

Northwest Region

April 8, 2011



Questions & Answers on the NOAA Fisheries Vessel Regulations for Killer Whales

Q. What did NOAA Fisheries announce about vessel regulations for killer whales?

A. NOAA Fisheries announced new regulations to protect killer whales in inland waters of Washington State from the effects of various vessel activities. The new regulations have two parts:

1. vessels must not approach any killer whale within 200 yards
2. vessels must stay out of the path of oncoming whales out to 400 yards.

Q. Will this action affect whale watching this summer?

A. Yes. The new regulations go into effect 30 days after the *Federal Register* notice publishes. NOAA has published a final rule and provided supporting documents including an Environmental Analysis and Regulatory Impact Review that provide detailed information on the rationale, costs and benefits for the final regulations. We're working with our partners to educate boaters about the new regulations on and off the water. We also encourage all vessels to follow the [Be Whale Wise guidelines](#) that have additional information on responsible wildlife viewing.

Q. Do these new regulations apply to me?

A. If you are boating in the inland waters of Washington State (waters east of Cape Flattery including the Strait of Juan de Fuca, Haro Strait and Puget Sound), these regulations apply to you. The regulations apply to all types of vessels, including motorboats, sailboats and human-powered vessels, like kayaks, and they apply to foreign flag vessels in U.S. waters. There are some limited exemptions to the regulations, including vessel operations necessary for safety, including safe navigation according to Coast Guard navigation rules. Certain government vessels, ships in established shipping lanes, commercial and tribal fishing vessels actively engaged in fishing, and vessels with scientific research permits to study killer whales are exempt from the regulations.

Q. Why is NOAA Fisheries issuing new regulations?

A. NOAA Fisheries [listed the Southern Resident killer whales as endangered](#) under the Endangered Species (ESA) on Nov. 18, 2005. The agency identified vessel effects as a potential contributing factor in the population's decline. The [recovery plan](#) for Southern Resident killer whales contains management actions to address vessel impacts, including evaluating current vessel guidelines and the need for regulations and/or protected areas. Several pieces of evidence indicate that some whale-watching activities may harm individual killer whales, potentially reducing their fitness and increasing the population's risk of extinction. The evidence includes monitoring data on the large number of vessels in close proximity to the whales, research results on behavioral and acoustic impacts caused by vessels, and the risk of vessel strikes. These new regulations will help recover the endangered Southern Residents and protect all killer whales.

Q. How are the proposed regulations different from the current guidelines?

A. There are voluntary [*Be Whale Wise*](#) guidelines intended to protect whales from harassment. NOAA supports the [Soundwatch program](#), an on-water stewardship and monitoring group, to promote the *Be Whale Wise* guidelines and monitor vessel activities in the vicinity of whales. Despite guidelines, outreach efforts, and ESA and MMPA prohibitions, interactions between vessels and killer whales continue to occur in the waters of Puget Sound and the Georgia Basin. The *Be Whale Wise* guidelines recommend that vessels stay at least 100 yards from all whales, while the final rule **requires** vessels to stay 200 yards from all killer whales. The final rule also prohibits vessel operators from intercepting the path of the whales, which is the same as the current guidelines. So, if you are already whale wise, you've got a head start on learning and following the new regulations.

Q. Why are the proposed regulations different from the current *Be Whale Wise* guidelines and Washington State law?

A. Several [recent studies](#) have reported whales reacting to vessels as far away as 400 yards. The closer vessels approach, the more likely there is to be a reaction. Recent studies have also concluded that sound from vessels at 100 yards can affect the whales' ability to find prey and communicate. Fast-moving vessels at 100 yards can reduce the whales' ability to detect a salmon with echolocation by 88 to 100 percent. We were concerned that vessels at 100 yards can harm the whales. These are the reasons for the 200-yard approach limit versus the 100-yard recommendation in the guidelines. Detailed information on the scientific basis for the 200-yard approach regulation is in the [signed final rule](#) and [environmental assessment](#). A [list of references for the final rule](#) is available on the Northwest Region Website.

Q. If NOAA is concerned about vessel sounds affecting the whales, why do the regulations apply to quiet kayaks?

A. There are several ways that vessels can impact the whales, including risk of vessel strikes, acoustic disturbance and behavioral disturbance. Even though kayaks are quiet, they can still disturb the behavior of the whales, including their traveling and feeding behavior. In a study of kayaks and Northern Resident killer whales, researchers found the whales were more likely to travel when kayaks were the only boats near the whales. Increasing travel is likely an avoidance tactic that can increase the whales' energy expenditure and reduce the amount of time the whales spend feeding. Motorized boats also change the whales' feeding behavior, and their engine sounds can reduce the effectiveness of the whales' echolocation. While kayaks may have less of an effect than motorized boats, there are a large number of kayaks near the whales and those small impacts in addition to impacts from motorized boats add up. Other studies of dolphins and other marine mammals have consistent results and show kayaks can change behavior when they approach too closely.

Q. How are the final regulations different than what NOAA proposed in July of 2009?

A. The proposed rule included a no-go zone along the west side of San Juan Island that boats would not be allowed to enter from May through September. The no-go zone was not adopted as part of the final rule. During the public comment period, we received a large number of comments specific to the no-go zone including new speed zone alternatives, different exceptions, and questions about the economic impacts of a no-go zone. We've decided to gather additional information and conduct further analysis and public outreach on the concept of a no-go zone, which may be part of a future rulemaking.

Q. How will NOAA make sure the new regulations are working?

A. As part of an implementation plan, NOAA will continue to work with Soundwatch and researchers to monitor vessel activity around the whales. Comparing the numbers of vessels near the whales and the number of incidents when vessels get too close to the whales before and after the new regulations will help us see if the new regulations are working to reduce vessel impacts.

Q. Has NOAA regulated vessel activities near whales in other areas?

A. Yes. The agency has regulated close vessel approaches to humpback whales in Hawaii and Alaska, and right whales in the North Atlantic. The agency has also established no-entry zones for Steller sea lions in Alaska. NOAA's Office for Law Enforcement has experience enforcing approach regulations for marine mammals.

Q. What else is NOAA doing to protect endangered Southern Resident killer whales?

A. NOAA and our many partners in the community are [actively implementing a variety of actions](#) from the recovery plan to address all of the threats to Southern Resident killer whales. In March 2011, NOAA published a [five-year review](#) that summarizes the progress toward recovery since the whales were listed as endangered in November 2005. The five-year review describes actions to address prey, pollution and contaminants, vessel and sound disturbance, and oil spills.