



Memorandum

To: Mary Wahl, Chair, Oregon Fish and Wildlife Commission

From: Leah Feldon, Director, Oregon Department of Environmental Quality

Date: July 11, 2025

Subject: Oregon DEQ's role in Southern Resident orca conservation

Dear Chair Wahl,

On March 14, 2025, the Oregon Fish and Wildlife Commission (Commission) determined that the Oregon Department of Environmental Quality (DEQ) is a non-land-owning or managing agency that can play a role in Southern Resident orca (SRO, *Orcinus orca*) conservation. Following this decision, per OAR 635-100-0150(1), DEQ consulted with Oregon Department of Fish and Wildlife (ODFW) in determining DEQ's role in Southern Resident orca conservation. Based on this consultation and after reviewing the survival guidelines adopted by the Commission, DEQ considers "contributing toward conservation" the role that aligns with the scope of the agency's work. Below, per OAR 635-100-0150(3), DEQ has outlined the explanation of how this role relates to DEQ's work and how it intends to achieve it.

I. What programs are covered by the statement

Actions defining DEQ's role are carried out through ongoing work in the following programs within the three media divisions of the agency:

DEQ Division	DEQ Program
Air Quality	Air Toxics Monitoring
	Air Quality Permitting
Land Quality	Environmental Cleanup
	Emergency Response
	Hazardous Waste
	Underground Storage Tanks
Water Quality	Water Quality Standards
	Water Quality Assessment
	401 Certification
	Water Quality Permitting
	Total Maximum Daily Load
	Nonpoint source control

Non-discrimination statement

DEQ does not discriminate on the basis of race, color, national origin, disability, age, sex, religion, sexual orientation, gender identity, or marital status in the administration of its programs and activities. Visit DEQ's [Civil Rights and Environmental Justice page](#).

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Memorandum

II. What role the agency will play in conservation of the species and how the agency defined its role

DEQ defines its role of contributing toward conservation by the agency's existing statutory requirements and program activities relating to three population threats identified in SRO survival guidelines: prey availability, environmental contaminants, and oil spills.

III. What actions the agency will take to achieve the defined role

In defining its role, DEQ has inventoried ongoing activity through statutory obligations as well as other agency actions that contribute to SRO conservation. As there is significant overlap of DEQ's efforts across the agency relating to the survival guidelines outlined in OAR 635-100-0138, the broad actions described below capture DEQ's current contributions toward achieving its role in SRO conservation.

- **Prey availability:** Adult Chinook salmon are identified as the primary prey in the SRO survival guidelines. DEQ's role in prey availability is defined by activities that facilitate Chinook salmon protection and recovery in Oregon. There are many intersections between ongoing program work at DEQ to protect, restore, and improve water quality across the state and Chinook salmon recovery. Broadly speaking, the primary actions of the agency contributing to prey availability for SRO conservation include:
 - I. Establishing and implementing water quality standards to protect Chinook salmon and other aquatic life.
 - II. Improving environmental conditions through watershed management actions, cleanup, and regulation of pollutant discharges from both point and nonpoint sources.
 - III. Developing and implementing water quality management plans that facilitate fish passage improvements for Chinook salmon in the Columbia and Klamath Basins through collaborative efforts with federal dam operators and Section 401 certification requirements.
- **Environmental Contamination:** DEQ's actions relating to this survival guideline are defined by the authority in Land, Air, and Water Quality divisions to identify and control releases of contaminants, including persistent organic pollutants and other bioaccumulative toxics, into the environment. The primary actions the agency takes that contribute to reducing environmental contamination include:
 - I. Monitoring, assessing, and reporting on presence and severity of environmental contamination and pollution.
 - II. Reducing and limiting environmental contamination through:
 - Cleanup and remediation of contaminated sites.
 - Toxics use reduction and safe management of petroleum and hazardous waste.
 - Regulatory mechanisms including Section 401 certifications, TMDLs, and NPDES, stormwater, and air quality permitting.
 - Non-regulatory mechanisms including administration of grant programs, nonpoint source program planning, and collaborative partnerships.



Memorandum

- **Oil Spills:** DEQ's Emergency Response program in the Land Quality Division plays a lead role in preparing and coordinating emergency response for oil and other hazardous substance spills in Oregon. Primary actions that define DEQ's contribution to this survival guideline include:
 - I. Participating in regional emergency response planning and developing geographic response plans to prepare for hazardous material spills.
 - II. Coordinating emergency response activities in the event of an oil spill or release of other hazardous materials, including implementation of wildlife response protocols for SRO and other orcas.

IV. Whether the agency will reassess and review its actions to achieve the role, and if so, how and when;

DEQ has a specific set of state and federal mandates governing the operation of our programs. Most of these programs employ an adaptive management approach to review and update program activities following regular intervals and processes. As future needs, opportunities, and resources to integrate SRO conservation actions into these programs are identified, DEQ can reassess actions to achieve its role through these review and prioritization processes. DEQ looks forward to continuing its collaborative partnership with ODFW and exploring strategic opportunities to enhance our program activities to support SRO conservation.

V. Whether the agency will monitor its actions, and if so, how and when;

DEQ maintains a number of reporting mechanisms and databases across the different programs that could aid in tracking status and progress of DEQ's contributing actions. Currently, DEQ monitors and reports on contributing actions through ongoing programmatic work. DEQ will work with ODFW to identify opportunities to monitor and track specific actions that contribute to SRO conservation.

VI. How the agency's role and actions relate to state, federal and other recovery efforts.

There are numerous intersections between DEQ's role and state, federal, and other recovery efforts. DEQ consults with EPA, the U.S. Fish and Wildlife Service, and the National Marine Fisheries' Service on any actions that potentially affect federally listed threatened and endangered species. Any approval action by EPA related to adoption or revision of water quality standards must undergo ESA consultation. Additionally, based on NOAA Fisheries' 2021 status update and critical habitat revision for SRO, there are now portions of Oregon's Territorial Sea designated as critical habitat that fall within direct jurisdiction of DEQ's state authorities under the Clean Water Act. DEQ evaluates and coordinates with the federal agencies on protection of critical habitat in the adoption of designated uses, water quality standards, and other regulatory actions. In defining its role and actions to achieve its role under OAR 635-100-0150, DEQ is coordinating with ODFW to align with the state SRO recovery process.

DEQ welcomes the role of contributor to conservation and looks forward to further coordination with ODFW on collective actions to support SRO conservation in Oregon. We appreciate the opportunity to provide this description of DEQ's role as a contributor toward SRO conservation as a non-land-owning or managing agency

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DEQ's mission is to be a leader in restoring, maintaining and enhancing the quality of Oregon's air, land and water.



State of Oregon
DEQ Department of Environmental Quality

Memorandum

under OAR 635-100-0150. We look forward to continued coordination and collaboration with ODFW on this matter.

Sincerely,

A handwritten signature in black ink that reads "Leah K. Feldon".

Leah Feldon
Director

Cc: Jennifer Wigal, DEQ
Mike Kucinski, DEQ
Ali Mirzakhali, DEQ
Connie Dou, DEQ
Kaegan Scully-Engelmeyer, DEQ
Howard Takata, ODFW

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Oregon

Tina Kotek, Governor

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June 26, 2025

Mary Wahl, Chair
Oregon Fish and Wildlife Commission
4034 Fairview Industrial Drive SE
Salem, OR 97302
Sent via email: ODFW.Commission@odfw.oregon.gov



Memorandum: Southern Resident Orca Conservation

Dear Chair Wahl,

I am writing in response to your March 26, 2025, Notification of Southern Resident Orca (SRO) Listing and Requirements for Affected State Non-Land-Ownning Agencies under the Oregon Endangered Species Act. The Department of Land Conservation and Development (DLCD) has determined the agency's role regarding SRO conservation. DLCD staff would like to thank Oregon Department of Fish and Wildlife (ODFW) SRO coordinator, Howard Takata, for his timely and effective communication on this matter with DLCD staff.

DLCD is the lead agency for Oregon's Land Use Planning Program with a mission to help communities plan for, protect, and improve the built and natural systems that provide high quality of life. The legislature has tasked the agency with managing urban growth; protecting farm and forest lands, coastal areas, and natural resource lands; and providing for safe, livable communities in concert with the communities' vision. Implementation of the 19 Statewide Planning Goals may influence SRO conservation in several ways including ocean acidification and hypoxia, habitat and water quality for Chinook salmon (a primary food source), and alteration of the territorial sea. The four coastal goals, in particular, play a significant role in shaping policy and management of coastal resources. Our response is focused on the actions our staff can take that would directly influence or support the conservation of SRO. These staff are part of the Oregon Coastal Management Program (OCMP).

The OCMP is hosted by DLCD. OCMP works to ensure that development within Oregon's coastal zone occurs in a responsible manner that protects and restores natural resources, while supporting coastal economies and resilience. The coastal zone is defined as seaward three nautical miles and inland to the crest of the coast range. The program plays a lead role in coordinating the work of the Oregon Ocean Policy Advisory Council (OPAC), which provides advice to the Governor, state agencies, and local governments on ocean policy and resource management. In addition, through the federal consistency review process, OCMP ensures that Oregon's interests are considered when federal government activities are proposed in waters off the Oregon Coast. Both OPAC and federal consistency can contribute to the conservation of SRO. The OCMP can help address the potential impacts that noise and or other related factors associated with proposed development projects in the territorial sea may have on SRO, via coordination of agencies through implementation of the Territorial Sea Plan and coordinated development of enforceable policies, when appropriate.

Due to the nature and responsibilities of the OCMP, DLCD has identified the role of "Contribution toward conservation" as the type of role it will take regarding SRO conservation. The role of coordinating decision making and policy development in the Oregon Territorial Sea lends itself to the role of contributing to conservation. The DLCD strategic plan

has identified the conservation of coastal and marine systems as part of its work on conservation of natural and working lands. Additionally, the intersection of planning in our estuaries and in the marine environment provides an opportunity to improve habitat conservation. This in turn influences the resilience of SROs via the resilience of their main prey, Chinook salmon.

The agency role is for “contributions to conservation” through application of existing efforts. “Take avoidance” is not a concern of DLCD as DLCD is not a land manager and there are no actions of the agency that could directly lead to harm of an SRO. DLCD deems the role of “contributing to conservation” appropriate through application of existing rules and policies. However, it is possible that minor investments could provide additional capacity for outreach and educational opportunities. These activities could include messaging associated with other OCMP program activities, such as facilitation of informational presentations at Coastal Planners Network meetings, and coordination on Rocky Habitat conservation planning and goals.

The DLCD and OCMP are committed to working with other relevant partners to improve conservation of the SRO. However, these actions will primarily be associated with existing efforts that occur on an ad hoc basis when the state receives permit applications or authorizations. DLCD will revisit the SRO conservation needs adaptively, as needed.

One of the mechanisms to coordinate on future SRO conservation is via updated State Agency Coordination Agreements, which would help both of our agencies understand, among other things, the potential areas of overlap or emphasis in work programs and their relationship to SRO conservation. For example, continuing to provide staff support for the Ocean Acidification and Hypoxia Coordinating Council should be a priority in the future, as changing ocean conditions could have a major impact on marine food webs and SROs as a top-level predator. DLCD plans to reach out to ODFW later this summer to initiate an updated State Agency Coordination agreement.

While DLCD does not intend to directly monitor the actions that it takes to contribute to SRO conservation, the agency would commit to participation in annual meetings where it would be able to report on any actions with a direct impact. DLCD actions, while generally supportive of SRO conservation, are not coordinated with nor support any other state or federal SRO recovery efforts.

Thank you for leading the State’s efforts on SRO conservation. If you have any further questions or needs for coordination, please contact the DLCD Marine Affairs Coordinator, Andy Lanier, at Andy.Lanier@dlcd.oregon.gov.

Sincerely,



Brenda Bateman, Ph.D.
Director

CC: Andy Lanier, Marine Affairs Coordinator, DLCD
Lisa Phipps, Oregon Coastal Program Manager, DLCD
Howard Takata, SRO Coordinator, ODFW



Oregon

Tina Kotek, Governor

State Marine Board

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June 17, 2025

Oregon Fish and Wildlife Commission
4034 Fairview Industrial Drive SE
Salem, OR 97302

MEMORANDUM

RE: SOUTHERN RESIDENT ORCA CONSERVATION - STATE MARINE BOARD ROLE

Dear Chair Wahl,

The Oregon State Marine Board (OSMB) has been identified as a state non-land-owning agency under the Oregon Endangered Species Act related to Southern Resident Orcas (SRO). OSMB has authority to regulate recreational boating including special operational regulations for the protection of game and game fish at the request of State Fish and Wildlife Commission (ORS 830.110; ORS 830.175(3)). Though OSMB has no documented incidents or reports of recreational boaters related to SRO, the agency is committed to contributing towards SRO conservation.

PROGRAMS CONTRIBUTING TOWARDS SRO CONSERVATION

- 1) Boating Safety Education
- 2) Marine Law Enforcement
- 3) Outfitter Guide & Charters

PROGRAM ROLES IN SRO CONSERVATION

The agency programs identified have large scale communication mechanisms to promote relevant messaging related to SRO conservation. This includes the ability to provide information to recreational boaters, commercial charters including whale-watching tours, and fishing guides who operate boats within SRO habitat. OSMB will incorporate SRO conservation training into the annual Marine Law Enforcement Academy and provide SRO conservation resources within the Marine Law Enforcement Handbook.

ACTIONS

OSMB will actively collaborate with ODFW on promoting uniform messaging to all boaters operating near the mouths of rivers and bays along the Oregon Coast and in the Pacific Ocean. Information will be intentional on educating recreational boaters of potential noise impacts and disturbance to SRO habitat. This includes education and outreach with OSMB contracted marine law enforcement partners to increase boater awareness on the water. OSMB will provide information to the recreational boating public regarding their responsibilities to ensure SRO conservation measures are practiced.

ASSESSMENT

OSMB recommends annual or biannual check-in with Oregon Department of Fish and Wildlife (ODFW) and Oregon State Police (OSP) to discuss incidents or documented reports of SRO impacts from vessel disturbance or vessel noise. This may include case studies, messaging effectiveness, anecdotal boater interactions, or other relevant measurables.

MONITORING

OSMB will document all education and outreach efforts including email, social media, and informational handouts provided at events. OSMB will intentionally survey marine law enforcement partners of SRO related interactions that may be helpful if future regulatory framework is necessary to specifically contribute to SRO conservation.

ALIGNMENT WITH CONSERVATION EFFORTS

OSMB serves Oregon's recreational boating public through education, enforcement, access, and environmental stewardship for safe and enjoyable experience on the water. The OSMB is key in providing education and outreach to boaters operating within SRO habitat in addition to implementing potential regulatory framework. OSMB contracted law enforcement partners are also equally important in promoting uniform messaging to boaters on the water and enforcement. OSMB role in conservation is critical in amplifying messaging to multiple large user groups of SRO habitat and the enforcement mechanism if needed in the future. Though the agency serves as an intermediary, the actions and monitoring provide value in SRO conservation.

Sincerely,

A handwritten signature in black ink, appearing to read 'L. Warren', written in a cursive style.

Larry Warren, Director

Oregon State Marine Board



Oregon

Tina Kotek, Governor

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July 2, 2025

Mary Wahl, Chair
Oregon Fish and Wildlife Commission
4034 Fairview Industrial Drive SE
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Dear Chair Mary Wahl,

The Oregon State Police, and specifically the Fish and Wildlife Division (OSPFWD), ensures compliance with the laws and regulations that protect and enhance the long-term health and equitable use of Oregon's fish and wildlife resources and the habitats upon which they depend.

Since the listing of the Southern Resident orca (SRO) by the Oregon Fish and Wildlife Commission (Commission) on February 16th, 2024, the OSPFWD has been in consultation with staff from the Oregon Department of Fish and Wildlife (ODFW) and determined the likely role of OSPFWD in the conservation of SRO would primarily be take avoidance with an indirect contribution toward conservation.

OSPFWD can assist SRO's by ensuring compliance with potential future regulations adopted by the Commission and other agencies that are designed to protect and mitigate threats to SRO's. Some of the key areas where OSPFWD can play a role are listed below. These roles were developed in consultation with ODFW:

1. **Vessel Disturbance:** Increase awareness of vessel guidelines, such as maintaining a safe distance from orcas (e.g., 100 yards as recommended by NOAA), can reduce noise and physical disturbances that interfere with their communication, navigation, and foraging. OSPFWD would accomplish this by performing on the water patrols at times when SRO's are present and respond to complaints reported by the public to ensure boaters are familiar with the guidelines.
2. **Fishery Management:** Enforcement of fishery regulations, including harvest limits and seasonal restrictions, can help ensure an adequate prey base (primarily Chinook salmon)

for SRO. OSPFWD would continue its current enforcement efforts related to fisheries regulations designed to protect salmon populations throughout Oregon.

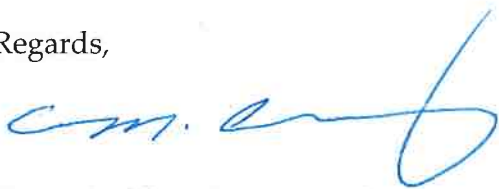
3. **Education/Outreach:** Education and outreach related to the current NOAA guidelines is a component of the protection measures put in place for SRO's. OSPFWD would assist in this by discussing the current guidelines and any potential future regulations with the public as opportunities are presented as well as outreach opportunities through schools and events such as the Sportsman's Shows.
4. **Contaminant Reduction:** Enforcement of current environmental laws and regulations aimed at reducing pollution, can help minimize contamination in the orcas' prey and improve their overall health. OSPFWD would accomplish this through the continued enforcement of Oregon's environmental laws.
5. **Collaboration with Agencies:** Agencies like the ODFW, NOAA, Oregon Department of Environmental Quality (DEQ), and the Oregon State Marine Board (OSMB). OSPFWD would continue to work with the other listed agencies to respond and address issues related to SRO's as they are identified.

By ensuring compliance with protection measures, enforcement helps address key threats to SRO, including prey availability, vessel disturbance, and environmental contaminants, thereby contributing to their conservation and recovery.

The Oregon State Police will work with ODFW staff to monitor, assess and review actions related to enforcement in connection to SRO's as needed with no specific timeline.

The Oregon State Police looks forward to working with the Commission, ODFW, and other agencies as we respond to the threats faced by the SRO.

Regards,



Casey Codding, Superintendent
Oregon State Police

The Oregon Department of State Lands provided written documentation in its endangered species management plan (see Attachment 3) for its non-proprietary program's role and actions in Southern Resident orca conservation.