

Southern Resident killer whale fact sheet

Sept. 5, 2018

David Suzuki Foundation, Georgia Strait Alliance, Natural Resources Defence Council, Raincoast Conservation Foundation, World Wildlife Fund Canada, represented by lawyers from Ecojustice, launched a lawsuit on Sept. 5, 2018, aimed at protecting endangered Southern Resident orcas.

Imminent threats

Southern Resident killer whales face three main threats:

- Reduced availability of Chinook salmon, the whales' preferred prey. Chinook themselves are also in decline.
- Acoustic and physical disturbance from vessels, which interferes with the whales' ability to hunt and communicate
- Marine pollution

Minister of Fisheries and Oceans Jonathan Wilkinson and Minister of Environment and Climate Change Catherine McKenna announced on May 24 that the Southern Residents face ["imminent threats."](#)

Having acknowledged this, the ministers are now legally required to recommend Cabinet issue an [emergency order under the *Species at Risk Act*](#), unless there are other legal measures already in place.

Addressing the threats – why an emergency order is necessary

Ecojustice issued a petition on behalf of the above conservation groups in January, 2018, urging the ministers to recommend an emergency order to protect Southern Resident killer whales.

The petition identified three protective measures and several sub-measures that could fall under an emergency order. Despite a number of orca-related announcements this past spring and summer, the government has failed to implement most of the measures outlined in the petition.

Without other legal measures, an emergency order is the fastest and most effective way to cut through the red tape and ensure on-the-ground protection for the Southern Residents. If they want to ensure the Southern Residents are around for generations to come, the ministers should recommend an order.

Comparing recommended measures with government response

The chart below gives a summary of how the government's actions to date have failed to add up to the urgent measures necessary to protect endangered Southern Resident killer whales.

Measure	Status
1. Designate additional areas of critical habitat	<i>Not in place.</i> DFO and Parks Canada say they're working towards establishing this by December 2018.
2. Ensure prey availability	

<p>2.1 Establish protected “feeding refuges” to enable Southern Residents to forage without competition, interference, noise or disturbance from recreational and commercial salmon fishing, from May 1-November 30.</p>	<p><i>Partial measures in place.</i></p> <p>Mandatory closures to recreational finfishing and commercial salmon fishing were put in place for June 1 - Sept. 30 for most but not all of the areas identified in the Petition</p>
<p>2.2 Implement commercial and recreational fishing restrictions to increase the availability of Chinook in critical Southern Resident habitat and feeding areas</p>	<p><i>Partial measures in place.</i></p> <p>The government announced reductions in total fishery removals of Chinook salmon on May 24, but these aren’t enough to ensure stable prey availability or the recovery of the Chinook stocks themselves.</p>
<p>2.3 Put rebuilding plans in place for weak Chinook conservation units, with the aim of improving Chinook recruitment to terminal areas and spawning grounds within two generations</p>	<p><i>Nothing to date.</i></p>
<p>3. Measures to avoid noise and physical disturbance</p>	
<p>3.1 Measures to reduce noise and disturbance from recreational and commercial whale watching vessels</p>	
<p>3.1.1 Seasonally prohibit whale watching on Southern Residents in feeding refuges</p>	<p><i>Nothing to date.</i></p>
<p>3.1.2 Establish a 200-metre stand-off distance and speed restrictions for whale-watching vessels near Southern Residents, outside key foraging areas</p>	<p><i>Partial measures in place.</i></p> <p>Amendments to the Marine Mammals Regulations, published in July, prohibit vehicles from approaching any killer whales in B.C. closer than 200m. However, there are exceptions for activities authorized under the <i>Fisheries Act</i> or SARA and for “vessels in transit.” There are no speed restrictions.</p>
<p>a) Ensure that the 200-metre stand-off regulation applies to commercial and recreational whale watching vessels, with the exception of those taking actions necessary to avoid an imminent</p>	<p><i>Partial measures in place.</i></p> <p>Amendments to the Marine Mammals Regulations, published in July, prohibit vehicles from approaching any killer whales in B.C. closer than 200m. However, there are exceptions for activities</p>

and serious threat to a person, vessel, or the environment	authorized under the <i>Fisheries Act</i> or SARA and for “vessels in transit.” There are no speed restrictions.
b) Establish a speed restriction of six knots maximum for commercial and recreational whale watching vessels within one kilometre of Southern Resident killer whales, with the exception of those taking actions necessary to avoid an imminent and serious threat to a person, vessel, or the environment	<i>Nothing to date.</i>
c) Direct such vessels within one kilometer of the whales to maximize the time that they remain stationary, with engines off	<i>Nothing to date.</i>
d) Require such vessels, when consistent with navigational safety, to shut off sonars and other underwater transducers within one kilometre of the whales	<i>Nothing to date.</i>
3.1.3 Evaluate and implement measures to limit vessel-time spent in proximity to Southern Resident killer whales	<i>Nothing to date.</i>
3.1.4 Use the Minister of Fisheries and Oceans’ power under s. 85 of the Species at Risk Act to designate enforcement officers to patrol Southern Resident critical habitat and other key foraging areas	<i>Measures proposed.</i> The Ministers announced additional monitoring and enforcement capacity: funding for the Straitwatch program for three years, adding fishery officers, and increasing aerial surveillance. However, it is the conservation groups’ understanding that, as of the date of writing, there is no increased enforcement presence on the water to enforce new measures (including the fisheries closures and the new amended Marine Mammal Regulations) or existing rules (such as the SARA prohibition on harassment).
3.1.5 Establish a licensing system for commercial whale-watch operators that view Southern Resident killer whales in Canadian waters	<i>Will not be implemented.</i>

3.2 Operational measures to reduce noise and disturbance from commercial vessels in key Southern Resident foraging areas	
3.2.1 Introduce seasonal speed controls for commercial vessels transiting Haro Strait and waters adjacent to the key Southern Resident foraging areas in Juan de Fuca Strait	<p><i>Voluntary trial, not mandatory requirement</i></p> <p>The Vancouver Fraser Port Authority’s ECHO program announced a voluntary trial slow-down from July 1-Sept. 15, with the possibility of continuing to the end of October if the Southern Residents are present. This is not a government-led initiative.</p>
3.2.2 Direct traffic in existing shipping lanes to reduce acoustic exposure in key foraging areas	<p><i>Voluntary trial, not mandatory requirement.</i></p> <p>Through the Vancouver Fraser Port Authority’s ECHO program, regulators will ask outbound vessels to transit further away from important foraging areas during the summer and continuing into the fall. This is a trial program and entirely voluntary.</p>
3.2.3 Quiet commercial vessels servicing local routes in Southern Resident critical habitat	<p><i>Nothing to date.</i></p> <p>The federal government announced it will be “[w]orking with BC Ferries to develop a noise management plan.” No timeline has been provided for this work.</p>
3.3 Measures to address the cumulative effect of vessel traffic	
3.3.1 Mandate that no net increase in overall noise levels shall occur relative to 2016 levels	<p><i>Nothing to date.</i></p>
3.3.2 Require that DFO, in collaboration with Transport Canada, within 18 months, develop and adopt a set of noise reduction targets that are biologically relevant and meaningful to the recovery of the Southern Residents	<p><i>Nothing to date.</i></p>

For more detailed information or to arrange an interview, please contact Emily Chan at echan@ecojustice.ca, or 604 685 5618 ext. 277.