



PROPOSED RULE MAKING

CR-102 (June 2024)
(Implements RCW 34.05.320)
Do **NOT** use for expedited rule making

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STATE OF WASHINGTON
FILED

DATE: June 11, 2025

TIME: 7:35 AM

WSR 25-13-042

Agency: Board of Pilotage Commissioners AO 22-13

☒ **Original Notice**

☐ **Supplemental Notice to WSR** _____

☐ **Continuance of WSR** _____

☒ **Preproposal Statement of Inquiry was filed as WSR** 23-06-021 ; or

☐ **Expedited Rule Making--Proposed notice was filed as WSR** _____; or

☐ **Proposal is exempt under RCW 34.05.310(4) or 34.05.330(1); or**

☐ **Proposal is exempt under RCW** _____.

Title of rule and other identifying information: (describe subject) The Board of Pilotage Commissioners (BPC) in consultation with Ecology, is formally proposing 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.

For more information on this rulemaking, visit our websites: <https://ecology.wa.gov/About-us/Who-we-are/Our-Programs/Spills-Prevention-Preparedness-Response/Legislative-work/BPC-tug-escort-rulemaking> and <https://pilotage.wa.gov/rules---regulations.html>

Hearing location(s):

Date:	Time:	Location: (be specific)	Comment:
Thursday, July 17, 2025	10:00 a.m.	2901 Third Avenue 1 st Floor – Agate Conference Rm. Seattle, WA 98121 Join online: Microsoft Teams Meeting Link For call in only, use your phone to call 206-531-0324 and enter meeting ID 230 566 175 086.	Presentation, question and answer session, followed by the hearing. This hearing will be a hybrid meeting, with an opportunity to attend in person or via webinar. You can attend the online meeting from any computer using internet access.
Tuesday, July 22, 2025	1:00 p.m.	Join online: https://waecy-wa-gov.zoom.us/j/85159736200 For call in only, use your phone to call 253-205-0468 and enter meeting ID 851 5973 6200	Presentation, question and answer session, followed by the hearing. We are holding this hearing via webinar. This is an online meeting that you can attend from any computer using internet access.
Thursday, July 23, 2025	6:00 p.m.	Join online: https://waecy-wa-gov.zoom.us/j/88213023292 For call in only, use your phone to call 253-205-0468 and enter meeting ID 882 1302 3292	Presentation, question and answer session, followed by the hearing. We are holding this hearing via webinar. This is an online meeting that you can attend from any computer using internet access

Date of intended adoption: November 1, 2025 (Note: This is **NOT** the **effective** date)

Submit written comments to:

Name Jaimie Bever
Address Board of Pilotage Commissioners 2901 3rd Avenue,
Suite 500 Seattle, WA 9812
Email jaimie.bever@wsdot.wa.gov
Fax N/A

Assistance for persons with disabilities:

Contact Ecology ADA Coordinator
Phone 360-407-6831

Fax N/A
TTY For TTY or Washington Relay Service, call 711 or 877-833-6341

Other Please submit comments online via Ecology's online comment tool, by mail, or at the public hearings. Online comment page:

<https://sppr.ecology.commentinput.com?id=HihgcrTsY>

Beginning (date and time) June 11, 2025 at 12:00 a.m.

By (date and time) August 1, 2025 at 11:59 p.m.

Email ecyadacoordinator@ecy.wa.gov

Other N/A

By (date) June 17, 2025

Purpose of the proposal and its anticipated effects, including any changes in existing rules: The rulemaking proposes to amend WAC 363-116-500 and add a new section to Chapter 363-116 WAC. The rulemaking considers 2019 legislative changes made to Chapter 88.16 RCW (Pilotage Act) through the passage of Engrossed Substitute House Bill (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, including the goals 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 interest and fishing rights of potentially affected federally recognized Indian tribes.

The proposed rule applies to the following small to medium sized oil carrying tank vessels:

- Tankers between 5,000 and 40,000 deadweight tons (DWT).
- Articulated tug barges (ATBs) and towed waterborne vessels or barges greater than 5,000 DWT.

The proposed rule modifies existing tug escort requirements established in RCW 88.16.190(2)(a)(ii), effective September 1, 2020, and will

- Expand the tug escort area by approximately 28.9 square miles to include Rosario Strait and connected waterways to the east, extending northwest toward Patos Island (an 11% increase in area).
- Establish minimum horsepower (hp) requirements for tugs escorting these vessels based on the escorted vessel's deadweight tonnage:
 - 2,000 hp for vessels between 5,000 and 18,000 DWT, and
 - 3,000 hp for vessels 18,000 DWT or greater.
- Require tugs escorting these vessels to have a minimum of twin screw propulsion.
- Require a pre-escort conference between the escort tug and tank vessel to discuss the operational details of the transit.

Reasons supporting proposal: The proposed rule supports implementation of ESHB 1578, codified in Chapter 88.16 RCW, which directs the Board of Pilotage Commissioners, in consultation with the Department of Ecology, to adopt rules regarding tug escorts in Puget Sound by December 31, 2025.

The proposed rule will:

- Achieve best achievable protection, as defined in RCW 88.46.010. These requirements are designed to balance compliance costs with the goal of effectively reducing the risk of a catastrophic oil spill in Puget Sound. They are informed by insights from risk modeling, literature review, subject matter expertise, consultation with relevant entities, and other directives specified in ESHB 1578.
- Specify functional requirements for the tugs providing escorts to ensure they have sufficient horsepower and propulsion for maneuverability to effectively assist vessels during propulsion failures or navigational errors. These requirements balance environmental protection, technological feasibility, and operational practicality, and are consistent with industry standards and best practices in spill prevention.
- Specify operational requirements to ensure that both the escorted vessel and the escort tug conduct a pre-escort conference to ensure they share a clear understanding of the key elements of the escort operation, enhancing operational safety and coordination. Required discussion topics include active Tribal, commercial, and recreational fisheries and relevant local notices to mariners, helping ensure vessel operators are informed and potential impacts on Tribal resources are minimized. This low-cost measure aligns with practices in other jurisdictions and reflects industry best practice.
- Consider the existing tug escort requirements in Rosario Strait and connected waterways to the east, as established in RCW 88.16.190(2)(a)(ii), and proposes expanding the geographic coverage northwest toward Patos Island. Risk modeling and maritime expert input support this expansion based on the area's high escort efficacy and navigational characteristics. The Draft Environmental Impact Statement found that this expansion of requirements does not increase harmful levels of underwater noise to marine mammals beyond current levels.
- Identify the geographic boundaries where tug escort requirements apply.
- Clarify language in WAC 363-116-500 to ensure consistency with Chapter 363-116 WAC.

The tug escort requirements in this rulemaking are intended to provide preventative measures to reduce the risk of a major oil spill that 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 rulemaking process

is informed by insights from risk modeling, literature review, and consultation with relevant stakeholders, the United States Coast Guard, and Tribal governments.

Statutory authority for adoption: RCW 88.16.260 Board of pilotage commissioners authorized to adopt rules in consultation with other entities – Tug escorts, RCW 88.46.260 Vessel traffic patterns, oil spill risks – Effects of rules – Board of pilotage commissioners and department to consider – Notice, RCW 88.16.190 Oil tankers – Restricted waters – Requirements

Statute being implemented: RCW 88.16.260 Board of pilotage commissioners authorized to adopt rules in consultation with other entities – Tug escorts.

Is rule necessary because of a:

Federal Law?

☐ Yes ☒ No

Federal Court Decision?

☐ Yes ☒ No

State Court Decision?

☐ Yes ☒ No

If yes, CITATION:

Agency comments or recommendations, if any, as to statutory language, implementation, enforcement, and fiscal matters: N/A

Name of proponent: (person or organization) Board of Pilotage Commissioners

Type of proponent: ☐ Private. ☐ Public. ☒ Governmental.

Name of agency personnel responsible for:

	Name	Office Location	Phone
Drafting	Jaimie Bever	2901 3 rd Avenue, Suite 500, Seattle, WA 98121	206-515-3887
Implementation Commissioners	Board of Pilotage	2901 3 rd Avenue, Suite 500, Seattle, WA 98121	206-515-3887
Enforcement Commissioners	Board of Pilotage	2901 3 rd Avenue, Suite 500, Seattle, WA 98121	206-515-3887

Is a school district fiscal impact statement required under [RCW 28A.305.135](#)?

☐ Yes ☒ No

If yes, insert statement here:

The public may obtain a copy of the school district fiscal impact statement by contacting:

Name N/A

Address N/A

Phone N/A

Fax N/A

TTY N/A

Email N/A

Other N/A

Is a cost-benefit analysis required under [RCW 34.05.328](#)?

☒ Yes: A preliminary cost-benefit analysis may be obtained by contacting:

Name Jaimie Bever

Address Board of Pilotage Commissioners 2901 3rd Avenue, Suite 500 Seattle, WA 98121

Phone 206-515-3887

Fax N/A

TTY For TTY or Washington Relay Service, call 711 or 877-833-6341

Email jaimie.bever@wsdot.wa.gov

Other Website: <https://ecology.wa.gov/About-us/Who-we-are/Our-Programs/Spills-Prevention-Preparedness-Response/Legislative-work/BPC-tug-escort-rulemaking>

☐ No: Please explain:

Regulatory Fairness Act and Small Business Economic Impact Statement

Note: The [Governor's Office for Regulatory Innovation and Assistance \(ORIA\)](#) provides support in completing this part.

(1) Identification of exemptions:

This rule proposal, or portions of the proposal, **may be exempt** from requirements of the Regulatory Fairness Act (see [chapter 19.85 RCW](#)). For additional information on exemptions, consult the [exemption guide published by ORIA](#). Please check the box for any applicable exemption(s):

☐ This rule proposal, or portions of the proposal, is exempt under [RCW 19.85.061](#) because this rule making is being adopted solely to conform and/or comply with federal statute or regulations. Please cite the specific federal statute or regulation this rule is being adopted to conform or comply with, and describe the consequences to the state if the rule is not adopted.

Citation and description:

☐ This rule proposal, or portions of the proposal, is exempt because the agency has completed the pilot rule process defined by [RCW 34.05.313](#) before filing the notice of this proposed rule.

☐ This rule proposal, or portions of the proposal, is exempt under the provisions of [RCW 15.65.570\(2\)](#) because it was adopted by a referendum.

☐ This rule proposal, or portions of the proposal, is exempt under [RCW 19.85.025\(3\)](#). Check all that apply:

☐ [RCW 34.05.310](#) (4)(b)
(Internal government operations)

☐ [RCW 34.05.310](#) (4)(c)
(Incorporation by reference)

☐ [RCW 34.05.310](#) (4)(d)
(Correct or clarify language)

☐ [RCW 34.05.310](#) (4)(e)
(Dictated by statute)

☐ [RCW 34.05.310](#) (4)(f)
(Set or adjust fees)

☐ [RCW 34.05.310](#) (4)(g)
((i) Relating to agency hearings; or (ii) process requirements for applying to an agency for a license or permit)

☒ This rule proposal, or portions of the proposal, is exempt under [RCW 19.85.025\(4\)](#). (Does not affect small businesses).

☐ This rule proposal, or portions of the proposal, is exempt under RCW ____.

Explanation of how the above exemption(s) applies to the proposed rule:

(2) Scope of exemptions: *Check one.*

☒ The rule proposal: Is fully exempt. (*Skip section 3.*) Exemptions identified above apply to all portions of the rule proposal.

☐ The rule proposal: Is partially exempt. (*Complete section 3.*) The exemptions identified above apply to portions of the rule proposal, but less than the entire rule proposal. Provide details here (consider using [this template from ORIA](#)):

☐ The rule proposal: Is not exempt. (*Complete section 3.*) No exemptions were identified above.

(3) Small business economic impact statement: *Complete this section if any portion is not exempt.*

If any portion of the proposed rule is **not exempt**, does it impose more-than-minor costs (as defined by RCW 19.85.020(2)) on businesses?

☐ No Briefly summarize the agency's minor cost analysis and how the agency determined the proposed rule did not impose more-than-minor costs. _____

☐ Yes Calculations show the rule proposal likely imposes more-than-minor cost to businesses and a small business economic impact statement is required. Insert the required small business economic impact statement here:

The public may obtain a copy of the small business economic impact statement or the detailed cost calculations by contacting:

Name
Address
Phone
Fax
TTY
Email
Other

Date: June 11, 2025

Name: Jaimie Bever

Title: Executive Director

Signature:



WAC 363-116-500 Tug escort requirements for oil tankers 40,000 DWT or greater. (1) RCW 88.16.190(2) requires the escort of a tug or tugs for all oil tankers 40,000 DWT or greater when not in ballast. For purposes of that provision only, deadweight tonnage shall be the maximum summer deadweight tonnage that was assigned to the vessel at the time of construction as reported in **Lloyd's Register of Ships**. Unless the vessel was structurally altered and remeasured to less than 40,000 DWT, this original deadweight tonnage shall be used for purposes of determining if the vessel requires the appropriate tug escort.

(2) It shall be a violation of this regulation to provide pilotage services to an oil tanker not in compliance with this rule when the pilot has actual knowledge of the noncompliance.

(3) Oil tankers found to be in violation of the provisions of this regulation shall be subject to the provisions of RCW 88.16.150.

(4) The deadweight tonnage provision of this rule is to be used solely for determining the required use of a tug escort.

NEW SECTION

WAC 363-116-600 Tug escort requirements for oil tankers between 5,000 and 40,000 DWT and barges and articulated tug barges greater than 5,000 DWT. (1) The requirements in this section apply to the following tank vessels:

(a) Oil tankers between 5,000 and 40,000 deadweight tons (DWT);

(b) Articulated tug barges that are designed to transport oil in bulk internal to the hull and greater than 5,000 DWT; and

(c) Towed waterborne vessels or barges that are designed to transport oil in bulk internal to the hull and greater than 5,000 DWT.

(2) The requirements in this section do not apply to:

(a) Tank vessels that are conducting bunkering, which includes the transit of the tank vessel to the bunker location, the oil transfer operation, and the return transit of the tank vessel;

(b) Towed general cargo deck barges;

(c) Tank vessels that are equal to or greater than 40,000 DWT that are in ballast or unladen, which includes those whose clingage, residue, or other applicable cargo onboard is less than point five percent of the vessel's maximum cargo carrying capacity or 3,000 barrels, whichever figure is greater; or

(d) Tank vessels under 40,000 DWT that are in ballast or unladen, which includes those whose clingage, residue, or other applicable cargo onboard is less than two percent of the vessel's maximum cargo carrying capacity or 3,000 barrels, whichever figure is greater.

(3) Escorts are required in Rosario Strait and connected waters, as bounded by the following lines:

(a) A line at the northern boundary of the escort area from Point Migley (48° 44.907' N, 122° 42.912' W) to northern entrance to Rosario Strait (48° 46.400' N, 122° 47.500' W) to Alden Bank Buoy B (48° 47.063' N, 122° 48.970' W) to Alden Bank Buoy A (48° 50.390' N, 122° 52.229' W) to Patos Island Light (48° 47.340' N, 122° 58.282' W);

(b) A line from Patos Island to Sucia Island from Toe Point (48° 47.111' N, 122° 56.452' W) to Lawson Bluff (48° 46.148' N, 122° 54.950' W);

(c) A line from Sucia Island to Matia Island from NE tip of Sucia Island (48° 45.989' N, 122° 53.261' W) to north shore of Matia Island (48° 44.973' N, 122° 50.523' W);

(d) A line from Matia Island to Orcas Island from E tip of Matia Island (48° 44.741' N, 122° 49.586' W) to Puffin Island Shoal Light (48° 44.604' N, 122° 49.007' W) to Point Thompson (48° 42.773' N, 122° 52.745' W);

(e) A line crossing Obstruction Pass from Orcas Island (48° 36.399' N, 122° 48.803' W) to Obstruction Island (48° 36.051' N, 122° 48.803' W);

(f) A line crossing Peavine Pass from Obstruction Island (48° 35.487' N, 122° 48.687' W) to Blakely Island near (48° 35.308' N, 122° 48.674' W);

(g) A line crossing Thatcher Pass from Blakely Island (48° 31.880' N, 122° 31.880' W) to Decatur Island (48° 31.431' N, 122° 48.552' W);

(h) A line crossing Lopez Pass from Lopez Pass Light 2 (48° 28.867' N, 122° 49.092' W) to Lopez Island (48° 28.705' N, 122° 49.178' W);

(i) A line at the southern boundary of the escort area from Point Colville (48° 25.306' N, 122° 48.795' W) to Davidson Rock Light (48° 24.797' N, 122° 48.720' W) to southern entrance to Rosario Strait (48° 24.000' N, 122° 47.151' W) to Whidbey Island near West Point (48° 24.000' N, 122° 39.900' W) to Sares Head (48° 25.540' N, 122° 40.478' W);

(j) A line across the Swinomish Channel at the Duane Berentson Highway Bridge (48° 27.267' N, 122° 30.851' W); and

(k) A line across Hale Passage from Portage Point (48° 42.923' N, 122° 39.112' W) to Echo Point (48° 41.807' N, 122° 39.578' W).

(4) Tank vessels shall not operate in the area described in subsection (3) of this section unless they are under the escort of a tug with a minimum of twin-screw propulsion.

(5) Tank vessels greater than 5,000 and less than 18,000 DWT shall not operate in the area described in subsection (3) of this section unless they are under the escort of a tug with a minimum of 2,000 horsepower.

(6) Tank vessels equal to or greater than 18,000 DWT shall not operate in the area described in subsection (3) of this section unless they are under the escort of a tug with a minimum of 3,000 horsepower.

(7) Before each escort, the tank vessel officer in charge shall hold a preescort conference with the escort tug officer in charge. If the tank vessel has a pilot onboard, the pilot shall also be included in the conference. The purpose of the preescort conference is to discuss and agree upon the operational details of the transit. The preescort conference must be recorded in the logbooks of the participating vessels and shall include discussion of the following topics:

(a) Safety.

(i) Safety of tug and tank vessel personnel; and

(ii) Safe working load of the deck fittings on the tank vessel.

(b) Navigation.

(i) Anticipated route and destination;

(ii) Anticipated speeds during the transit;

(iii) Active tribal, commercial, and recreational fisheries;

(iv) Relevant local notice to mariners;

(v) Location and approximate time of the escort beginning and end; and
(vi) Anticipated weather, tides, currents, sea-state, and traffic.

(c) Operations.

(i) Operational status of each vessel and their equipment including any limitations such as speed;

(ii) Propulsion type and maximum direct bollard pull of the tug;

(iii) Primary and secondary means of communication (e.g., VHF radio);

(iv) Availability of appropriate crewmembers and their roles when responding to an emergency;

(v) Relative position, direction of travel, and tethering locations of the tug(s) during the transit;

(vi) Method of connection of the tug to the tank vessel in an emergency or if tethering (e.g., tug's line, pennant, messenger line, etc.);

(vii) Whether any training or escort exercise will be performed during the transit; and

(viii) Any other items to ensure that in the event of a failure or emergency the tank vessel can be kept under control and within the limits of the available channel.