

Determination that an SBEIS is not Required

November 22, 2024

According to RCW 19.85.030, any agency adopting a rule under 34.05 RCW must prepare a small business economic impact statement if the proposed rule will impose more than minor costs on businesses in an industry. WDFW finds that the proposed rule is unlikely to generate costs to businesses. Therefore, the rule is unlikely to result in more than minor costs to businesses. The agency's [October 2020 SBEIS](#) provides more details on the characteristics of the businesses within the relevant industry.

The proposed rule modifies the existing regulations to ensure consistency between the commercial whale watch license holder regulations set forth in the WAC and corresponding components of the RCW. The proposed rule recalibrates the definition of "vicinity" and other distance-related requirements to be relative to 1,000 yards, compared to the existing requirements that are based on a one-half nautical mile distance (1,012 yards). These changes are being proposed for consistency with RCW 77.15.740, and there is not generally a perceptible difference between these distances in the whale watching experience. Consequently, this change does not generate costs. The proposed rule also removes the approach and proximity limitations placed on license holders because they are superseded by the statutory requirements in RCW 77.15.740, which beginning in January 2025 will require all vessels to maintain a minimum distance of 1,000 yards from Southern resident orcas at all times. Removal of the approach and proximity limitations will allow license holders to approach Southern resident orcas within 1,000 yards (i.e., 12 yards closer than what is allowed in the existing rule). Importantly, the forthcoming requirement that all vessels maintain a distance from Southern resident orcas of at least 1,000 yards was implemented through legislative action and is therefore not a change in requirements resulting from the proposed rule.

Other proposed changes are designed to provide greater clarity for requirements already included in the regulations, and to make administrative changes to the Commercial Whale Watch License Program. Changes designed to clarify existing requirements do not generate costs. Similarly, the administrative changes that waive license fees for educational non-profit organizations and makes reporting to WDFW of encounters with Southern resident orcas optional do not generate costs, and in fact may reduce administrative burden and associated costs.