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Proposed killer whale conservation plan released for comment

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SEATTLE -- The National Marine Fisheries Service on Monday released its proposed conservation plan for the killer whales that spend summers around the San Juan Islands.

The plan addresses such concerns as availability of prey - predominantly salmon for these "southern resident" orcas - as well as pollution and disruption by boats.

But environmentalists worry about changes under consideration in Congress to species protection laws.

If those changes take effect, "no matter how good this plan is, our ability to protect the southern residents is going to be diminished," said Brent Plater of the San Francisco-based Council for Biological Diversity.

The draft conservation plan was prepared following the Fisheries Service's 2003 decision to list the orcas as "depleted" under the Marine Mammal Protection Act. That law extends protection only to the species itself; it does not include habitat.

The draft plan is open to public comment and could take effect by the end of the year, said NMFS spokesman Brian Gorman in Seattle.

That's about the time the agency will be making its final decision on a "threatened" listing for the 91-member orca population under the Endangered Species Act. A listing under that law would extend protection to the killer whales' habitat.

"Till I see what they define as critical habitat, this is only half a pie," said Fred Felleman of the Seattle-based Orca Conservancy.

"One of great threats facing marine mammals in the ocean is acoustic pollution - noise pollution - which is impeding the whales' ability to find food and communicate with each other," Plater said.

"They really need to start monitoring marine acoustic pollution and how much whale watching goes on," Felleman said. "We say there are problems but we don't know how big a problem it is because we haven't even measured that."

The proposal incorporates public comment gathered through last spring. The Fisheries Service identified three primary concerns: availability of prey, pollution and disruptions from vessels. Oil spills and disease also are possible threats, the agency said in a news release.

The proposed plan offers measures to address each of the threats, and also identifies conservation efforts already under way. In addition, it outlines an approach that would update conservation efforts as new information becomes available.

In 2003, the Fisheries Service concluded these orcas did not warrant Endangered Species Act protection because the population did not meet the definition of being biologically distinct from other killer whales. A federal judge last year ordered the agency to reconsider, after eight environmental groups and concerned individuals filed a lawsuit.

In December 2004, the agency proposed listing the orcas as threatened - allowing a period for public comment that comes to a close at the end of this year.

Both the Endangered Species Act and the Marine Mammal Protection Act are under fire in the Republican-dominated Congress, Plater said. In legislation that he said "guts" the ESA, the House has approved transferring responsibility for the orcas to the U.S. Fish and Wildlife Service.

"Reforming the law should not be a euphemism for gutting the law, and that's exactly what the bill would do," Rep. Sherwood Boehlert, a moderate Republican from New York, said when the bill passed the House last Friday.

A proposed Hurricane Katrina-relief bill contains a rider to destroy the marine mammal act, Plater said. Both measures were sponsored by House Resources Chairman Richard Pombo, R-Calif. The Senate has not yet weighed in on either measure.

The southern resident population plummeted from a high of around 97 animals in 1996 to just 79 in 2001. It's now estimated at 91.

These orcas feed almost exclusively on salmon, ranging as far south as California and north into British Columbia waters. Some orcas in other areas feed on other marine mammals, such as seals or whales, or a combination of mammals and fish.

On the Net:

National Marine Fisheries Service, <http://www.nmfs.noaa.gov>

Endangered Species Act: <http://www.fws.gov/endangered/esa.html>