



STATE OF WASHINGTON  
**BOARD OF PILOTAGE COMMISSIONERS**

# **IMPLEMENTATION PLAN**

*ESHB 1578 Reducing the Threats to Southern Resident Killer Whales by Improving the Safety of Oil Transportation*

Section 2:  
Concerning Rosario Strait and  
Connected Waterways East

**FOCUS:**

**SEPTEMBER 1, 2020 DELIVERABLES**

Revised December 6, 2019



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## INTRODUCTION AND BACKGROUND

### ABOUT THIS PLAN

This Implementation Plan provides a framework for how the Board of Pilotage Commissioners (BPC), with technical assistance from the Department of Ecology (Ecology), will implement the tug escort and rulemaking requirements of The Reducing Threats to Southern Resident Killer Whales by Improving the Safety of Oil Transportation Act, ESHB 1578 (The Act). As described in this plan, BPC will inform the public through discussion and engagement of the new tug escort requirements in Rosario Strait and connected waterways beginning September 1, 2020.

### WHO WE ARE

The BPC is responsible for the regulation of marine pilotage in Washington State. Our mission is to ensure against the loss of lives, loss of or damage to property and vessels, and to protect the marine environment by maintaining efficient and competent pilotage service in our state's inland waters.

The BPC develops and proposes statutory language for legislative adoption to ensure safe and compulsory pilotage, adopts rules to administer State pilotage laws, and enforces pilot and public adherence to the Pilotage Act. The BPC also administers testing, training, and licensing of marine pilots, and establishes standards for reporting and investigating incidents involving state-piloted vessels.

Currently, the BPC's statutory authority, Chapter 88.16 RCW, Pilotage Act, requires tug escorts on all oil-laden tankers over 40,000 deadweight tons.

### THE SITUATION

More than 20 billion gallons of crude oil and refined petroleum products are transported through Washington State each year by vessel, pipeline, and rail. For decades, tug escorts have been required for large loaded oil tankers in the Salish Sea. The powerful tugs can quickly act to rescue a vessel if it loses propulsion or steering, preventing a tragic accident and/or oil spill.

However, small loaded oil tank vessels are not escorted, leaving a gap in the safety regime. These include Articulated Tug Barges (ATBs), towed oil barges, and smaller oil tankers that transport millions of gallons of oil through Washington's waters.

### NEW LEGISLATION

The 2019 Legislature passed The Reducing Threats to Southern Resident Killer Whales by Improving the Safety of Oil Transportation Act, ESHB 1578. The Act provides a measured approach



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to preventing a catastrophic oil spill in the Puget Sound by closing important safety gaps related to vessels carrying oil in bulk.

The Act directs the BPC, with technical assistance from Ecology, to adopt rules implementing tug escorts in Puget Sound for oil tankers, ATBs, towed waterborne vessels or barges by December 2025.

The Act will require, as of September 1, 2020, tug escorts for specific vessel types and sizes in Rosario Strait and connected waters to the east. The new tug escort requirements apply to oil tankers between 5,000 – 40,000 deadweight tons, and to ATBs and towed waterborne vessels or barges that are 1) designed to transport oil in bulk internal to the hull, and 2) greater than 5,000 deadweight tons.

The Act also requires the BPC to identify and define geographic zones for the waters east of the line extending from Discovery Island light south to New Dungeness light and all points in the Puget Sound area by September 1, 2020.

## **OUTREACH**

As a part of the RCW implementation process for Rosario Strait and connected waterways east, the BPC will consult with potentially affected federally recognized Indian treaty fishing tribes, other federally recognized treaty tribes with potentially affected interests, and conduct outreach to the United States Coast Guard, the Puget Sound Harbor Safety Committee, ports, local governments, state agencies, non-government organizations (NGO's), and other appropriate entities, collectively referred to as tribes, government entities and stakeholders throughout this document.

Input from tribes, government entities and stakeholders is vital for inclusive and transparent communication regarding implementation of the new legislation, and to improve regulations as they are adopted.

## **TRIBES, GOVERNMENT ENTITIES & STAKEHOLDERS**

### **TRIBES**

BPC will consult with potentially affected federally recognized Indian treaty fishing tribes, and other federally recognized treaty tribes with potentially affected interests. BPC's tribal outreach and consultation principles include:

- Working directly with tribes in a way that respects each other's roles and responsibilities;
- Taking appropriate steps to remove impediments to working directly and effectively with each other's governments and programs;



- Endeavoring to ensure that each other's concerns and interests are considered whenever actions or decisions may affect the other's governments or programs;
- Encouraging cooperation to resolve problems of mutual concern;

Outreach will include but is not limited to the following:

### **Federally Recognized Fishing Treaty Tribes**

Treaty of Neah Bay, 1855	Makah Tribe
Treaty of Point Elliott, 1855	Lummi Nation
	Nooksack Tribe
	Samish Indian Nation
	Sauk-Suiattle Indian Tribe
	Snoqualmie Indian Tribe
	Stillaguamish Tribes of Indians
	Suquamish Tribe
	Swinomish Tribe
	Tulalip Tribes
	Upper Skagit Indian Tribe
Point No Point Treaty, 1855	Jamestown S'Klallam Tribe
	Lower Elwha Klallam Tribe
	Port Gamble S'Klallam Tribe
	Skokomish Indian Tribe
Treaty of Olympia, 1855	Hoh Tribe
	Quileute Nation
	Quinault Indian Nation
Treaty of Medicine Creek, 1854	Muckleshoot Indian Tribe
	Nisqually Indian Tribe
	Puyallup Tribe of Nations
	Squaxin Island Tribe

### **Federally Recognized Tribes with Interests in Washington State**

Confederated Tribes and Bands of the Yakama Nation
Confederated Tribes of the Chehalis Reservation
Confederated Tribes of the Colville Reservation
Cowlitz Indian Tribe



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Kalispel Indian Community of the Kalispel Reservation
Shoalwater Bay Tribe
Spokane Tribe of the Spokane Reservation

## GOVERNMENT ENTITIES

The BPC will be conducting outreach to various government entities including, but not limited to:

Army Corps of Engineers (USACE)
Department of Ecology (ECY)
Department of Fish and Wildlife (DFW)
National Oceanic and Atmospheric Administration (NOAA)
Northwest Indian Fisheries Commission
Puget Sound Partnership (PSP)
San Juan County
Transport Canada
United State Coast Guard (USCG) – Sector Puget Sound
United States Navy
Washington Environmental Council (WEC)
Washington State Ferries (WSF)
Whatcom County

## STAKEHOLDERS

Stakeholder input is a vital component of the implementation outreach process. Outreach will include, but is not limited to:

ACGI Shipping Co Inc.
Alaskan Tanker Company
American Waterways Operators (AWO)
BP Cherry Point Refinery
Center for Whale Research
Chamber of Shipping of British Columbia
Citizens for a Healthy Bay
Conoco Phillips
Council of Marine Carriers
Crowley
Foss Maritime
Friends of the Earth
Friends of the San Juans
General Steamship Corp.
Harley Marine Services



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Inchcape Shipping Services
Intalco
Intrepid Ship Management
Kirby Offshore Marine
Marathon Anacortes Refinery
Marine Exchange of Puget Sound
The Northwest Seaport Alliance (NWSA)
Norton Lily International
Pacific Merchant Shipping Association (PMSA)
Pacific Pilotage Authority (PPA)
Phillips 66
The Port of Bellingham
The Port of Everett
The Port of Seattle
Puget Sound Harbor Safety Committee (PSHSC)
Puget Soundkeeper Alliance
Puget Sound Pilots (PSP)
Polar Tankers
Shell Anacortes Refinery
Shell Trading
Sound Action
Talon Marine Services
Targa Sound Terminal
Tesoro Anacortes Refinery
Transmarine Navigation
U.S. Oil and Refining
Wave Consulting
Western States Petroleum Association (WSPA)
Washington Public Ports Association (WPPA)
Westway Terminal

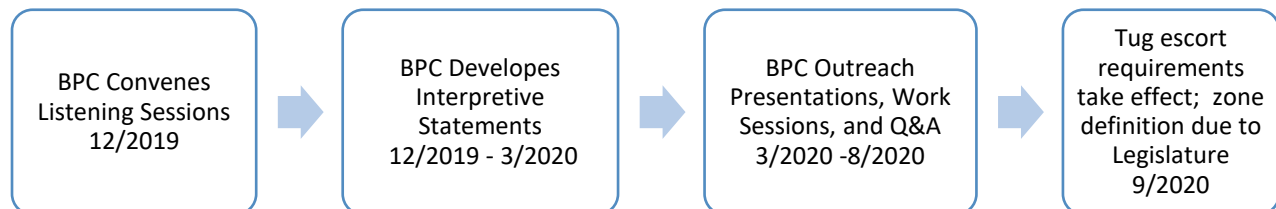
If you would like your organization to be included in outreach, but are not on the list, or if you are aware of another organization that should be considered in outreach, please contact BPC staff at [PilotageInfo@wsdot.wa.gov](mailto:PilotageInfo@wsdot.wa.gov).

## KEY MESSAGES AND PROPOSED TIMELINE

The key messages of this implementation effort center on providing information to interested parties regarding the September 2020 mandates for additional tug escorts in Rosario Strait and



connected waterways east, and identification and definition of geographic zones. This legislation has impacts on the oil industry, the tug industry, pilotage operations, tribes, and the environmental community. It is important that planning begins early and that information is exchanged in a timely and efficient manner.



### **BPC CONVENES LISTENING SESSIONS 12/9/2019**

BPC, with technical assistance from Ecology, will convene two public listening sessions on December 9, 2019 at the Port of Everett in order to receive feedback concerning the tug escort requirements in Rosario Strait and connected waterways east, and geographic zones identification and definitions to help inform future presentations and work sessions. The public listening sessions are a time for you to share your input, questions, and concerns regarding the September 1, 2020 mandates. Meeting notices will be distributed, posted on the BPC’s website and sent to tribes, government entities and stakeholders. All are welcome to attend the meeting and help inform the outreach process.

### **BPC DEVELOPS INTERPRETIVE STATEMENTS 12/2019 – 3/2020**

During this time, the BPC will develop interpretive statements for terms in The Act that need further clarification, including “in ballast”, “unladen”, “under escort”, “Rosario Strait and connected waterways east”, and “bunkering or refueling services”. See discussion below on Clarifying/Interpreting Terms. The development of these interpretive statements will occur during public BPC meetings scheduled for December 12, 2019, January 16, 2020, February 20, 2020, and March 19, 2020. More information regarding BPC meetings, including Notices, Agendas, Materials and Minutes, can be found on our website at [www.pilotage.wa.gov](http://www.pilotage.wa.gov). If you would like to be added to the meeting notice distribution list, please send your request to [PilotageInfo@wsdot.wa.gov](mailto:PilotageInfo@wsdot.wa.gov).

### **BPC OUTREACH PRESENTATIONS, WORK SESSIONS, AND Q&A 3/2020 - 8/2020**

From March 2019 to August 2020, BPC will present key information, including information identified at the December 10, 2019 listening sessions and interpretive statements developed by BPC. During these presentations, BPC will gather additional questions to form an FAQ document





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that will be available to the public. The FAQ document will be updated and distributed monthly. BPC and Ecology will also provide opportunities for questions throughout the future rulemaking process. Inquires can be sent to [PilotageInfo@wsdot.wa.gov](mailto:PilotageInfo@wsdot.wa.gov).

In addition, the BPC, with technical assistance from Ecology, will hold public work sessions to identify and define the geographic zones.

## **ADDITIONAL TUG ESCORTS IN ROSARIO STRAIT AND CONNECTED WATERWAYS EAST / ZONE IDENTIFICATION AND DEFINITION 9/2020**

The mandates regarding Rosario Strait and connected waterways east go into effect September 1, 2020. Additionally geographic waterway zone identification and definition must be completed by September 1, 2020 per The Act.

## **ISSUES, OBSTACLES AND CONCERNS**

BPC recognizes that the mandates in The Act have implications for tribes, government entities and stakeholders, and need further clarification. Through the implementation process, including the listening session, we hope to identify and address common and individual concerns to the best of our ability.

### **CLARIFYING/INTERPRETING TERMS**

There are terms in The Act that are in need of further clarifying to assist in the understanding of the mandates. Below are terms that have already been identified. The BPC anticipates this list will grow through the listening session and implementation process.

- The Act refers to Rosario Strait and connected waterways east. The BPC will consider clarifying "Rosario Strait" and "connected waterways east" in more detail.
- Section 2(2)(a)(iii) of The Act stipulates that the "requirements of (a)(ii) of the subsection: (A) Do not apply to vessels providing bunkering or refueling services". The BPC may consider defining "bunkering or refueling".
- Section 2(2)(b) of The Act stipulates that "an oil tankers, articulated tug barge, or towed waterborne vessel or barge in ballast or when unladen is not required to be under escort of a tug". The BPC adopted a Statement of Policy in 2005 regarding the BPC's interpretation of "in ballast". This definition will be reviewed by current BPC commissioners and revised, if needed, or affirmed, and further codified through the rule-making process.
- The Act refers to vessels "under the escort of a tug or tugs" in multiple sections. The BPC will review and define this term, as deemed necessary.



- Section 2(2)(b) uses the term “unladen”. The BPC will review and define this term, as deemed necessary.

## **ENFORCEMENT**

The BPC has authority through the Pilotage Act, RCW 88.16.150 *General penalty – Civil penalty – Jurisdiction – Disposition of fines – Failure to inform of special directions, gross misdemeanor*, to enforce the mandates of The Act.

## **CONTACT INFORMATION AND RESOURCES**

### **MAILING ADDRESS**

2901 Third Avenue, Suite 500  
Seattle, WA 98121

### **BPC CHAIR**

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### **GENERAL INQUIRIES**

[PilotageInfo@wsdot.wa.gov](mailto:PilotageInfo@wsdot.wa.gov)  
(206) 515-3904

### **ON THE WEB**

[www.pilotage.wa.gov/tug-escort-rulemaking.html](http://www.pilotage.wa.gov/tug-escort-rulemaking.html)  
Twitter @WA\_Pilotage

### **DEPARTMENT OF ECOLOGY**

<https://ecology.wa.gov/About-us/Get-to-know-us/Our-Programs/Spills-Prevention-Preparedness-Response/Legislative-work>