazier River); restrict commercial shipping and US and Canada navy exercises; increase distance regulations for all boats; increase monitoring by WDFW and SoundWatch; and implement more severe repercussions for vessel operators who violate the laws.

Fee structures: Many commenters suggested license fee structures or other incentives that WDFW could implement to benefit SRKW. Some specific suggestions: implement a tax on commercial whale watching operators to fund salmon habitat restoration; and reduce fees for commercial whale watching operators who install noise-reducing technology.

SRKW access to prey: Many commenters commented on SRKW’s access to prey as being a primary concern. Commenters either called for action to restore salmon populations in conjunction with commercial whale watching regulations or as a stand-alone action that does not include commercial whale watching regulations. The latter group suggested that commercial whale watching is a “red herring” and that access to prey is the only significant action that will help the SRKW. Some specific suggestions from both groups include: limit commercial and recreational fishing; breach or remove the dams on the Lower Snake River; and focus on restoring fish habitat and shoreline ecological functions.

Work with other groups: A few commenters stressed the importance of WDFW working with other groups, such as tribes and advocacy groups, to develop commercial whale watching regulations. The consultant team would like to point out that, beyond this SEPA process, WDFW is working with tribes, local, state, federal, and Canadian governmental counterparts, stakeholders including whale watching industry and environmental NGOs, and the scientific community in the development of a preferred alternative.

SCOPING PUBLIC COMMENTS AND EIS EVALUATION

Preliminary EIS Impacts and Mitigation Measures for Evaluation

Based on the required considerations outlined in RCW 77.65.620, scoping comments (above), and the draft proposals being developed by the CWWLP Advisory Committee, the consultant team assumes that the EIS should evaluate impacts and mitigation effects of the following measures:

- A. Restrictions on the number of commercial whale watching operators that can view SRKW at one time
- B. Restrictions on the number of days and hours that commercial whale watching operators can operate
- C. Restrictions on the duration commercial whale watching vessels spend in the vicinity of SRKW
- D. Restrictions on the areas in which commercial whale watching operators can operate
- E. Requirements for the use of AIS by commercial whale watching operators
- F. Requirements for standards of experience or training necessary to obtain an SRKW viewing endorsement
- G. Requirements for commercial whale watching operations to report SRKW presence and location to WDFW and/or SoundWatch
- H. Educational or communication requirements for commercial whale watching tours
- I. Kayak-specific rules (related to vessel operation only; other restrictions mitigation measures may still apply to kayak operations)

Incorporating Scoping Public Comments into the EIS

Many of the scoping public comments (within the scope of the EIS) relate directly to the preliminary EIS impacts and mitigation measures identified above; several comments provided specific suggestions, which are listed in Table 2 (below). These suggestions could be points in the spectrums for the impacts and mitigation measures listed above. For example, the EIS might evaluate the impacts of zero, one, two, four, or five commercial whale watching operators viewing SRKW at one time based on public comments received for Alternative B.



Image of SRKW courtesy of Raincoast Conservation Foundation

Table 2: Scoping Public Comments Related to Preliminary EIS Alternatives

Preliminary EIS Impact or Mitigation Measure	Specific Suggestions from Scoping Public Comments
A. Number of commercial whale watching vessels viewing SRKW at one time	<ul style="list-style-type: none"> • Zero motorized commercial whale watching boats until SRKW population improves (does not apply to non-motorized vessels) • One or two • Four • Five or less • Five or less until the SRKW population growth rate reaches 2.3% annually over a 14-year period (the federal objective to down-list the SRKW from ‘endangered’ to ‘threatened’)
B. Number of days and hours commercial whale watching can operate	<ul style="list-style-type: none"> • Limit viewing to a 6-hour window between 10am and 4pm to accommodate forage patterns • Limit viewing window between 9am and 5pm • Limit viewing to an 8, 10, or 12-hour period for each 24-hour day so the whales have a vessel-free period • Limit viewing to three months out of the year: July, August, and September • Suspend commercial whale watching in April, May, and June if salmon numbers are low
C. Duration spent viewing SRKW	<ul style="list-style-type: none"> • 15 minutes if a license-holder comes upon SRKW incidentally (this is if there are zero boats allowed) • 30 minutes or less
D. Areas in which commercial whale watching can operate	<ul style="list-style-type: none"> • Create a sanctuary zone on the west side of San Juan Island where commercial whale watching vessels are prohibited
E. Use of AIS	<ul style="list-style-type: none"> • WDFW should evaluate the impacts and benefits of requiring license holders to have AIS on board and turned on at all times, with their identities visible, when out on the water
F. Standards of experience to obtain SRKW-viewing endorsement	<p><i>No comments.</i></p>
G. Reporting	<ul style="list-style-type: none"> • Commercial whale watching operators should be required to immediately notify SoundWatch and/or WDFW of SRKW location • Require trip plans or declarations from commercial whale watching vessels prior to leaving port
H. Educational or communication requirements	<ul style="list-style-type: none"> • Increase public outreach and education of SRKW • Operators should explain the status and threats of SRKW on every trip • Explain Be Whale Wise guidelines on every trip • Positive publicity of commercial whale watching operators’ commitment to protecting/not seeking SRKW can raise awareness among the general public and recreational boaters
I. Kayak-specific rules	<ul style="list-style-type: none"> • Prohibit launching tours from west side of San Juan Island if SRKW are in the vicinity • If SRKW are approaching to within 300 yards of shore, commercial kayak tours should move as close to shore as possible, raft up, and wait for the SRKW to pass by • Consider codifying relevant sections of KELP (Kayak Education and Leadership Program) • Design a two-tier licensing program

Additional Impacts or Mitigation Measures to Consider for EIS Evaluation

The scoping public comments identified several new impacts and/or alternatives that could be evaluated in the EIS. These are listed in Table 3 (below) along with the specific suggestions:

Table 3: New Impacts and Mitigation Measures Identified by Scoping Public Comments

New Impact/Mitigation Measure	Specific Suggestions
Define 'group of whales'	<ul style="list-style-type: none"> • 3 or more SRKW • Any SRKW that are within half a nautical mile of each other
Adjust commercial whale watching vessel vicinity rules	<ul style="list-style-type: none"> • 400 meters (same as Canada) • More strict vicinity rules if a calf is present or if birth is imminent or occurring • Half a nautical mile
Voluntary whale watching moratorium	<ul style="list-style-type: none"> • Create the opportunity for CWW license holders to voluntarily not view SRKW and publicize the choice
Size of commercial whale watching vessels operating near SRKW	<ul style="list-style-type: none"> • Limit the size to no longer than 100 ft, bow to stern
Adaptive management framework for WDFW	<ul style="list-style-type: none"> • Use science-based indicators to trigger adaptive management steps that are tied to the health and recovery of the SRKW population • Grant WDFW the authority to suspend commercial whale watching based on SRKW health
Use of sonar	<ul style="list-style-type: none"> • Turn off echosounders/depth finders/fish finders within half a nautical mile of SRKW • Turn off AIS when near SRKW

APPENDIX A: DS/SCOPING NOTICE



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 20-0XX: 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

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: 20-0XX.ds/scoping

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