



STATE OF WASHINGTON
BOARD OF PILOTAGE COMMISSIONERS

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Meeting Minutes – Oil Transportation Safety Committee (OTSC)

May 15, 2024, 10:00am – 12:00pm

Via MS Teams

Attendees:

Jaimie Bever (Chair/BPC), Brian Kirk (Ecology Alternate/BPC), Adam Byrd (Ecology Alternate/BPC), Haley Kennard (Ecology Alternate/BPC), Angela Zeigenfuse (Ecology Alternate/BPC), Brittany Flittner (Ecology Alternate/BPC), Laurie Wood (Ecology Alternate/BPC), Blair Bouma, (Pilot/PSP), Clyde Halstead (Tribal Government/Swinomish), Brian Porter (Tribal Government/Swinomish), Rein Attemann (Environment Alternate/WEC), Jason Hamilton (Commissioner/BPC), Tim Johnson (Oil Industry Alternate/WSPA)

1. Welcome & 2/28 Meeting Minutes

Jaimie Bever (OTSC Chair/BPC) welcomed everyone to the meeting. She informed the group that she would be finalizing the minutes from the 2/28 meeting within a few days to let her know if there were any requested revisions. The minutes for the 3/11 and today's meetings will be finalized at the June 5 OTSC meeting and provided to the Board at the June 20 Regular Public Meeting as well as being posted on the BPC website.

2. Reminders & Meeting Logistics

As this meeting was virtual only, Jaimie reminded everyone of the Team's functions for raising hands and provided comments.

3. Meeting Objectives

Jaimie then reviewed the objectives for the meeting, which were to:

- Share the preliminary scoping decision from BPC,
- Dig into readily available information on the geographic scope of the proposed alternatives to:
 - Inform method of analysis for EIS.
 - Develop a shared understanding of the alternatives area, and
- Announce upcoming workshops.

4. Roles and Responsibilities

Jaimie then handed the presentation over to Haley Kennard (Ecology Alternate/BPC) who reviewed the roles and responsibilities for each agency:

- BPC – Outreach lead, government-to-government consultation, final decision on tug escort requirements, and
- Ecology – Rulemaking process, technical expertise, regulatory analyses – Administrative Procedures Act, State Environmental Policy Act, Regulatory Fairness Act.

5. Rulemaking Overview (ESHB 1578)

- Vessel Types: The BPC, in consultation with Ecology, must adopt tug escorts rules for the following vessels:
 - Small (5,000 – 40,000 dwt) oil tankers, and
 - ATBs, and towed barges greater than 5,000 dwt designed to transport oil in bulk internal to the hull.

Haley reminded everyone that the 2019 legislature passed The Reducing Threats to Southern Resident Killer Whales by Improving the Safety of Oil Transportation Act, Engrossed Substitute House Bill (ESHB) 1578. The Act provides a measured approach to preventing a catastrophic oil spill in the Puget Sound by closing important safety gaps related to vessels carrying oil in bulk. Among other requirements, it directs the Department of Ecology’s Spills Program to assist the Board of Pilotage Commissioners (BPC) in developing rules for tug escorts in the Puget Sound. Specifically, the BPC, in consultation with Ecology, is to adopt tug escort rules for oil tankers (between 5,000 and 40,000 dwt), and ATBs and tank barges over 5,000 dwt. For simplicity in the presentation, Haley will be referring to this group of vessels as the target vessels for the rulemaking.

6. Geographic Scope

ESHB 1578 directs BPC and Ecology to consider these rules within this specific geographic scope, which is East of the line extending from Discovery Island light south to New Dungeness light and all points in the Puget Sound area. The slide showed a map of the BPC Geographic Zones that were defined under an earlier provision of the implementation of the bill. She added that the rulemaking is only considering changes within this geographic scope.

7. Rulemaking Overview

ESHB 1578 gave BPC and Ecology a lot of flexibility in their options for developing new tug escort rules. The adopted rules will specify operational and functional requirements. The adopted rules could also:

- Establish new escort requirements for the target vessels,
- Adjust escort requirements implemented by ESHB 1578 for Rosario and waters east,
- Suspend the existing escort requirements for Rosario and waters east, or
- Determine that no change from the current requirements is needed.

Haley mentioned that the group will see this reflected in the BPC preliminary alternatives later in the meeting.

8. Rulemaking Objective for Use in SEPA

The team was summarizing all this information for use in the SEPA analysis, which was the main focus of the workshop. The rulemaking objective is to reduce the risk of a major oil spill through potential tug escort requirements for oil tankers 5-40,000 DWT and barge and ATBs over 5,000 DWT. The objective is also to design the rules in a way that minimizes underwater noise, focuses vessel traffic into the existing traffic lanes, and minimizes impact to treaty fishing areas. Haley reminded everyone that this

language came directly from the legislation.

9. EIS Process

Haley then presented a slide which showed an overview of the EIS process. She added that the team had finalized the scoping process and were now working on the development of the draft EIS.

10. Rulemaking and EIS Happen Concurrently

As a reminder, Haley presented the rulemaking and EIS timeline. She pointed out that it was important to note that these processes were happening concurrently. The intent was for the EIS to help inform rulemaking decisions.

11. BPC Preliminary Scoping Decision

Haley then invited Jaimie back to talk about the BPC's preliminary scoping decision.

12. BPC March Meeting

Jaimie Bever (OTSC Chair/BPC) reported that the BPC met for their regular public meeting on March 21 where they considered the OTSC's recommendations on preliminary EIS alternatives and scope. The BPC selected 3 alternatives for assessment in the EIS and made no changes to the OTSC's recommended elements of the environment to include.

13. Identification and Selection of Alternatives

Jaimie explained that the model results were used to identify potential alternatives. She reminded the OTSC that they considered direct and indirect benefits, and tug escort efficiency. Other factors (pilot experience, knowledge of the water, and other sources, etc.) were used to select among potential alternatives suggested by the model results. She added that the team anticipated returning to the modeling results and/or modeling new scenarios as the EIS is developed.

Jaimie then reviewed each of the OTSC's recommendations considered by the BPC.

14. Alternative 1 (Pre-2020)

Remove 2020 escort requirements for Rosario Strait and connected waters east. Rationale: will help understand benefits of the 2020 rule, ESHB 1578 explicitly allows for removal, and may reduce underwater noise, vessel traffic, etc.

Jaimie reported that the BPC chose Alternative 1 to include in the analysis.

15. Alternative 2 (No Action)

Maintain 2020 requirement for Rosario and waters east (no change). Rationale: No action alternative is required under SEPA.

Jaimie reported that Alternative 2 would be included in the analysis.

16. Alternative 3 (Expansion)

Expand 2020 escort requirements to Strait of Georgia South zone and corner of Strait of Georgia zone. Rationale: The model showed high escort efficiency, OTSC pilot representative agreed that characteristics of this zone make it a good candidate for escort requirement, and adjacency to current escort area making it straightforward to implement.

Jaimie reported that the BPC chose Alternative 3 to include in the analysis.

17. Chartlet

Jaimie then showed a close up chartlet of the expansion into Strait of Georgia South for clarity.

18. Alternative 4 (Haro/Boundary)

Expand 2020 escort requirements to Haro Strait and Boundary Pass. Rationale: Implementation and authority concerns, concerns about attempts to avoid the escort requirement, and navigational safety.

Jaimie reported that the BPC chose not to include Alternative 3 in the analysis. However, they want this alternative to be reconsidered as a part of the 2028 rule review.

19. Alternative 5 (Partial Removal)

Remove 2020 escort requirements in Bellingham Channel and Waters East zone. Rationale: pilots emphasized dangerous nature of this zone (high currents, rocky, curvy, and dangerous).

20. Preliminary Alternative Summary

Jaimie then displayed the three Preliminary Alternatives maps.

21. BPC Vote: Elements of the Environment

Jaimie reported that the OTSC's recommendation for Elements of the Environment were approved by the BPC. Those elements can be found on the BPC website at <https://pilotage.wa.gov/oil-transportation-safety.html>. She pointed out that the BPC showed support of focus on environmental justice, which will be integrated throughout the elements. Haley added that it was later decided that Environmental Justice would also have its own summary chapter, making it easier to find.

22. Questions

Jaimie paused for questions about the voting process, preliminary alternatives to be assessed, or the preliminary list of elements of the environment to be assessed.

Captain Blair Bouma (Pilot/Puget Sound Pilots) confirmed with the team that Haro/Boundary was not going to be considered in the EIS at this time. He also asked for a definition of "environmental justice" as it pertained to this rulemaking. Haley responded that the focus of environmental justice in the analysis was something that Ecology considers as best practice in all their EISs. It will look at whether the rule would affect people disproportionately impacted by environmental stressors already or communities who are already overburdened. There are state and federal tools that the team will be using for this part of the assessment.

Jaimie then handed the presentation back to Haley.

23. Next Steps: Finalizing Scope

Haley reported that the team was working on a scoping summary report, which had already been sent out to the OTSC. She cautioned that it was a summary only and not a required process document. Any comments received on the report would be considered in the development of the Draft EIS.

24. Geographic Scope and Methods Development

Next Haley reported that she would be switching gears to talk about the next step in the process, defining the methods for the EIS assessments. Because many of the OTSC members were able to attend the stakeholder workshop and/or the Tribal Government workshop, she suggested focusing on sharing out the comments received so far on the methods development. The team held a Tribal Government workshop on May 14th. She added that one of the benefits of shifting the OTSC meeting to last in the series was being able to share relevant comments from the stakeholder and Tribal Government workshops with the committee.

25. Goals for this Part of the Workshop

The goals with this portion of the workshop were to share what the team has heard about priorities for methods as well as knowledge of this specific area. Any additional input the OTSC may have will also be helpful.

26. OTSC Input

Haley presented the questions posed at the stakeholder and Tribal Government workshops. She added that the team was also looking for OTSC input on several key questions today:

- What information do YOU want to better understand the potential impacts of this rulemaking? What questions do you have that you want the EIS to answer?
- We know many of you live and work and play in this area. You have local knowledge and lived professional experience that might not be included in the immediately available data sources or obvious to us as agency staff working out of Olympia. Are there things you want to make sure we're aware of as we're designing our analysis approach?
- And then other input on methods that you might have? Specific analyses, impacts or indicators that you want included, etc.

27. Next Step: Methodology Development

Haley reported that the team had just wrapped up the scoping phase, which was focused on figuring out WHAT needs to be analyzed. The next phase is figuring out HOW to analyze it. She said the team would be pulling these together based on subject matter expertise, best practices and standard methodologies, literature review, review of other EIS methods, as well as OTSC input at this meeting and throughout the process. The team was in the early stages of working on this now and it will be the focus of an upcoming workshop. She added that the meeting was an informal opportunity to help shape these documents at this very early stage, and an opportunity to learn about what's coming next.

28. Content of Methodology Memos

Haley then introduced some of the elements being considered in developing methodology documents: description of study area, sub-elements to be analyzed, available references and data, methods of analysis, impact indicators and thresholds, approach to identifying mitigation, and relevant scoping comments.

She asked if there were any questions about what she had just covered.

Regarding the process, Rein Attemann (Environment Alternate/WEC) wondered when reports or studies around specific issues should be shared with team. Haley responded that they can be sent in any time. They are being tracked and documented.

29. Focus for Today

Haley presented a slide with a table of the various elements, their priority, and data sources. She explained that for many of the other sections, the team had reference maps they were going to show to support some brainstorming about methods. She said that the reference slide primarily outlines where the information being discussed today comes from should OTSC members want to check it out for themselves. She added that they wouldn't be covering every element today, but if the OTSC had pressing comments on topics that weren't in the table, the team would be happy to take them and that there may be time for discussion at the end of the maps. She also wanted to be clear that the methodological approaches are going to be based in the literature, subject matter expertise, established methodology, available data, etc. The team wants early input as well and will consider it, but this was intended to be informal and iterative. The team may not be able to incorporate all comments received today into the memos but will try to be responsive at the methodology-focused workshop about how and why input was incorporated or not.

30. Reminder

Haley issued a reminder that the SEPA process was focused on documenting adverse impacts to the environment resulting from the proposed changes to the tug escort rules as described in the alternatives. The team is focusing on figuring out how to document/assess what is changing in relation to the baseline. SEPA was just one source of information that the rule team would consider in developing final rule language. The maps were intended to be REPRESENTATIVE ONLY. They are conversation starters and brainstorming tools. They are not indicative of analysis or results or that something will or will not be in the EIS. They were intended to spark discussion ONLY. Finally, for those who attended a previous workshop, they switched to the zoom whiteboard feature at this point in the meeting. Because the OTSC was a smaller group and was using MS Teams, she would just walk through the maps one by one. She will share comments heard so far and pausing for any additional comments. She added that the OTSC should feel free to also put notes in the comments, as they would be recorded.

Tim Johnson (Oil Industry Alternate/WSPA) was noticing the data sources and looking through the reports. For the vessel traffic, it references the 2021 Vessel Traffic Synopsis. He suggested the Synopsis of Changing Vessel Traffic Trends as a better comparison. The other source he recommended was Ecology's report of Vessel Traffic and Vessel Traffic Safety, which gives a lot of good information about traffic and oil spills. Haley responded that those were on the larger reference list. She thanked him for the reminder.

31. Priority Element: Vessel Traffic (Escort Tugs)

Haley wanted to recognize that all the areas shown in the map are the Usual and Accustomed fishing areas (U&A) of one or more Tribes. The maps didn't show that, which was an oversight that the team will be sure to correct going forward.

Haley then introduced vessel traffic as a priority element that the BPC wants to see assessed. She displayed a map of assist and escort tug traffic from 2023, which was a heat map generated from AIS data. It showed operating minutes.

She then outlined comments from previous workshops:

- data needed on what tugs do when not in service,
- it will be hard to predict how tugs will be scheduled coming back from or going to a job,
- pilots are not in control of when ships are coming and going,
- communications include the terminal, vessel, pilots,
- location of tugs isn't factored in,
- there aren't many tugs just sitting around as there is not a huge fleet,
- pilots are a good source of information for fleshing this section out, and
- differentiate between vessels actively escorting and not escorting.

32. Priority Element: Vessel Traffic (Escort Tugs) Cont'd

Haley acknowledged that the committee was familiar with the model results and the analyses that were conducted in the report based on those results. She anticipated the team continuing to use the existing risk model in developing this EIS, as data can be queried in different ways and new analyses ran. She presented a list of things that the model can report about adding or subtracting tug escorts from the system: relative frequency of escort incidents: collisions, allisions, loss of propulsion, etc., escort tug hazard rates, results by alternatives, changes in underway time, and transits.

33. Priority Element: Oil Spill Risk

Again, the team anticipates continuing to use existing model in analyzing oil spill risk. Haley displayed some things the model can share about oil spill risk, for tug escorts: hazard incident frequency – collisions, allisions, loss of propulsion, etc., and hazard rates from escort tugs. And for target vessels: drift grounding frequency, oil volume at risk, oil outflow, results by zone or alternative, results by vessel type, and map of drift grounding locations for target vessels.

Previous workshop comments included:

- Consider spill trajectory maps,
- Major risk of spill happens with vessels that are moored, and
- Need to consider improvements made by industry and the agencies over the years.

Rein Attemann (Environment Alternate/WEC) asked about considering spill trajectory maps. He believed that several years ago, Ecology had an online model that the public could use to map out oil spills using different inputs. He wondered if something like that would be helpful again. Haley suggested that it may have been a NOAA tool. Adam Byrd (Ecology Alternate/BPC) added that it was probably the NOAA tool called GNOME. He said that Ecology utilizes NOAAs modeling for trajectory results. Rein suggested including that model as an option going forward. Haley agreed and thanked Rein for flagging it.

34. Priority Element: Plants and Animals

The 'plants and animals' element is quite broad obviously and will be cross-referenced with the other elements (oil spill risk, water quality, etc.). The analysis will look at T&E species, species of interest, and habitats. The focus maps for today's meeting are:

- SRKW: they're in the legislation, most of your comments so far have focused on SRKW impacts for this section. This is sightings data from 1990-2022 and critical habitat designation (specifically summer core): both from NOAA website.
- Dungeness crab: commercially important
- Seabirds: Other protected species

Previous workshop comments included:

- Mechanics of underwater noise needs to be studied (planned),
- Consider also physical disturbance to SRKW at scale of new tug escorts, and
- Need to know how many additional tugs would be added to the system.

35. Priority Element: Plants and Animals – Crab

Haley showed a map of the Dungeness crab distribution within the study area (WDFW priority habitats).

36. Priority Element: Plants and Animals – Seabird Colonies

She then displayed a map from the 1969 inventory of seabird colonies in Puget Sound.

37. Priority Element: Air Quality

Air quality was another priority element that the BPC identified. The team started looking at state resources on existing air quality and pollution. Haley displayed data from the DOH Environmental Health Disparities Map. She explained that the darker colors indicated higher relative values. This layer was showing relative concentration of diesel exhaust particulate matter emissions.

Previous workshop comments included:

- Include air emissions over water (this can be done, it's a visualization change, also dispersion modeling planned),
- Consider air emissions outside of the study area,
- Don't use COVID years in determining air emissions, other impacts (anomalous), and
- There are no standing air emissions monitoring in San Juan County.

Blair Bouma (Pilot/Puget Sound Pilots) wondered if there had been any discussion on incentivizing cleaner technology on tugboats. He acknowledged that it would take regulatory action. He added that other states have higher emissions standards than Washington. Haley responded that for the purposes of the EIS the only place she could see talking about that would be in the mitigation discussion. Jaimie added there had been conversations at the BPC level regarding electric tug technology. The question of BPC jurisdiction and authority would need to be explored further.

Rein Attemann (Environment Alternate/WEC) added that it would be good to know the emissions standards for the different tugs and then to figure out the cumulative impact of all the tugs. Then look at the overall impact to air quality. Just getting a grasp of what the fleet does produce in a given month or year would be helpful.

38. Priority Element: Air Quality

To support air quality analyses, but also other impacts (noise, light and glare, etc.), the team is looking at compiling sensitive populations datapoints. These are things like schools, daycares and childcare,

medical facilities, eldercare, military, etc. that are particularly sensitive.

Previous workshop comments included:

- Consider also: remote campers in San Juan Islands (Patos, Sucia, etc.) and state parks who can't shelter in place,
- A hospital in Anacortes was not showing up on this map, and
- DOH Environmental Health Disparities (EHD) Map: some tribal concerns are left off this, so it may not be the best information source.

39. Element to Assess: Recreation

Even though it wasn't a priority item, the team is including recreation because the data is accessible and because the team has received some questions about other uses of this area (besides commercial vessel traffic) as well as specifically about fixed gear recreational fishing. The map on the slide showed WDFW recreational fishing use areas as well as recreational shellfish beaches.

Previous workshop comments included:

- Add in-water fishing, not just shore-based, and
- Consider including commercial shellfish areas.

40. Element to Assess: Light, Glare, Aesthetics (+Others)

Light, glare, and aesthetics was another one that isn't a priority, but the team wanted to address. Haley displayed an anchorage map due to a handful of comments received about vessel behavior at anchorages being a concern for light and glare, but also for other elements: noise, crowding, fishing interactions.

Previous workshop comments included:

- Additional tugs may have impacts outside the study area (PA, Everett) where they are loitering, and
- Does this map include additional tugs loitering? Or just where vessels anchor now?

Rein Attemann (Environment Alternate/WEC) shared that his personal view was that this element was not very important to consider. If it was included it should be targeted to the regions that are being analyzed. Haley acknowledged that light and glare wasn't identified by the OTSC or BPC as a priority item, but that it should still be included in the EIS for a high-level assessment.

Blair Bouma (Pilot/Puget Sound Pilots) added that light and glare was an issue, especially in other anchorage areas. However, it didn't really relate to the charge of the committee or tug escorts. Tugs are usually moving and don't have a large amount of light. It was more of an issue at anchor with deck lights. Jaimie asked Blair about when tugs were sitting and waiting for a job. Blair said it was possible, but that they just didn't produce a lot of light and the lights are not bright. He mentioned a letter from the USCG the pilots give to every vessel when they anchor explaining that the USCG understands the needs for lights on the vessel but directs them to not to use flood lights. He will provide the letter to Jaimie for the team to reference. The letter directs the use of house lights and hatch lights, lights that don't shine outward. He said that most of the noise complaints the pilots get were from vessels doing maintenance in the middle of the night. He reiterated that he believed this should have minimal

consideration. Rein concurred with Blair, that while this was an issue, it was not relevant to this particular process. Haley responded that this was a helpful conversation.

41. Integrated Throughout: Environmental Justice

The last map Haley showed was the Environmental Justice map, also from the DOH Environmental Health Disparities map. She reminded the group that environmental justice will be incorporated throughout the EIS. It will also have its own summary chapter. The map showed combined socioeconomic layers. There are also environmental exposure layers like the one included for air quality.

Previous workshop comments included:

- Lower than it should be for Swinomish Reservation areas. Concentration of refineries in this area has an outsize impact on Swinomish, which is not reflected here, and
- Environmental justice concerns should include recent spill/hazmat events (train derailments, pipeline spills).

42. Map Brainstorm

Haley thanked everyone and opened it up for additional discussion.

43. Discussion Questions for the Group to Consider

What information do YOU want to better understand potential impacts of this rulemaking?

What do you want us to know about this specific place and resources as we define our methodological approach?

What other information is important to you as we're defining methods for analysis?

Jason Hamilton (Commissioner/BPC) asked for additional clarification regarding environmental justice. When asking for input, he emphasized the importance of outreach to get the right people at the table. Haley agreed and added the team had recently met with Ecology's leadership on Equity and Environmental Justice. They provided many resources and a prescribed methodology that the team will likely adopt, as well as outreach recommendations.

Rein Attemann (Environment Alternate/WEC) acknowledged that Ecology has their consultation process with Tribes. He then asked if tribal treaty obligations will be discussed and analyzed in this process. To him, honoring tribal treaties is a part of Environment Justice. Haley said there will be a tribal resources chapter. Her approach would be to defer to the tribes that are engaged themselves to see if they had a preference as to where they want to be documented. She will continue to have conversations and make sure that information from tribal governments is included in a way that reflects the priorities and preferences of individual tribal governments.

Blair Bouma (Pilot/Puget Sound Pilots) stated that he couldn't imagine any other conclusions than this region was unbelievably precious and valuable. He asked about the next step in determining the value of the different options and the actual rule writing. Haley said the methods were being defined: what will be in the analysis and in the draft EIS. Early this summer/July August (tentative) once agreed and approved internally, start technical analyses, which will become the draft EIS. As soon as complete and reviewed they will be shared with OTSC to help inform rule development. Finalizing rule language in January 2025 tentatively and the filing of the CR102 in July.

44. Next Steps, Upcoming Workshops

6/5 & 6/18 - OTSC Meetings: Operational/ Functional Requirements

Workshop #8: EIS Methodology, Economic Analysis Overview

Stakeholder Workshop: 7/10/24

Tribal Government Only Workshop: 7/16/24

OTSC Meeting: 7/17/24

Jaimie announced that for the upcoming June OTSC meetings, the team is looking for recommendations from OTSC members on subject matter experts the team could invite to help with the technical discussions planned, particularly regarding tug escort operations from the escort and the escorted vessel perspective. She asked that recommendations be sent to her by Friday May 24th.

45. Final Comments or Questions

There were none.

Meeting adjourned at 11am.