



Fish and Wildlife Commission Presentation Summary Sheet

Meeting date:

1/10/2025

Agenda item:

Commercial Whale Watching- Briefing & Public Hearing

Presenter(s):

Julie Watson, PhD- Killer Whale Policy Lead

Background summary:

In spring 2019, the Washington Legislature passed Senate Bill 5577: *a bill concerning the protection of Southern Resident Orca Whales from vessels*, which developed a license for commercial whale watching and directed the Washington Department of Fish and Wildlife (WDFW) to administer the licensing program and develop rules for commercial viewing of Southern Resident Killer Whales (SRKW). (See RCW 77.65.615 and RCW 77.65.620)

The purpose of creating rules for commercial whale watching of SRKW was to reduce the impacts of vessel noise and disturbance on the whales' ability to forage, rest, and socialize while enabling sustainable whale watching. The Commission adopted rules for commercial viewing of SRKW (WAC Chapter 220-460) in late 2020, and the licensing program and rules have been in effect since early 2021.

In November of 2022, the Department issued the first of three SRKW Vessel Adaptive Management reports required under RCW 77.65.620. In the following 2023 Legislative Session, the Washington Legislature passed Senate Bill 5371, which made changes to the commercial whale watching license fee structure, codified some requirements for commercial whale watching, and instated a 1,000-yard vessel buffer around SRKW which went into effect January 1, 2025. Concurrently with the newly effective statute, the Department proposes to update the commercial whale watching rules in WAC Chapter 220-460.

This presentation will brief Commissioners on the development of and reasoning supporting the proposed rule. The presentation will be followed by a formal public hearing, which is part of the public comment process. The briefing and hearing on the proposed rules precede the close of the comment period January 13, 2025 at 5:00pm Pacific Time. WDFW expects adoption of final rules in February 2025.

In addition to the briefing and hearing on the proposed rule, this presentation will brief the commission on the second Vessel Adaptive Management Report delivered to the Washington Legislature in November of 2024. This includes the work of an Orca Regulations Communications Advisory Group (ORCA Group) which met throughout 2024 and advised the Department on its boater outreach and education efforts regarding the now-effective 1,000-yard vessel setback from SRKW.

Staff recommendation:

N/A- This is a briefing only.

Policy issue(s) and expected outcome:

This is the formal hearing on the proposed rules. The Commission will deliberate and potentially adopt rules at its February 13-15 Olympia hybrid meeting.

Fiscal impacts of agency implementation:

The rulemaking is not expected to impose new agency costs. The implementation of recommendations in the 2024 SRKW Vessel Adaptive Management Report, e.g., the scale and nature of boater education and outreach, is contingent upon available funding and staff capacity. The report recommends that the Legislature consider funding of WDFW's Enforcement budget request submitted to the Governor's Office in August 2024.

Public involvement process used and what you learned:

This rulemaking is largely aimed at ensuring WAC Chapter 220-460 aligns with the newly effective changes to RCW 77.15.740, and the scope of the proposed rules is effectively confined to that purpose. Industry representatives and intergovernmental partners were engaged as the proposed rules were developed. Additional public engagement is ongoing via the hearing January 10 and the rulemaking public comment period, which ends January 13, 2025 (5:00pm Pacific Time). More broadly, the 2024 SRKW Vessel Adaptive Management process included a year-long Advisory Group effort, two online public boater workshops, industry interviews, a social marketing analysis, and significant ongoing partner engagement including via the Be Whale Wise transboundary partnership.

Action requested and/or proposed next steps:

The Commission may request revisions/modifications that staff can prepare to support the rule adoption process, which is expected to take place at the Commission's February 13-15, 2025 hybrid meeting in Olympia. The final public comment summary will be provided to the Commission prior to the February meeting.
