

RCW 88.16.260 Board of pilotage commissioners authorized to adopt rules in consultation with other entities—Tug escorts. (1) (a)

By December 31, 2025, the board of pilotage commissioners, in consultation with the department of ecology, must adopt rules regarding tug escorts to address the peculiarities of Puget Sound for the following:

(i) Oil tankers of between five thousand and forty thousand deadweight tons; and

(ii) Both articulated tug barges and towed waterborne vessels or barges that are: (A) Designed to transport oil in bulk internal to the hull; and (B) greater than five thousand deadweight tons.

(b) The requirements of this section do not apply to:

(i) A towed general cargo deck barge; or

(ii) A vessel providing bunkering or refueling services.

(c) The rule making pursuant to (a) of this subsection must be for operating in the waters east of the line extending from Discovery Island light south to New Dungeness light and all points in the Puget Sound area. This rule making must address the tug escort requirements applicable to Rosario Strait and connected waterways to the east established in RCW 88.16.190(2)(a)(ii), and may adjust or suspend those requirements based on expertise developed under subsection (5) of this section.

(d) To achieve the rule adoption deadline in (a) of this subsection, the board of pilotage commissioners must adhere to the following interim milestones:

(i) By September 1, 2020, identify and define the zones, specified in subsection (3)(a) of this section, to inform the analysis required under subsection (5) of this section;

(ii) By December 31, 2021, complete a synopsis of changing vessel traffic trends; and

(iii) By September 1, 2023, consult with potentially affected federally recognized Indian treaty fishing tribes, other federally recognized treaty tribes with potentially affected interests, and stakeholders as required under subsection (6) of this section and complete the analysis required under subsection (5) of this section. By September 1, 2023, the department of ecology must submit a summary of the results of the analysis required under subsection (5) of this section to the legislature consistent with RCW 43.01.036.

(2) When developing rules, the board of pilotage commissioners must consider recommendations from potentially affected federally recognized Indian treaty fishing tribes, other federally recognized treaty tribes with potentially affected interests, and:

(a) The results of the most recently completed vessel traffic risk assessments;

(b) The report developed by the department of ecology as required under section 206, chapter 262, Laws of 2018;

(c) The recommendations included in the southern resident orca task force report, November 2018, and any subsequent research or reports on related topics;

(d) Changing vessel traffic trends, including the synopsis required under subsection (1)(d)(ii) of this section; and

(e) For any formally proposed draft rules or adopted rules, identified estimates of expected costs and benefits of the rule to:

(i) State government agencies to administer and enforce the rule; and

(ii) Private persons or businesses, by category of type of person or business affected.

(3) In the rules adopted under this section, the board of pilotage commissioners must:

(a) Base decisions for risk protection on geographic zones in the waters specified in subsection (1)(c) of this section. As the initial foci of the rules, the board of pilotage commissioners must equally prioritize geographic zones encompassing: (i) Rosario Strait and connected waterways to the east; and (ii) Haro Strait and Boundary Pass;

(b) Specify operational requirements, such as tethering, for tug escorts;

(c) Include functionality requirements for tug escorts, such as aggregate shaft horsepower for tethered tug escorts;

(d) Be designed to achieve best achievable protection, as defined in RCW 88.46.010, as informed by consideration of:

(i) Accident records in British Columbia and Washington waters;

(ii) Existing propulsion and design standards for covered tank vessels; and

(iii) The characteristics of the waterways; and

(e) Publish a document that identifies the sources of information that it relied upon in developing the rules, including any sources of peer-reviewed science and information submitted by tribes.

(4) The rules adopted under this section may not require oil tankers, articulated tug barges, or towed waterborne vessels or barges to be under the escort of a tug when these vessels are in ballast or are unladen.

(5) To inform rule making, the board of pilotage commissioners must conduct an analysis of tug escorts using the model developed by the department of ecology under RCW 88.46.250. The board of pilotage commissioners may:

(a) Develop scenarios and subsets of oil tankers, articulated tug barges, and towed waterborne vessels or barges that could preclude requirements from being imposed under the rule making for a given zone or vessel;

(b) Consider the benefits of vessel safety measures that are newly in effect on or after July 1, 2019, and prior to the adoption of rules under this section; and

(c) Enter into an interagency agreement with the department of ecology to assist with conducting the analysis and developing the rules, subject to each of the requirements of this section.

(6) The board of pilotage commissioners must consult with the United States coast guard, the Puget Sound harbor safety committee, potentially affected federally recognized Indian treaty fishing tribes, other federally recognized treaty tribes with potentially affected interests, ports, local governments, state agencies, and other appropriate entities before adopting tug escort rules applicable to any portion of Puget Sound. Considering relevant information elicited during the consultations required under this subsection, the board of pilotage commissioners must also design the rules with a goal of avoiding or minimizing additional underwater noise from vessels in the Salish Sea, focusing vessel traffic into established shipping lanes, protecting and minimizing vessel traffic impacts to established treaty fishing areas, and respecting and preserving the treaty-protected interests and fishing rights of potentially affected federally recognized Indian tribes.

(7) Rules adopted under this section must be periodically updated consistent with RCW 88.46.260.

(8) The definitions in this subsection apply throughout this section unless the context clearly requires otherwise.

(a) "Articulated tug barge" means a tank barge and a towing vessel joined by hinged or articulated fixed mechanical equipment affixed or connecting to the stern of the tank barge.

(b) "Oil tanker" means a self-propelled deep draft tank vessel designed to transport oil in bulk. "Oil tanker" does not include an articulated tug barge tank vessel.

(c) "Towed general cargo deck barge" means a waterborne vessel or barge designed to carry cargo on deck.

(d) "Waterborne vessels or barges" means any ship, barge, or other watercraft capable of traveling on the navigable waters of this state and capable of transporting any crude oil or petroleum product in quantities of ten thousand gallons or more for purposes other than providing fuel for its motor or engine. [2019 c 289 § 3.]

Finding—Intent—2019 c 289: See note following RCW 88.16.190.