



# Friends *of the* San Juans

360.378.2319  
[www.sanjuans.org](http://www.sanjuans.org)

P.O. Box 1344  
Friday Harbor, WA 98250



November 12, 2019

Elizabeth Babcock,  
Seattle Branch Chief  
Protected Resources Division, West Coast Region  
National Marine Fisheries Service (NMFS)  
7600 Sand Point Way NE, Building 1  
Seattle, WA 98115

Attn: SRKW Vessel Regulation Revision

*Submitted at the November 12, 2019 scoping meeting in Friday Harbor and sent via email:*  
[OrcaRecovery.WCR@noaa.gov](mailto:OrcaRecovery.WCR@noaa.gov)

RE: Comments on Protective Regulations for Killer Whales Scoping

Dear Ms. Babcock,

Thank you for this opportunity to submit comments regarding the current scoping of the Southern Resident Killer Whale (SRKW) Vessel Regulation Revision portion of the Protective Regulations for Killer Whales.

Friends of the San Juans represents over 2,000 members and works with diverse stakeholders, including citizens, committees, tribal and governmental agencies, and other non-profit organizations in the transboundary region of the Salish Sea to protect and restore the San Juan Islands and the Salish Sea for people and nature—since 1979. Friends of the San Juans works to protect and recover the 113 endangered species in the Salish Sea, with the most iconic being the Southern Resident Killer Whales. In 2001, Friends of the San Juans was a co-petitioner for the federal listing of the Southern Resident Killer Whales under the Endangered Species Act. The protection and recovery of the Southern Residents continues to be one of our top priorities.

The purpose of this proceeding is to consider additional regulations that address vessel-related impacts to the SRKW necessities of life, three of which are set forth in 50 CFR § 226.206(c) as:

- (1) Water quality to support growth and development;
- (2) Prey species of sufficient quantity, quality, and availability to support individual growth, reproduction, and development, as well as overall population growth; and
- (3) Passage conditions to allow for migration, resting, and foraging.

... to which, best available science informs us, a fourth requirement must be added:

- (4) Underwater acoustical conditions to support communication, prey location and successful capture, socialization, courtship, and procreation.

Scientists have identified three primary threats to orcas: (1) lack of prey; (2) vessel noise and disturbance; and (3) contaminants. Recent literature indicates that one needs to really look at and address these threats simultaneously, as they are synergistically and cumulatively impacting SRKW and the survival of their species. More salmon (several of the salmon runs consumed by SRKW are also listed as threatened or endangered under the ESA) is critical to SRKW recovery but involves a long-term process. The National Marine Fisheries Service can enact regulations that provide immediate protections from vessel impacts.

SRKW encounter a range of vessel types in Washington State waters, including commercial whale watching and recreational boats, fishing vessels, commercial ships, Washington State Ferries, and military vessels. Vessel disturbance and noise cause multiple threats to SRKW, including the risk of vessel strikes, the masking of echolocation and communication signals, forcing them to spend more time traveling and performing surface active behaviors and less time foraging, and other behavioral changes. Vessel interference with the SRKW' ability to find and capture prey is even more damaging when prey are so scarce. SRKW cannot afford to waste precious energy and time avoiding vessels when that time needs to be spent foraging. And when SRKW expend energy when they are not getting enough to eat, the toxins in their fat reserves are released, further impacting their health.

#### **Information and comments concerning the five areas identified by NMFS**

##### (1) The advisability of and need for changes to the existing regulations:

Changes to existing regulations are needed. The continued decline of the SRKW population clearly indicates the need for additional protection and recovery regulations. While existing vessel regulations reduce vessel impacts, they are routinely violated. Regulations are needed that clearly communicate the critical status of this endangered population and that can be more easily enforced without ambiguity.

##### (2) Alternative management options for regulating vessel interactions with killer whales:

We ask NMFS to consider the following additional vessel regulations, with respect to Tribal Treaty Rights:

- a) A "no go zone," or a network of "no go zones," in key foraging habitat;
- b) If "no go zones" are identified with the qualification, "when SRKW are present," use the following to define "present:" "when SRKW are present in the Salish Sea (east of Buoy J and/or south of Campbell River);"
- c) Implementation of the SRKW Task Force Recommendation 28: Suspend viewing of Southern Resident orcas, which was attempted to be implemented with a 650 yard distance requirement;
- d) Limited entry wildlife viewing regulations; and
- e) Resources for more enforcement and the monitoring and adaptation of existing and additional regulations.

(3) Scientific and commercial information regarding the effect of vessels on killer whales and their habitat:

Additional science is needed, including the research required for monitoring and adaptive management practices. However, the need for more science should not pose any barriers to the implementation of additional vessel regulations that support SRKW protection and recovery.

(4) Potential economic impacts of management options:

The outcome of this proceeding will determine whether Washington State's SRKW economy will be an economy of exhaustion where SRKW whale watching (and associated jobs and tax revenues) expires in the short-term or a conserving economy where SRKW whale watching (and associated jobs and tax revenues) can survive in the long term with additional regulations that limit their impacts to SRKW.

(5) Any additional relevant information that NMFS should consider should it undertake this rulemaking:

NMFS needs to take an active role in the permit review processes for all new and expanding refinery and terminal projects that would increase vessel traffic to ensure that potential impacts to SRKW are being thoroughly evaluated and addressed. Transboundary coordination is needed to evaluate and address the cumulative impacts to SRKW from increases in vessel traffic. Canada's ECHO (Enhancing Cetacean Habitat and Observation) Program, and potentially a similar program as yet to be adopted in WA State, is effective at better understanding and managing the vessel traffic impacts from existing large commercial shipping activities. However, these programs do not adequately address the additional and cumulative vessel traffic impacts to SRKW from new and expanding projects that increase vessel traffic. Attached is our Salish Sea Vessel Traffic Projections infographic which shows 25 proposed new, expanding or recently completed projects, which cumulatively would add an additional 4,232 annual vessel transits to and from ports in British Columbia and Washington State; a 35% increase (from 2018) in large, ocean-going commercial vessel traffic.

Thank you for your attention to these comments and the critical need for additional vessel regulations for the protection and recovery of the critically endangered Southern Resident Killer Whales.

Sincerely,



Stephanie Buffum  
Executive Director



July 27, 2019



New, approved & proposed increases in vessel traffic: 35%+TBD  
 Percentage of new vessel traffic destined for Canada: 91%  
 Percentage of new vessel traffic destined for the US: 9%+TBD  
 For more info see reverse side and [www.sanjuans.org/safeshipping](http://www.sanjuans.org/safeshipping)

## PROJECTED NEW ANNUAL VESSEL TRANSITS

1	Discovery LNG	732 *
2	Woodfibre LNG	80
3	Nanaimo Port Authority	222 *
4	Fibreco Export	18
	increase in vessel size +	
5	Neptune Terminals	104
6	G3 Terminal	224
7	Centerm Container	130
8	Canada's TMX Pipeline	696
9	Pacific Coast Terminals	88
10	Fraser Surrey Docks	160
10	Fraser Surrey Docks	364
11	WesPac LNG	136
12	Vancouver Airport Fuel	96
13	Roberts Bank Terminal 2	520
14	Westshore Terminals	62
15	GCT Deltaport	
	increase in vessel size	
15	GCT Deltaport	222 *
16	Phillips 66 & REG	144
16	Phillips 66	TBD
17	Marathon (formerly Tesoro)	120
18	Cruise Seattle	TBD
19	Seaport Alliance	
	increase in vessel size +	
19	Seaport Alliance	TBD
20	US Oil & Refining Co	72* + TBD
21	Puget Sound Energy LNG	TBD
22	Grays Harbor	42 *
<b>TOTAL PROJECTED NEW TRANSITS</b>		<b>4,232 + TBD</b>
<b>2018 TRANSITS</b>		<b>12,120</b>
<b>TOTAL 2018 + NEW TRANSITS</b>		<b>16,352 + TBD</b>

\* = Estimate

<b>Salish Sea Vessel Traffic Projections:</b> New and Expanding Terminals and Refineries		Proposed Approved & Recent Annual Increase in Capacity	Proposed Approved & Recent Annual Increase in Transits	Project Status Summary
1	Discovery LNG, Campbell River, BC	20 MTPA	VTRA*: 732	LNG export license issued in June '15.
2	Woodfibre LNG, Squamish BC	2.1 MTPA	80	LNG export license issued '13. EA certificate re-issued 3-7-18.
3	Nanaimo Port Authority & Western Stevedoring – Cars	50,000 EU car imports	222*	\$19M CAD conversion project. 2019 start of phase 1. Projected 12,000 vehicles to be processed in 1 <sup>st</sup> year. 400-500 cars delivered per carrier.
4	PoV: Fibreco Export – Expansion to add Grain	1 MMTA Pellets 2 MMTA Grain	18 + increase in vessel size	112 transits in 2016. Wood pellet and chip exporter expanding to export wood pellets plus grain.
5	PoV: Neptune Terminals - Coal	6 MMTA	104	Increase from 12.5 to 18.5 MMTA. Permit extended to Jan. 2020.
6	PoV: G3 Terminal – Grain	8,000,000 MT	224	Conversion/expansion increase from 112 to 336 annual transits. Due fall 2019
7	PoV: Centerm Container Terminal	600,000 TEU	130	Increases capacity from 900,000 to 1,500,000 TEUs and from 470 to 600 annual transits. Construction from 2019-2021.
8	PoV: Trans Mountain Pipeline Expansion – Crude Oil	590,000 BPD	696	Expansion from 300,000 BPD to 890,000 BPD and from 120 to 816 annual transits. Cabinet decision due 6-18-19.
9	PoV: Pacific Coast Terminals-Potash	2,800,000 tonnes	88	Permit issued 2015. Construction continues.
10	PoV: Fraser Grain Terminal Ltd./Fraser Surrey Docks - Grain	3.5 MMT	160	Increase from 0.5 MMT to 4 MMT. Permit issued 11-9-18. Construction to be completed late 2020.
10	PoV: BHP Billiton /Fraser Surrey Docks – Potash	8 MTPA	312 - 416	Project proposal under preliminary review. Project would include an additional 8-10 trains and 3-4 vessels per week.
11	PoV: WesPac Tilbury Pacific LNG (+138 LNG bunker transits)	3.5 MTPA	136	LNG export license issued 2015. Application for Environmental Assessment Certificate filed 3-21-19.
12	Vancouver Airport Fuel Facility Consortium – Fuel Oil	–	72 - 120	Aviation fuel transport from WA State to BC via tank vessels for pipeline transport to Vancouver, BC airport. Construction thru 2021.
13	PoV: Roberts Bank 2 Container Terminals	2,400,000 TEUs	520	New container ship terminal north of Roberts Bank. Environmental Assessment began 11-8-13. Review Panel hearings began 5-14-19.
14	PoV: Westshore Terminals - Coal	3,000,000 MT	62	Increase from 33,000,000 MT to 36,000,000 MT. 540 annual transits in 2012. Permit extended to 6-30-2019.
15	PoV: Global Container Terminals (GCT) Deltaport	600,000 TEUs	Increase in vessel size	Increase from 1,800,000 TEUs to 24,000,000 TEUs. Infrastructure upgrades expected to be completed 4 <sup>th</sup> quarter 2019.
15	PoV: GCT Deltaport – Containers	2,000,000 TEUs	222*	Increase from 2,400,000 to 4,400,000 TEUs. VFPA rejected GCT's 4 <sup>th</sup> berth proposal. This matter is currently before the courts.
16	Phillips 66 & Renewable Energy Group, Ferndale WA – Fuel Oil	18,000 BPD	144	New renewable diesel facility co-located at Phillips 66 refinery which estimates 12 transits per month. Application not yet submitted.
16	Phillips 66 Refinery – Oil		TBD	Proposed new crude and fuel storage tanks. MDNS issued 7-19-19.
17	Marathon (formerly Tesoro) Refinery, Anacortes WA -Xylene	15,000 BPD	120	Permit issued in '17 for the manufacture and export of xylene. Permit appeal in process.
18	Port of Seattle, WA – Cruise Seattle	2019: 1.2 M passengers	TBD	Pier 46 new cruise terminal due 2022. \$200M construction for larger, 5,000 passenger ships.
19	NW Seaport Alliance, Seattle and Tacoma WA – Containers	2,202,374	Increase in vessel size + TBD	TEUs in 2018: 3,797,626. 2025 projection: 6M TEUs. Pier 4 Tacoma upgrades and Terminal 5 Seattle conversion for 18,000 TEU vessels.
20	Par Pacific purchased US Oil & Refining Co, Tacoma, WA – Oil	74,000 BPD*	72* + TBD	New refinery owner plans to transport crude oil from WA to HI as well as refined products to and from WA and HI. Estimate is for crude oil only and assumes Aframax transport of 50% of HI refineries' capacity.
21	PSE LNG, Tacoma, WA	89-178 M gallons	TBD	LNG vessel fuel for existing vessel traffic only?
22	Grays Harbor: BHP Billiton – Potash (application being revised)	8 MTPA	42*	Project includes 416 vessel transits per year. Estimate assumes 10% of vessels will bunker in Port Angeles.

Transit totals by product/vessel type: **Cars= 222, Coal = 166, Container = 872+TBD, Grain= 402, Cruise = TBD, LNG = 948+TBD, Oil = 1,128+TBD, Potash= 494**

Total Projected New, Approved, & Proposed Vessel Transit Increases	<b>4,232 + TBD</b>	<b>35% Increase in Annual Vessel Traffic</b> <i>91% British Columbia</i> <i>9%+TBD Washington State</i>
2018 Total Vessel Transits in the Salish Sea	12,120	
<b>2018 Transits + Projected New, Approved, &amp; Proposed Annual Transits</b>	<b>16,352 + TBD</b>	

**No local barge traffic, anchoring, cueing, and/or bunkering (ship fueling) transits included. Only OGV traffic included except for VAFFC traffic.**

Abbreviations:\*=Estimate, bbl=barrels, BPD=barrels per day, CAD=Canadian dollar, EA=Environmental Assessment, EU=European Union, HI=Hawaii, LNG=liquefied natural gas, M=million, MDNS= Mitigated Determination of Non-Significance, MT=metric tonnes, MMT=million metric tonnes, MMTA=million metric tonnes per annum, MTPA=million tonnes per annum, OGV=Ocean-Going Vessel, PoV =Port of Vancouver, PSE=Puget Sound Energy, TBD=To Be Determined, TEU=twenty-foot equivalent unit, VAFFC=Vancouver Airport Fuel Facility Consortium, VFPA=Vancouver Fraser Port Authority, VTRA=Vessel Traffic Risk Assessment, WA=Washington