



STATE OF WASHINGTON
DEPARTMENT OF REVENUE

February 15, 2022

VIA ELECTRONIC MAIL
Doug Levy
Outcomes By Levy, LLC

Re: Petition for Adjustment to portion of WAC 458-20-23801 (Watercraft Excise Tax Depreciation Schedule) covering vessels owned 14+ years & making no changes at all to value from 17 years onward

Dear Mr. Levy:

Thank you for the communication dated December 23, 2021, regarding a petition to amend WAC 458-20-23801 (Rule 23801). This message responds to your petition.

The petition asks the Department of Revenue to amend Rule 23801's guidance regarding the watercraft depreciation schedule, specifically the schedule's depreciable valuation rates for vessels owned for a period of 14 or more years. Pursuant to RCW 34.05.330(1), within 60 days the Department must respond in one of two ways:

Within sixty days after submission of a petition, the agency shall either (a) deny the petition in writing, stating (i) its reasons for the denial, specifically addressing the concerns raised by the petitioner, and, where appropriate, (ii) the alternative means by which it will address the concerns raised by the petitioner, or (b) initiate rule-making proceedings in accordance with RCW 34.05.320.

RCW 34.05.320 describes the process and requirements for filing a notice of proposed rule. The Department interprets option (b) to mean, within 60 days after submission of the petition, the Department must file a notice of proposed rule meeting the requirements of RCW 34.05.320.

The Department intends to begin rulemaking on Rule 23801 later this year, where we will address the depreciable valuation rates for vessels, including considering those owned for a period of 14 or more years, which you've raised in your petition. However, prior to filing the notice of proposed rule, the Department will first file a prenotice inquiry with the Code Reviser, per RCW 34.05.310. This process of filing a prenotice inquiry prior to the notice of proposed rule is the Department's standard practice.

The Department's current plan is to file the prenotice inquiry for Rule 23801 in the second quarter of 2022. After filing the prenotice inquiry, the Department will hold a public meeting to gather questions and comments on potential amendments to Rule 23801. Accordingly, we must deny this petition.

Additionally, the Department reviewed the data submitted as a part of your petition. We identified the following concerns with the data and whether it could support depreciable valuation rates for vessels owned for a period of 14 or more years:

- The information submitted exclusively relied on 2020 vessel sales data;
- The data submitted does not include any assumptions regarding the likelihood of errors and irregularities in Department of Licensing (DOL) data (due to the *free-form* nature of DOL's data collection for vessel purchases and sales), and;





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- The report indicated that over 139,000 records were reviewed to compile the data, which we assume were purchase and sales records. However, DOL-published statistics indicate there were only 229,000 registered vessels in Washington in calendar year 2020. As a result, the report's data would suggest that over 50% of registered vessels in Washington were sold during the 2020 calendar year. The 139,000 figure also does not align with quarterly vessel sales data published by a reputable third-party, the *Washington Coast Economist*, which indicates there were approximately 42,000 vessel sales in Washington during calendar year 2020.

While the Department has concerns with the data submitted, we intend to continue working with the vessel industry during the future contemplated rulemaking process to understand the concerns raised, discuss any submitted data, and accommodate those concerns based on best available data.

Given the above, the Department denies your petition to amend the rule because we will not be filing a notice of proposed rule within 60 days after the submission of your petition. However, we do anticipate conducting rulemaking in this area, albeit further out than the 60-day period. Accordingly, we will retain your contact information and send you announcements of the rulemaking actions relating to Rule 23801 as they become available, including the filing of the prenotice inquiry and the public meeting as the Department proceeds with the rulemaking process. The Department will consider the data you have submitted as a part of the forthcoming rulemaking process.

We appreciate your interest in this matter. If you have any questions, please contact me.

Best regards,

Atif Aziz
Rules Coordinator

