



**Antonio Machado**

Senior Manager, Northwest Technical

January 17, 2025

Sent via upload to: [Tug Escort Rule Informal Comment Period](#)

Ms. Jaimie Bever  
Executive Director  
Washington State Board of Pilotage Commissioners  
Seattle, WA 98121

Re: WSPA Comments on Proposed WAC 363-116 Tug Escort Rulemaking Process

Dear Ms. Bever:

The Western States Petroleum Association (WSPA) appreciates the opportunity to provide comments on the proposed rulemaking process to amend WAC 363-116, Pilotage Rules (hereinafter referred to as the "Tug Escort Rulemaking"), conducted by the Board of Pilotage Commissioners (BPC) in interagency coordination with the Washington Department of Ecology (Ecology). WSPA is a trade association that represents companies which provide diverse sources of transportation energy throughout the west, including Washington. This includes the transportation and marketing of petroleum, petroleum products, natural gas, and other energy supplies.

WSPA has participated in this rulemaking process through its membership in BPC's Oil Transportation Safety Committee (OTSC), as well as in stakeholder engagement workshops. WSPA appreciates the efforts of the BPC and Ecology to ensure a transparent and engaging rulemaking process for stakeholders, which has included multiple meetings and workshops. The involved agencies have shown a willingness to be available to discuss concerns and questions as all parties work towards the goal of developing safe, reasonable, and efficient measures to protect Southern Resident Killer Whales from the threat of oil spills.

Along with the feedback provided in our comment March 7, 2024 comment letter, WSPA requests Ecology's consideration of the comments presented below.

### **EIS Technical Analysis**

The November 2024 workshops and meetings focused on technical analyses of the Environmental Impact Statement (EIS) priority environmental elements, and preparing stakeholders for a February 2025 Workshop on reviewing proposed draft tug escort rule language. However, the November Workshop discussions did not include two key objectives of the technical analyses of priority environmental elements:



- Assessing areas of potential impacts; and
- Identifying mitigation measures.

These two objectives are important considerations of the EIS process. While they may have been outside the scope of the November workshops, both objectives warrant careful consideration for priority elements prior to meaningful discussion on rule language. It is premature to develop draft rule language until these critical steps are completed. WSPA requests that Ecology address these two objectives (and inform stakeholders) in advance of the February 2025 Workshop.

**Incident Data**

In the November 14, 2024 OTSC Workshop, Ecology provided additional information on the incident data presented initially at the Rulemaking Stakeholder Workshop of November 5, 2024. This revised information is shown below:

**\*REVISED: Incident Data (2017-2023)**  
**within EIS Study Area**

Vessel Type	Number of Incidents (Oil Pollution, Vessel Casualty) Identified	Total Oil that Reached the Water (all incidents)	Incidents that Occurred While Vessel was Underway	Number of Incidents Where an Escort Tug May Have Helped (all incidents)
Tankers	31	1.41 gallons	12	4
Tank Barges	16	19.66 gallons	4	4
ATBs	5	27.01 gallons	1	1
Assist/Escort Tugs	5	5.26 gallons	3	N/A

\*As requested in the Stakeholder Workshop, we are including information about the number of incidents that occurred while the vessel was underway.

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The revised incident data raises questions as to: (1) what constitutes an incident; (2) how many incidents occurred where oil was spilled when the vessel was underway; and (3) how many incidents were due to drift groundings (the mitigation of which is the intended focus of the tug escort rule). WSPA requests that Ecology provide the **actual incident data referenced** in this table for further stakeholder review. Such information would provide insights on spill risk for oil vessel transportation.

In earlier workshops, the OTSC and stakeholder presentations provided actual incident data as referenced in Ecology’s Report of Vessel Traffic and Vessel Traffic Safety: Strait of Juan de Fuca and Puget Sound Area (issued January 2019; revised February 2021)<sup>1</sup>. As noted in the WSPA March 7, 2024 comment letter, this information provided some key insights on actual oil spill risk for vessel oil transportation. In the Report, Ecology provided a summary of vessel incidents between 2008 and 2017 in Washington and Oregon waters (pages 61 - 63), which can be summarized as:

- Tank Barges: 45 incidents occurred, with 26 out of 45 incidents resulting in oil spills. 23 of the 26 spills occurred while moored. Of the three spills occurring while underway, one oil spill occurred upstream of a lock on the Columbia River, where towing operations and waterway characteristics are significantly different than the Puget Sound (0 gallons reported spilled, sheen observed). The remaining two spill incidents involved leaks from piping (9 gallons spilled combined).
- The report concludes that “*none of the 26 oil spill incidents in Ecology’s data indicated an opportunity existed for a tug escorting a towed tank barge within the Puget Sound to intervene.*”

<sup>1</sup> <https://apps.ecology.wa.gov/publications/documents/1908002.pdf>

- Articulated Tank Barges (ATB): 20 incidents occurred, with four out of 20 incidents resulting in oil spills. All four spills occurred while the ATB was moored.

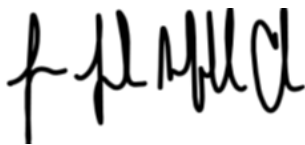
It is not clear whether Ecology's conclusion from the 2019 Report (updated in 2021) would be any different for this new incident data set (2017-2023). If not, the incident data highlights that Ecology has appropriately continued to focus on more significant spill risk mitigation through prevention measures such as the recent rulemaking updates to WAC 173-180 Facility Oil Handling Standards and WAC 173-184 Vessel Oil Transfer Advance Notice and Containment Requirements (adopted June 2023).

### **Standards of Care**

The above-mentioned Report of Vessel Traffic and Vessel Traffic Safety: Strait of Juan de Fuca and Puget Sound Area also recommended development of "Standards of Care" by the Puget Sound Harbor Safety Committee (PSHSC), such as a voluntary vessel speed reduction program and wheelhouse watch stander standard (page 216). As noted in previous WSPA comment letters, we urge BPC and Ecology to consider partnering with the PSHSC to evaluate updates or develop new protocols and standards of care that may reduce risk of drift grounding or other incidents that could have the potential for oil spills from laden tank vessels. Similar to considering the ability of a tug or tank vessel to self-repair, deploy emergency anchoring, and potential rescue by a tug of opportunity, such efforts could be part of a web of protections that provide spill threat reduction benefits without the potential impacts of tug escorts.

WSPA appreciates the opportunity to provide comments on this important proposed rulemaking and the EIS process. If you have any questions regarding the comments presented in this letter, please do not hesitate to contact me via e-mail at [amachado@wspa.org](mailto:amachado@wspa.org) or by phone at (360) 594-1415.

Sincerely,



cc: Jessica Spiegel, WSPA