August 1, 2025

Washington State Board of Pilotage Commissioners.

Thank you for the opportunity to comment on the proposed rulemaking WSR 25-13-042 related to the BPC's proposing new section of Chapter 363-116 WAC. I recognize the tremendous effort by many in addressing the 2019 legislation ESHB 1578 to protect the Southern Resident Killer Whale from extinction resulting from an oil spill in or near Washington State waters.

I support the proposed rulemaking based on the clear benefit of reducing the risk of spilling oil in transport. But I note several omissions or deficiencies in the information upon which the rulemaking is based that the BPC and WA State Department of Ecology should address, including providing clarification and responses to these comments.

1. This spill prevention measure is limited to 'target' vessels, specifically to assist oil-laden tankers and barges 'during propulsion failures or navigational error'. The rulemaking does not appear to reduce the risk of a potential large spill from oil transported as fuel in a cargo or service vessel that—as recently occurred with fatal crashes in Baltimore and NYC—also experience propulsion failures.
2. The rulemaking intends to balance 'environmental protection, technical feasibility, and operational practicality consistent with industry standards and best practices in spill protection'. Increasing the use the escort tugs is deemed by BCP as a 'Low ' Cost Measure consistent with Best Industry Practice'. Was the option of spill prevention from escort tugs on every target vessel compared to the protection afforded to Rosario Strait and SRKW, mitigating environmental impact, and potential lower cost from an Emergency Rescue Towing Vessel (ERTV) optimally located potentially in Anacortes ever evaluated and if not should this be evaluated in the future?
3. An ERTV is proven best practice for spill prevention in WA, Canadian, and International shipping lanes around the world. An ERTV oil spill prevention measure—if it were to be implemented as recommended by WA's Orca Whale Task Force with an ERTV in Sidney—has been demonstrated as effective over 80% of the time to respond to and prevent a disabled vessel from grounding in Haro Strait and Boundary Pass. The drift modeling that demonstrates this ERTV effectiveness is based on the University of WA Puget Sound Institute Salish Sea Modeling Center's current and wind models which, importantly, were calibrated by NOAA. The WA Department of Ecology were provided and initially stated their intent to use the

same UW, high resolution and best available, current and wind models. They chose instead to model their vessel drift times and spill risk from drift grounding on a lower resolution dataset from Live Ocean. Live Ocean is a rectangular structured grid, course resolution, and potentially not suited to complex inland waters and shorelines. Nor is Live Ocean known to be validated by NOAA. So it is requested that the WA Department of Ecology both justify the use of Live Ocean instead of the WA State's superior wind and current data model in their drift model. I also recommend that the WA Department of Ecology provide to BCP and all parties the detailed results of their modeled vessel drift times—that is the time for vessels to drift to ground in the ESHB legislation's cited waters of Rosario Strait, Haro Strait, and Boundary Pass— that are foundational to the risk modeling of a drift grounding resulting in a spill and still omitted in their tug escort and ERTV analysis reports.

4. In addition to the drift model, numerous aspects of WA Department of Ecology's oil spill risk model are not documented and the reporting lacks traceability of untested assumptions. Sensitivity analyses and scientific peer review of the model and results are needed, absent which the model and reporting should not be used as a basis for regulatory analyses and decisions.

Regards,

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