



Client Alert 10-2022

July 6, 2022

Canada Ship Safety Bulletin 15/2022

Protecting Killer Whales in S. British Columbia

I. ALERT

Transport Canada has issued [Ship Safety Bulletin \(SSB\) 15/2022](#) with updated vessel requirements under the [Protection of the Killer Whale \(*Orcinus orca*\) in the Waters of Southern British Columbia, 2022](#), which came into force on June 01, 2022. **The Interim Order applies to all vessels that are navigating in, on or through specific waters in Southern British Columbia, regardless of the method of propulsion.** The Government of Canada has put these measures in place to reduce the acoustic and physical disturbance of vessels on the endangered Southern Resident Killer Whale (SRKW).

Note: This Client Alert and the abovementioned SSB 15/2022 cancel previously-issued ECM Client Alert 12-2021 and SSB 12-2021 on the same subject.

II. BACKGROUND

SRKW are endangered under the [Species at Risk Act](#) and are vulnerable to the activities of marine vessels. Vessels navigating on or through specific waters in Southern British Columbia, some of which are key foraging sites for SRKW, present risks to South Resident Killer Whales through underwater noise and physical disturbance, which can impact the ability for killer whales to perform critical life processes such as foraging and communication.

Recognizing the imminent threats to the survival and recovery of SRKW, and the increased threat that vessels can bring in the waters of Southern British Columbia, the Minister of Transport issued the [Interim Order for the Protection of the Killer Whale \(*Orcinus orca*\) in the Waters of Southern British Columbia, 2022](#). The measures listed within this Interim Order were developed to mitigate impacts of vessel noise and other disturbances, and to help create a temporary refuge for killer whales. [See Figure 1 for details.](#)

These protection measures for killer whales are described in the 2022 annual edition of the [Notices to Mariners \(NOTMARs\)](#), which are published by the Canadian Coast Guard (CCG). These measures are broadcast through Navigational Warnings (NAVWARNs), which are published by the CCG's Marine Communications and Traffic Services (MCTS) Centers.

III. REGULATORY OVERVIEW

The measures listed within this Interim Order are a **400m approach distance restriction, the establishment of interim sanctuary zones and the establishment of seasonal slowdown areas.** These measures are described in greater detail on the following page(s).

A. 400 meter approach distance

These prohibitions came into effect on **June 1, 2022 and will be implemented until May 31, 2023**. As per the Interim Order, vessels are prohibited from approaching all killer whales within 400 meters of the following areas:

- in the Salish Sea south of Campbell River ([Figure 1](#)); and
- in the waters that have been identified as their critical habitat ([Figure 1](#)).

Note: These restrictions increase the already existing 200 meter minimum approach distance from SRKW, currently in place under the [Marine Mammal Regulations](#), to a 400 meter minimum approach distance.

B. Interim Sanctuary Zones

These prohibitions came into effect on **June 1, 2022 and will be in place until November 30, 2022**. As per the Interim Order, persons operating vessels or vessels are prohibited from navigating in three interim sanctuary zones ([Figure 2](#)), which comprise of waters:

- off the southwest coast of North Pender Island ([Figure 2](#))
- off the eastern tip of Saturna Island, ([Figure 2](#)) and

A 20 meter transit corridor alongside the Pender and Saturna Island zones will be available to human powered (non-motor) vessels navigating through these areas. See [Figure 2](#) and [Figure 3](#) for more information.

C. Seasonal Slowdown Areas

All vessels (including pleasure crafts) are restricted to a maximum speed of 10.0 knots over ground in two Seasonal Slowdown Areas near Swiftsure Bank ([Figure 3](#)), with the coordinates listed in Schedule 3 of the Interim Order. **The Seasonal Slowdown Areas are in effect from June 1, 2022 until November 30, 2022.**

For a full description of the Interim Order including exemptions, special permissions, NAVWARN broadcasts, compliance, enforcement and reporting along with maps of the enforceable measures and sanctuary zones, please refer to the full text of [Ship Safety Bulletin \(SSB\) 15/2022](#) online or in the pdf file appended to this Client Alert.

Please direct questions and/or comments to us at ecm@ecmmaritime.com



SHIP SAFETY BULLETIN

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We issue Ship Safety Bulletins for the marine community. Visit our Website at www.tc.gc.ca/ssb-bsn to view existing bulletins and to sign up to receive e-mail notices of new ones.



Subject: Protection of the Killer Whale (*Orcinus orca*) in the Waters of Southern British Columbia, 2022

This bulletin replaces [Ship Safety Bulletin No. 12/2021](#)

Purpose

This bulletin is to describe vessel requirements under the Interim Order for the [Protection of the Killer Whale \(*Orcinus orca*\) in the Waters of Southern British Columbia, 2022](#), which came into force June 01, 2022. The Interim Order applies to all vessels that are navigating in, on or through specific waters in Southern British Columbia, regardless of the method of propulsion.

The Government of Canada has put these measures in place to reduce the acoustic and physical disturbance of vessels on the endangered Southern Resident Killer Whale (SRKW).

Context

SRKW are endangered under the [Species at Risk Act](#) and are vulnerable to the activities of marine vessels. Vessels navigating on or through specific waters in Southern British Columbia, some of which are key foraging sites for SRKW, present risks to South Resident killer whales through underwater noise and physical disturbance, which can impact the ability for killer whales to perform critical life processes such as foraging and communication.

Recognizing the imminent threats to the survival and recovery of SRKW, and the increased threat that vessels can bring in the waters of Southern British Columbia, the Minister of Transport issued the [Interim Order for the Protection of the Killer Whale \(*Orcinus orca*\) in the Waters of Southern British Columbia, 2022](#). The measures listed within this Interim Order were developed to mitigate impacts of vessel noise and other disturbances, and to help create a temporary refuge for killer whales. See Figure 1 for details.

Keywords:

1. Southern Resident Killer Whales
2. Minimum approach distance
3. Interim Sanctuary Zones

Questions concerning this Bulletin should be addressed to:

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Transport Canada
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330 Sparks Street, 11th Floor
Ottawa, Ontario K1A 0N8

Contact us at: marinesafety-securitemaritime@tc.gc.ca or 1-855-859-3123 (Toll Free).

These protection measures for killer whales are described in the 2022 annual edition of the [Notices to Mariners \(NOTMARs\)](#), which are published by the Canadian Coast Guard (CCG). These measures are broadcast through Navigational Warnings (NAVWARNs), which are published by the CCG's Marine Communications and Traffic Services (MCTS) Centres.

What you need to know

The measures listed within this Interim Order are a 400 metre approach distance restriction, the establishment of interim sanctuary zones, and the establishment of seasonal slowdown areas. The measures are described below in detail.

400 metres approach distance

These prohibitions came into effect on **June 1, 2022 and will be implemented until May 31, 2023.**

A vessel, or a person operating a vessel, is prohibited from approaching all killer whales within 400 metres of:

- in the Salish Sea south of Campbell River (Figure 1); and
- in the waters that have been identified as their critical habitat (Figure 1).

These restrictions increase the already existing 200 metre minimum approach distance from SRKW, currently in place under the [Marine Mammal Regulations](#), to a 400 metre minimum approach distance.

Interim Sanctuary Zones

These prohibitions came into effect on **June 1, 2022 and will be in place until November 30, 2022.**

A vessel, or a person operating a vessel, is prohibited from navigating in two interim sanctuary zones (Figure 2), which includes waters:

- off the southwest coast of North Pender Island (Figure 2); and
- off the eastern tip of Saturna Island, (Figure 2).

A 20 metre transit corridor alongside the shoreline of the Pender and Saturna Island Interim Sanctuary Zones will be available to human powered navigating through these areas. See Figure 2 and Figure 3 for more information.

Seasonal Slowdown Areas

All vessels (including pleasure crafts) are restricted to a maximum speed of 10.0 knots over ground in two Seasonal Slowdown Areas near Swiftsure Bank (Figure 3), with the coordinates

listed in Schedule 3 of the Interim Order. **The Seasonal Slowdown Areas are in effect from June 1 2022 until November 30, 2022.**

Exemptions

The following vessels and/or people are exempt from the above **approach distance prohibition**:

- vessels in transit (e.g., a vessel travelling directly from one point to another);
- vessels in distress or providing help to a vessel or person(s) in distress;
- vessels involved in pollution response operations;
- vessels avoiding immediate or unforeseen danger;
 - An immediate or unforeseen danger includes any situation where immediate or unforeseen weather, mechanical issues, or collision risks require a vessel to go through the interim sanctuary zone because it is the safest or quickest path to safety.
- employees of the Government of Canada or peace officers performing work functions, people helping them, or someone who is assisting them or who is present because they were asked by the Government of Canada;
- people conducting certain authorized activities under the [Species at Risk Act](#), [Marine Mammal Regulations](#), or [Fishery \(General\) Regulations](#); and
- any vessel with people mentioned above onboard.

The following vessels and/or people are permitted to travel through the **interim sanctuary zones**:

- local traffic that is accessing a home, business or any other establishment providing a service, and is travelling directly between locations on Pender Island and Saturna Islands, between one of those islands and a location beyond the interim sanctuary zones or a mooring buoy within those zones, or between a mooring buoy in the zones and a location beyond those zones, if travelling within an interim sanctuary zone is the only practical option (for example, to access a home or business that cannot be reached by road);
- human powered vessels in the 20 metre transit corridor alongside the Pender and Saturna Island zones;
- vessels in distress or providing help to a vessel or person(s) in distress;
- vessels involved in pollution response operations;
- vessels avoiding immediate or unforeseen danger;
 - An immediate or unforeseen danger includes any situation where immediate or unforeseen weather, mechanical issues or collision risks require a vessel to go through the interim sanctuary zone because it is the safest or quickest path to safety.
- people conducting certain authorized activities under the [Species at Risk Act](#), [Marine Mammal Regulations](#), or [Fishery \(General\) Regulations](#);

- people fishing for food, or social, ceremonial or domestic use based on a treaty under section 35 of the [Constitution Act, 1982](#), or with a license issued under the [Aboriginal Communal Fishing Licences Regulations](#);
- indigenous peoples exercising an existing right for non-commercial use, other than fishing, under section 35 of the [Constitution Act, 1982](#);
- employees of the Government of Canada or peace officers performing work functions, people helping them, or someone who is present because they were asked by the Government of Canada;
- vessels carrying any of the above mentioned people.

The following vessels and/or people are exempt from the above **seasonal slowdown areas**:

- a vessel in distress or providing assistance to a vessel or person(s) in distress;
- a vessel involved in pollution response operations;
- a vessel avoiding immediate or unforeseen danger;
- a vessel that is not operating a motor;
- an employee of the Government of Canada or a peace officer who is performing their duties, or a person who is assisting them or who is otherwise present at the request of the Government of Canada;
- vessels carrying any of the above mentioned people.

Special permissions

For the purposes of commercial whale watching, you can apply for special permission to view non-SRKW from a distance of between 200 metres and 400 metres.

If you would like to apply for permission or have questions, please contact: TC.QuietShips-Naviressilencieux.TC@tc.gc.ca.

If your application is approved, you will get a letter that should be kept on board at all times.

NAVWARN broadcasts

The CCG-MCTS issues and publishes NAVWARNs:

- By radio broadcast; and
- Online at its [Navigational Warnings site](#).

Mariners must ensure they have accurate and up-to-date information about the protection of the SRKW, as in all applicable NOTMARs and NAVWARNs.

Compliance and enforcement

You must comply with the Interim Order made pursuant to the [Canada Shipping Act, 2001](#), and any NAVWARNs broadcast and published by the CCG related to the Interim Order, aimed at regulating the navigation for the purposes of protecting the SRKW, if it applies to you.

If you do not comply with the Interim Order or with the instructions in the NAVWARNs related to the Interim Order, you could face:

- administrative monetary penalties up to a maximum of CAN \$250,000; or
- penal sanctions under the [Canada Shipping Act, 2001](#).

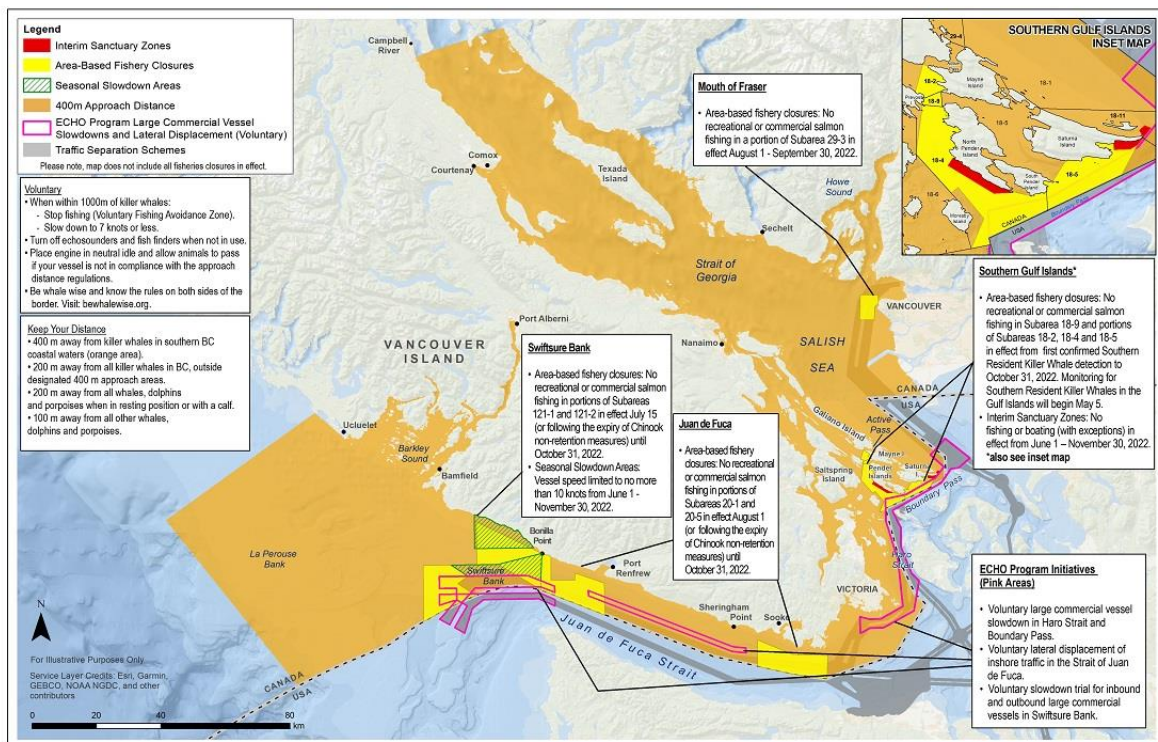
Report a killer whale in distress

If you see an injured, stranded, entangled or dead killer whale, contact this toll-free number or VHF channel:

- BC Marine Mammal Response Network: 1-800-465-4336
- VHF Channel 16

Figure 1: Overview of 2022 management measures to protect Southern Resident Killer Whales

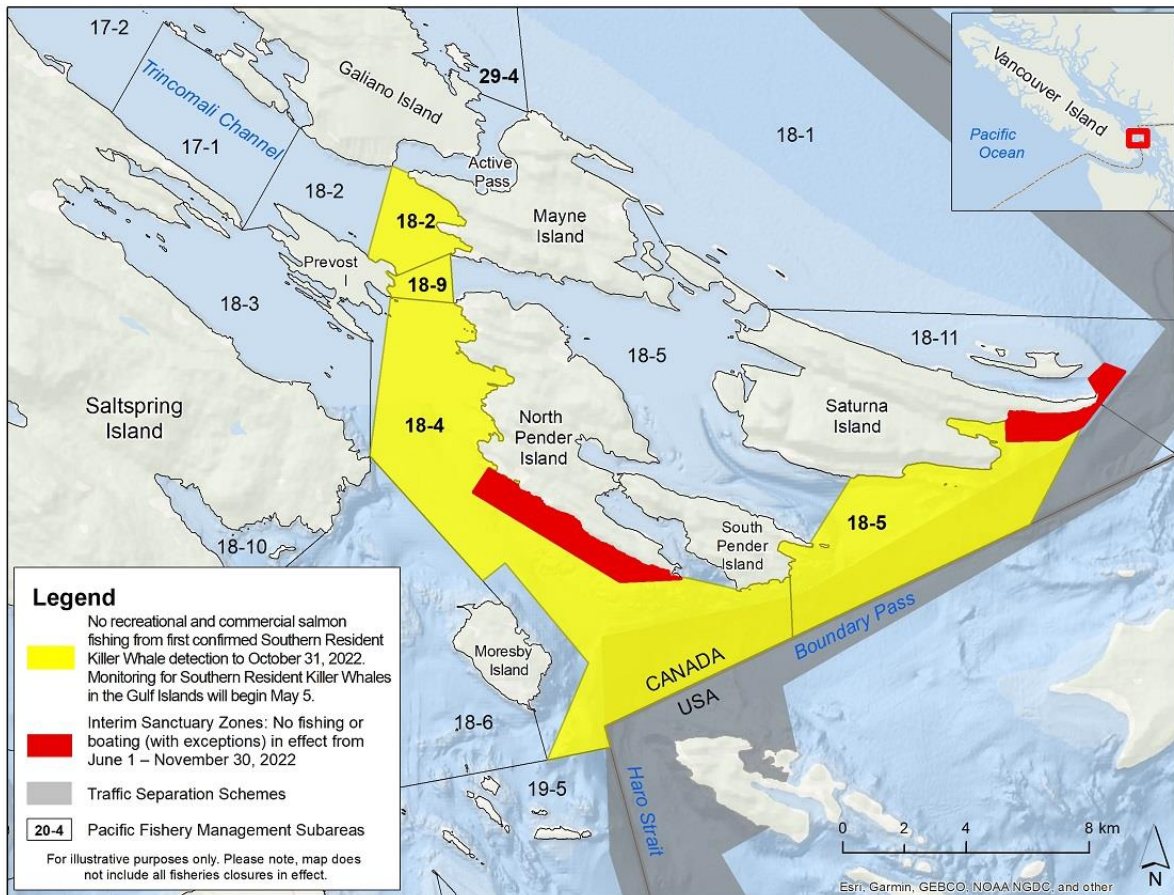
This map is for visual representation only and is not to be used for navigation or enforcement.



Overview of 2022 management measures to protect Southern Resident Killer Whales

Figure #2: Interim Sanctuary Zones – Saturna Island and Pender Island Interim Sanctuary Zones

This map is for visual representation only and is not to be used for navigation or enforcement.

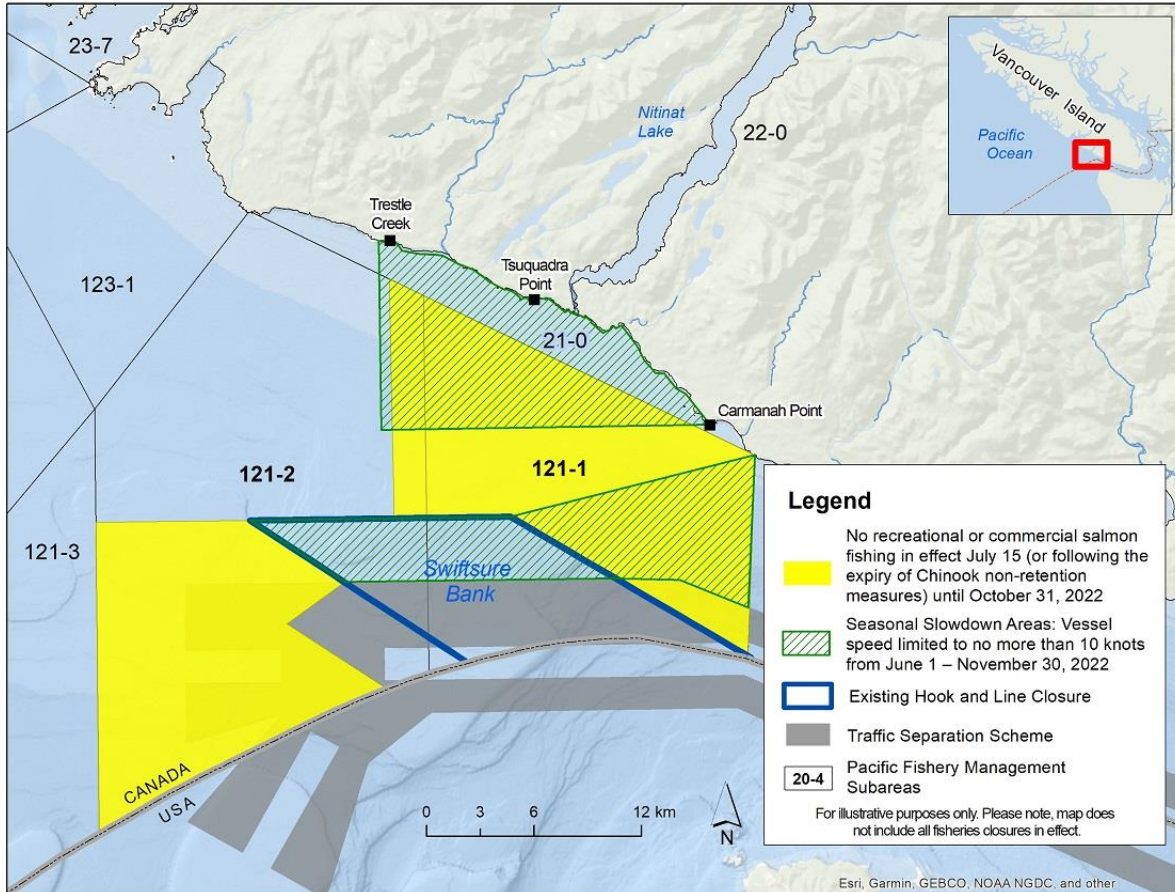


2022 Gulf Islands management measures

Canada

Figure #3: Swiftsure Bank management measures – Seasonal Slowdown Areas¹

This map is for visual representation only and is not to be used for navigation or enforcement.



2022 Swiftsure Bank management measures



¹ See [NOTMAR 2022 annual edition](#), A2-Notice5- Page 12-20 for details on coordinates