

**WSR 21-16-066
EMERGENCY RULES
DEPARTMENT OF
FISH AND WILDLIFE**

[Filed July 30, 2021, 10:35 a.m., effective July 30, 2021, 10:35 a.m.]

Effective Date of Rule: Immediately upon filing.

Purpose: On or about July 29, 2021, an emaciated Southern Resident killer whale, K21, was reported off the southern tip of Vancouver Island. The department verified the images of the emaciated whale on the morning of July 30, 2021, and determined that the designation of "sick or vulnerable" is appropriate. Per WAC 220-460-110, the department is adopting an emergency rule to designate K21 as vulnerable and thereby prevent commercial whale watching operators from approaching this individual or a group containing the individual within 0.5 nautical mile. This designation and the additional distance are necessary to ensure that K21's ability to survive is not hindered by the presence of vessels.

Citation of Rules Affected by this Order: New WAC 220-460-110A.

Statutory Authority for Adoption: RCW 77.65.620.

Under RCW 34.05.350 the agency for good cause finds that immediate adoption, amendment, or repeal of a rule is necessary for the preservation of the public health, safety, or general welfare, and that observing the time requirements of notice and opportunity to comment upon adoption of a permanent rule would be contrary to the public interest.

Reasons for this Finding: The imminent risk to an endangered species requires additional protection immediately. This emergency action is necessary to protect the public's interest in the preservation of a vulnerable endangered animal.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at the Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's own Initiative: New X [1], Amended 0, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 0, Repealed 0.

Number of Sections Adopted using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 0, Repealed 0.

Date Adopted: July 30, 2021.

Kelly Susewind
SRKW K21 Protection

NEW SECTION

WAC 220-460-110A Southern Resident Killer Whale K21 Notwithstanding the provisions of WAC 220-460-110, effective immediately, the department declares the emaciated male Southern Resident Killer Whale K21 as a vulnerable individual. It is unlawful for commercial whale watching operators to approach within 0.5 nautical mile of the indi-

vidual Southern Resident Killer Whale K21, or within 0.5 nautical mile of a group of Southern Residents containing K21.

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