

2019 Legislation: Reducing Threats to Southern Resident Killer Whales & Improving the Safety of Oil Transportation



Washington's Southern Resident Killer Whale population is at a 30-year low. (Photo: David Ellifrit, Center for Whale Research)

WHY IT MATTERS

A catastrophic oil spill could cause potentially irreversible damage to the endangered Southern Resident Killer Whales and other species, damage commercial fishing, violate tribal treaty rights, and cause severe economic and public health consequences in Washington.

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ESHB 1578 provides a measured approach to preventing a catastrophic oil spill in Puget Sound by closing important safety gaps related to vessels carrying oil in bulk. The bill specifically directs the Department of Ecology's Spills Program to undertake or assist with multiple policy initiatives, including:

- Assisting the Board of Pilotage Commissioners (BPC) in developing rules for tug escorts in the Puget Sound for oil-laden vessels, with future periodic reviews.
- Developing and maintaining a vessel traffic risk model that will inform decisions on tug escort and emergency response systems for the Puget Sound.
- Discussing emergency response systems at the Salish Sea Shared Waters Forum.
- Amending rules for advance notice of transfers to ensure uniformity among all three modes of transport.

The Legislature also passed ESSB 5579, Concerning the Volatility of Crude Oil Received in the State by Rail Act, which prohibits loading or unloading of crude oil from a rail tank car with a vapor pressure of greater than nine pounds per square inch.

In addition, in the 2019-21 state operating budget (ESHB 1109), the Legislature provided the resources for Ecology to conduct a synopsis of vessel activities.

TUG ESCORT RULEMAKING (ESHB 1578)

By December 31, 2025, the Board of Pilotage Commissioners (BPC), in consultation with Ecology, must adopt rules implementing tug escorts in Puget Sound for oil tankers between 5,000 and 40,000 deadweight tons, as well as articulated tug barges (ATBs) and towed waterborne vessels or barges greater than 5,000 deadweight tons. The rulemaking applies by zones to waters east of Discovery Island Light south to New Dungeness Light and all points in the Puget Sound Area.

Final deliverables

- Develop an interagency agreement with BPC to assist with rulemaking activities.
- Identify and define zones to inform modeling analysis.
- Complete a synopsis of changing vessel traffic trends.
- Complete a modeling analysis for tug escorts, with consultation, with summaries provided to the Legislature.
- Assist BPC with promulgating new tug escort rules.

2020

September 1
Identify and define zones to inform analysis

2021–2023

December 30, 2021
Complete synopsis of changing vessel traffic trends

September 1, 2023
Conduct consultation and complete modeling analysis report.

2025–2028

December 31, 2025
Rules adopted

October 1, 2028
Review and consider updating tug escorts (every 10 years following)

VESSEL RISK MODELING (ESHB 1578)

Ecology must develop and maintain a vessel traffic risk model to evaluate current and potential future risk. In addition to using the model for informing tug escort rulemaking, Ecology must assess whether an emergency response towing vessel (ERTV) in the San Juan Islands will reduce oil spill risk and report to the Legislature by September 1, 2023.

Final deliverables

- Functional vessel risk model.
- Legislative report on modeling analysis for an ERTV in the San Juan Islands.

2019

October
Begin developing risk model

2023

September 1
Complete modeling analysis report for emergency response towing vessels



ERTV passing a tow line to a cargo ship that has lost propulsion.

VESSEL ADVANCE NOTICE OF TRANSFER (ANT) UPDATES (ESHB 1578)

Vessel over-water oil transfer advance notice reporting requirements will include additional, new information including the type of crude oil, the gravity of oil, and region per the bill of lading. This work builds upon the existing advance notice of transfer (ANT) IT system.

Final deliverable(s)

- Amend rules governing advance notice of oil transfers.
- Update data system to accommodate new advanced notice information requirements.



RAIL AND PIPELINE ADVANCE NOTICE OF TRANSFER (ANT) UPDATES AND PSI LIMITATIONS (ESHB 1578 & ESSB 5579)

ESHB 1578 requires pipeline and rail oil transfer reporting requirements to include additional, new information concerning the type of oil for facilities receiving crude by rail and pipelines transporting crude oil, and the gravity of oil for pipelines. This work builds upon the existing advance notice of transfer IT system and quarterly reports which have already been established.

ESSB 5579 prohibits an oil handling facility from loading or unloading crude oil from a rail tank car if the oil’s vapor pressure is nine pounds per square inch (PSI) or greater if the facility was constructed or permitted after January 1, 2019, or the volume of crude transported to the facility by rail in a calendar year increases 10% over the calendar year 2018.

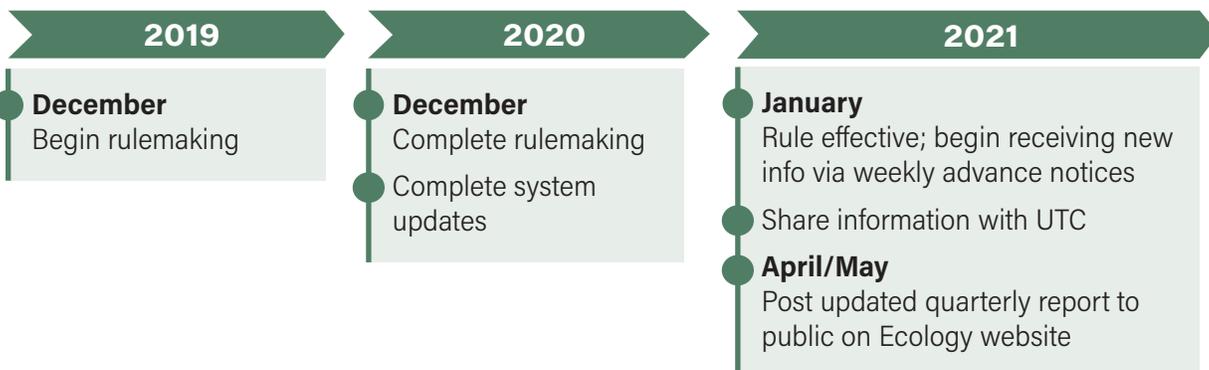
This latter prohibition goes into effect two years after this threshold is reached. ESSB 5579 also authorizes penalties up to \$2,500 per day per rail tank car for violations. Advance notice information provided to Ecology must include additional, new information concerning the type and vapor

pressure of crude oil received from a rail tank car. The Utilities and Transportation Commission must receive and use rail oil transfer data in the development of its annual work plan and inspection activities.

Ecology plans to perform a single rulemaking effort that will incorporate both ESHB 1578 and ESSB 5579, since they both require amendments to Chapter 173-185 WAC, Oil movement by rail and pipeline notification.

Final deliverables

- Amend rules governing notice of crude oil transfers to facilities from railroads, and pipeline transport of crude oil.
- Update data system to accommodate new advanced notice information requirements.
- Aggregate quarterly reports to the public posted on Ecology’s website that reflect the new information collected.



SALISH SEA SHARED WATERS FORUM & EMERGENCY RESPONSE SYSTEMS (ESHB 1578)

Beginning in 2019, Ecology will discuss options for a shared emergency response system in advance of the Salish Sea Shared Water Forum with all potentially affected federally recognized Indian treaty tribes, and other relevant organizations, including the Coast Salish Gathering. The forum must also address impacts of vessel traffic on treaty-protected fishing.

Final deliverables

- Discuss emergency response systems in advance of the 2019 per the direction provide,
- Host Shared Salish Sea Forum in 2019 and further discuss emergency response systems.

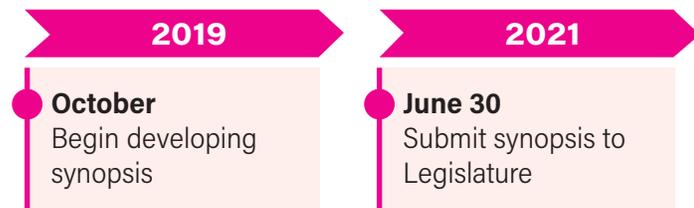


OPERATING BUDGET: SYNOPSIS OF VESSEL ACTIVITIES (ESHB 1109)

Ecology is directed to develop a synopsis of current maritime vessel activity, navigation lanes, and anchorages in the northern Puget Sound and the Strait of Juan de Fuca, including vessel transit in Canadian portions of transboundary waters. The synopsis must compile key findings and baseline information on current maritime vessel activity. Ecology may collect new information on vessel activity, including information on commercial and recreational fishing, where relevant.

Final deliverable

- Synopsis of vessel activity submitted to the appropriate legislative committees.



Dry cargo ship fuels at anchor in Puget Sound.

ACCOMMODATIONS

To request ADA accommodation including materials in a format for the visually impaired, call Ecology at 360-407-6831 or visit <https://ecology.wa.gov/accessibility>. People with impaired hearing may call Washington Relay Service at 711. People with speech disability may call TTY at 877-833-6341.