

Northern and Southern Resident Killer Whales (*Orcinus orca*) in Canada: Critical Habitat Protection Statement

This is a statement of how the critical habitat of Northern and Southern Resident Killer Whales (*Orcinus orca*) is legally protected. This statement is pursuant to, and in compliance with, Section 58 (5) of the *Species at Risk Act* (SARA), S. C. 2002, c. 29. Critical habitat for the Northern and Southern Resident Killer Whales was identified in the Final Recovery Strategy posted in March 2008 on the SARA Public Registry. Please refer to the Recovery Strategy for details about the geospatial and geophysical attributes of the identified critical habitat.

Human activities which could potentially destroy the geophysical attributes of critical habitat for these species, as identified in the Final Recovery Strategy, and the federal legislations, regulations and/or policies which would be used to provide protection against such destruction, are:

- Industrial activities such as construction, drilling, pile driving, pipe-laying, and dredging, and construction of physical structures such as wharves and net pens for aquaculture
 - Protected under provisions of the *Fisheries Act* s.35 and the *Canadian Environmental Protection Act, 1999* (Part 7, Division 3). This protection is supported by processes under the *Canadian Environmental Assessment Act*.
- Fishing vessels using gear that drags along the bottom
 - Protected through provisions of the *Fisheries Act* or regulations made thereunder, in particular s. 22(1) of the Fishery (General) Regulations. This protection is supported by processes under the Fisheries and Oceans Canada policy on Managing the Impacts of Fishing on Sensitive Benthic Areas.
- Use of vessel anchors which may permanently damage the seabed, or which may serve to destroy a rubbing beach
 - Protected through provisions of the *Fisheries Act* s. 35, or of the *Oceans Act* s. 35 and/or s. 36. In addition, a Code of Conduct and outreach initiatives to inform and sensitise Canadians to the need to protect Resident Killer Whale habitat will continue to be developed and implemented.

While the Recovery Strategy identifies the critical habitat as a defined geophysical area, Fisheries and Oceans Canada (DFO) recognizes that other ecosystem features such as the availability of prey for foraging and the quality of the environment are important to the survival and recovery of Northern and Southern Resident Killer Whales. A variety of legislative and policy tools are available to manage and mitigate threats to these functions of the Resident Killer Whale critical habitat, to individuals and to populations.

- Disturbance
 - Threat management and mitigation is afforded under the Marine Mammal Regulations, and the Whale Watching Guidelines developed cooperatively by industry and DFO
- Degradation of the Acoustic Environment
 - Threat management and mitigation is afforded under the Marine Mammal Regulations, the Statement of Practice with Respect to the Mitigation of Seismic Sound in the Marine Environment, and protocols for military sonar use.
- Marine Environmental Quality
 - Threat management and mitigation is afforded under provisions of the *Fisheries Act*, or regulations made thereunder, and the *Canadian Environmental Protection Act, 1999* or regulations made thereunder.
- Availability of Prey
 - Threat management and mitigation is afforded under the *Fisheries Act* or regulations made thereunder, supported by the Wild Salmon Policy and use of Integrated Fisheries Management Plans.

Fisheries and Oceans Canada has and will continue to implement activities directed towards informing and sensitising Canadians on the threats to the function of Resident Killer Whale critical habitat, to individuals and populations as part of an on-going outreach program intended to aid in the protection and recovery of the species. As additional knowledge is gained regarding potential threats, additional management and mitigation measures will be developed and implemented as appropriate.

In addition, a portion of the critical habitat identified for the Resident Killer Whale populations is located in the Robson Bight (Michael Bigg) Ecological Reserve, and is afforded protection under the *Ecological Reserve Act* (British Columbia) or regulations made thereunder; the Ecological Reserve was established by the Province of British Columbia to provide a sanctuary for killer whales, to protect key habitats, and prevent their harassment.