



August 30, 2024

National Programs, Fisheries Resource Management
Fisheries and Oceans Canada
200 Kent Street
Ottawa, ON K1A 0E6

Sent via email: DFO.NCRFMMMRconsultation-consultationRMMGPRCN.MPO@dfo-mpo.gc.ca

RE: Consultation on Proposed Marine Mammal Regulations Amendments

To Whom it May Concern:

Thank you for this opportunity to contribute to Fisheries and Oceans Canada's public consultation on proposed marine mammal regulations amendments.

The Tourism Industry Association of Canada (TIAC) serves as the national private-sector advocate for Canada's tourism sector. Acting on behalf of thousands of tourism businesses across the suite of industries our sector encompasses, we advocate for federal policies, programs, and initiatives that foster tourism's overall growth and development. TIAC is also dedicated to environmentally responsible and sustainable tourism across our country.

Tourism is a significant economic driver in Canada. In 2023, Canada's tourism demand hit a record high with \$113.4 billion in spending. Tourism provided a contribution of \$42.7 billion to Canada's Gross Domestic Product (GDP), which accounted for 1.6% of the national economy. Finally, tourism employment surpassed 2 million in 2023, growing 7% over the previous year.

Whale watch operators are critical partners for the Canadian tourism sector. Not only do they play an essential role in attracting travellers to Canada, but they have been proud to take a leading role in spearheading initiatives centered on both eco-tourism and regenerative tourism.

On behalf of Canada's vital tourism sector, we are pleased to share the following responses and recommendations with Fisheries and Oceans Canada.

Sincerely,

Beth Potter
President and CEO

CC:

The Honourable Soraya Martinez Ferrada, Minister of Tourism and Minister responsible for the Economic Development Agency of Canada for the Regions of Quebec

Erin Gless, Executive Director, Pacific Whale Watch Association

Walt Judas, CEO, Tourism Industry Association of BC



Appendix: TIAC's Response to Fisheries and Oceans Canada's Consultation on Proposed Marine Mammal Regulations Amendments

Question 1 - Do you have comments or considerations regarding the proposal to amend the current approach distance (200 m) for Pacific killer whales?

Several populations of killer whales inhabit Canadian Pacific waters. Under Canada's Species at Risk Act, only Southern Resident killer whales are listed as an endangered species. TIAC therefore urges Fisheries and Oceans Canada to consider approach distance amendments to the existing Marine Mammal Regulations in British Columbia for Southern Resident killer whales *only*, and to maintain the current 200 metre approach distance for all *other* Pacific killer whales (i.e. non-Southern Resident killer whales).

British Columbia-based whale watching businesses that are part of the Pacific Whale Watch Association (PWWA) support \$132 million in economic activity. An approach distance more restrictive than 200 metres would place BC at an extreme competitive disadvantage against other whale watching destinations around the world and threaten the important economic impact that this activity generates.

Aside from BC and the adjacent Washington state -- where the recommended approach distance for non-endangered killer whales is 200 yards -- there are few other global precedent regulations for viewing killer whales. Where guidelines or rules do exist, the standard approach distance is generally 100 metres. If the approach distance for non-Southern Resident killer whales were extended beyond 200 metres, visitors might opt for other destinations outside of BC where they can observe killer whales from a closer range. Furthermore, maintaining this distance for non-endangered killer whales aligns with best practices in wildlife management and conservation.

The ability to view non-endangered species, such as Bigg's killer whales, from a distance of 200 metres is critical to BC-based operators. There are 14 Pacific Whale Watch Association members based in BC which, combined, support over 1,000 jobs and serve over 200,000 domestic and international tourists each year. More restrictive approach distances unnecessarily would put at risk this important industry, its direct economic impact, and the many benefits that it brings to communities throughout the province.

Moreover, BC's whale watch operators are ecotourism professionals that proudly share a commitment to education, conservation, and responsible wildlife engagement. More than simply sharing unique sights and experiences with global travellers, they have embraced a shared responsibility to protect our oceans' inhabitants. Whale watching is not just an activity to do on vacation, but it's a way to learn about the ecosystem and you can protect it better if you know more.

Killer whales are a species of significant ecological importance and cultural value. The current approach distance strikes a necessary balance between allowing responsible observation and safeguarding the whales' health and habitat. Maintaining this distance aligns with best practices in wildlife management and conservation. It demonstrates a collective commitment to protecting marine species and preserving the delicate balance of their ecosystems.



Question 2 - As part of the amendment process, the Government of Canada is seeking input on the use of the term ‘approach distances’ under the *Marine Mammal Regulations*.

We support the comments submitted by the Pacific Whale Watch Association (PWWA) on this matter and likewise stress that, in BC’s whale watching sector, *approach distance* is clearly understood and suggests conscious and positive actions on behalf of professional whale watchers to protect species and control the distance at which they knowingly approach whales.

Question 3 - Through the current Interim Order, Transport Canada prohibits vessels from positioning themselves in the path of a killer whale in southern B.C. coastal waters. Do you have comments or considerations regarding this prohibition?

While TIAC supports regulations that prevent vessels from blocking the path of killer whales, there exists a need for regulations to clearly differentiate between inadvertent and intentional interference with whales.

Any permanent changes to the Marine Mammal Regulations should explicitly prohibit vessels from intentionally obstructing killer whales’ paths. Without this clarity, there is a risk that boaters who unintentionally find themselves in a whale’s path might make sudden, potentially dangerous maneuvers to avoid them, rather than remaining still and allowing the whales to pass safely.

Question 4 - Transport Canada’s Interim Order allows the Minister of Transport to authorize whale watching and ecotourism companies to view non-Southern Resident Killer Whales at a distance of between 200 m and 400 m. These companies must apply for such an authorization and are subject to conditions – failure to comply may result in suspension or revocation of the authorization. These conditions require companies to not follow Southern Resident Killer Whales, and they must not offer, plan or promote excursions based on the viewing of Southern Residents. As part of the transition to longer-term regulatory amendments to the *Marine Mammal Regulations*, the Government of Canada is seeking comments or considerations on the continuation of specified conditions for different Pacific killer whales (Southern Residents vs non-Southern Resident Killer Whales) and/or ocean users (e.g., commercial whale watchers/ecotourism companies) under the *Marine Mammal Regulations*. Do you have comments or considerations concerning this?

Professional whale watching operators are trusted stewards of our oceans and their inhabitants. Under the current Transport Canada interim order, professional whale watch operators have maintained the existing distance for non-Southern Resident killer whales of 200 metres and have pledged to not to view endangered Southern Resident killer whales from any distance.

As such, TIAC recommends that Fisheries and Oceans Canada maintain the 200-metre distance that is currently in place for non-Southern Resident killer whales while considering an increase in approach distance for endangered Southern Resident killer whales **only** of 1,000 metres to align with the 1,000-yard regulation in neighbouring Washington state.



Question 5: At present, there is uncertainty among the public and resource users about whether the *Marine Mammal Regulations* apply to the use of drones. Therefore, DFO is exploring the inclusion of updated terminology to clarify and confirm that the term “aircraft” is inclusive of drones, or remotely piloted aircraft systems. Do you have comments or considerations regarding the proposed clarification in relation to the use of aircraft, including drones, within proximity of marine mammals?

TIAC’s understanding is that drones are not utilized by BC’s professional whale watching operators. At present, the United States’ government body, NOAA Fisheries, is developing national guidance for drone operations near marine mammals. In an effort to ensure consistency, TIAC recommends that Fisheries and Oceans Canada collaborate with NOAA to develop guidelines on this topic.

Question 6: Do you have any other comments or considerations you would like to share with the Government of Canada regarding potential amendments to the *Marine Mammal Regulations*?

In weighing potential amendments to the *Marine Mammal Regulations*, TIAC urges Fisheries and Oceans Canada to consider the important role that BC’s whale watching operators embody as stewards of eco-tourism, wildlife education, and the protective presence that these professionals bring to our ocean and waterways through encouraging other vessels to follow the rules and facilitating learning opportunities for a significant number of conscientious eco-tourist each year. Unnecessarily strenuous regulations risk the loss of these important businesses, and the many economic benefits produced for communities along the coastline and beyond through this highly popular tourism sector.

In addition to our own brief, TIAC strongly encourages Fisheries and Oceans Canada to consider the well-informed responses and recommendations submitted by the Pacific Whale Watch Association and the Tourism Industry Association of BC.

