

WSR 23-06-021
PREPROPOSAL STATEMENT OF INQUIRY
BOARD OF
PILOTAGE COMMISSIONERS

[Filed February 22, 2023, 8:14 a.m.]

Subject of Possible Rule Making: The board of pilotage commissioners (BPC), in consultation with ecology, is beginning a rule making to amend chapter 363-116 WAC, Pilotage rules. Chapter 363-116 WAC describes the training, licensing, and regulation of Washington state maritime pilots to ensure safe pilotage. Chapter 363-116 WAC also describes tug escort requirements for oil tankers in Washington waters.

The rule making will amend WAC 363-116-500 and, if needed, add new sections to chapter 363-116 WAC. The rule making will consider 2019 legislative changes made to chapter 88.16 RCW (Pilotage Act) through the passage of ESHB 1578. The rules will be designed to achieve best achievable protection, as defined in RCW 88.46.010, and will be informed by other considerations in ESHB 1578. The rule making will:

- Describe tug escort requirements for the following vessels 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:
 - o Oil tankers of between 5,000 and 40,000 deadweight tons.
 - o Articulated tug barges (ATB) and towed waterborne vessels or barges greater than 5,000 deadweight tons that are designed to transport oil in bulk internal to the hull.
- Specify operational requirements for tug escorts, where they are required.
- Specify functionality requirements for tug escorts, where they are required.
- Consider the existing tug escort requirements applicable to Rosario Strait and connected waterways to the east, established in RCW 88.16.190 (2) (a) (ii), including adjusting or suspending those requirements, as needed.
- Describe exemptions to tug escort requirements, including whether certain vessel types or geographic zones should be precluded from the escort requirements.
- Make other changes to clarify language and make any corrections needed.

Statutes Authorizing the Agency to Adopt Rules on this Subject: RCW 88.16.260 Board of pilotage commissioners authorized to adopt rules in consultation with other entities—Tug escorts.

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: Through ESHB 1578, codified in chapter 88.16 RCW, the legislature established tug escort requirements for certain oil tankers, ATBs, and towed waterborne vessels in Rosario Strait and connected waterways to the east. ESHB 1578 directs BPC, in consultation with ecology, to adopt rules regarding tug escorts in Puget Sound for oil tankers, ATBs (as defined in RCW 88.16.260), and towed waterborne vessels or barges by December 31, 2025.

A catastrophic oil spill in the Puget Sound could cause damage to endangered southern resident killer whales and other species, damage tribal, commercial, and recreational fishing, and cause economic and public health consequences in Washington state. The escort require-

ments addressed by this rule making are intended to provide preventative measures to reduce the risk of a major oil spill.

Other Federal and State Agencies that Regulate this Subject and the Process Coordinating the Rule with These Agencies: Federal and state agencies that regulate vessels transporting bulk oil include: United States Coast Guard, Environmental Protection Agency, Canadian Coast Guard Vessel Traffic Services, Washington state department of ecology, Washington state department of fish and wildlife, Washington state department of transportation, British Columbia Ministry of Environment and Climate Change Strategy, Oregon Department of Environmental Quality, California Department of Fish and Wildlife Office of Spill Prevention and Response, Alaska Department of Environmental Conservation Spill Prevention and Response, Transport Canada, and Pacific Pilotage Authority. Ecology will notify and solicit input from these federal and state agencies, and other stakeholders throughout this rule-making process.

Process for Developing New Rule: BPC will follow the standard process for the adoption of rules under the Administrative Procedure Act (chapter 34.05 RCW).

Interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication by contacting Jaimie Bever, Executive Director, BPC, 2901 3rd Avenue, Suite 500, Seattle, WA 98121, phone 206-515-3887, Washington relay service or TTY call 711 or 877-833-6341, email BeverJ@wsdot.wa.gov, website <https://ecology.wa.gov/About-us/Who-we-are/Our-Programs/Spills-Prevention-Preparedness-Response/Legislative-work/BPC-tug-escort-rulemaking>.

Additional comments: Interested parties can stay informed about the rule making and public involvement opportunities as described above. BPC will extend an offer for government-to-government consultation with tribal governments during each phase of rule development.

February 22, 2023
Jaimie Bever
Executive Director