



STATE OF WASHINGTON
BOARD OF PILOTAGE COMMISSIONERS

INTERPRETIVE STATEMENT

(Revised 17 September 2020)

REGARDING: ESHB 1578 Terms

It is the policy of the Board to use the following definitions when interpreting terms as they relate to ESHB 1578 *Reducing threats to southern resident killer whales by improving the safety of oil transportation* and RCW 88.16.190¹. For the sake of consistency, justification, and efficiency; the Board sought and relied on published references to inform, adapt, or adopt definitions for this specific interpretation of RCW 88.16.190, Section 2, Rosario Strait and Connected Waterways East Tug Escort Implementation.

1. Under the Escort of a Tug or Tugs

It is the interpretation of the Board that, as per 33 CFR 168.05², "escort vessel means any tug that is assigned and dedicated to a tank vessel during the escort transit". It is further the interpretation of the Board that, as per the Puget Sound Harbor Safety Plan Tanker Escort Section B³, "all escorts must be in close proximity for timely and effective response taking into consideration" the proximity to hazards, "ambient sea and weather conditions, escort configuration, maneuvering characteristics of the vessels, emergency connection procedures, surrounding vessel traffic and other factors that may affect response capability".

2. Rosario Strait

It is the interpretation of the Board that "Rosario Strait" is defined as the waters connecting the Strait of Juan de Fuca and the Strait of Georgia bounded on the West by Lopez Island, Decatur Island, Blakeley Island and Orcas Island, and on the East by Fidalgo Island, Cypress Island, Sinclair Island and Lummi Island. The northern entrance to Rosario Strait, as defined by the USGS⁴, is bounded by a line from Pt. Thompson on Orcas Island to Puffin Island light

¹ Pilotage Act, 88.16, R.C.W § 190 (2019)

² 33 C.F.R. § 168.05 (2013)

³ *Puget Sound Harbor Safety Plan*, PUGET SOUND HARBOR SAFETY COMMITTEE, (April 28, 2020, 1:35PM) <https://pshsc.org/puget-sound-harbor-safety-plan>.

⁴ *Feature Detail Report for: Rosario Strait*, U.S. GEOLOGICAL SURVEY (April 28, 2020, 1:50pm) https://geonames.usgs.gov/apex/f?p=gnispq:3:0::NO::P3_FID:1507915.

and then to Point Migley on Lummi Island. The southern entrance to Rosario Strait is bounded by a line from Davidson Rock light, Southeast to position Lat. 48° 24.0'N, Long. 122° 47.15'W then East to the shore of Whidbey Island at Lat. 48° 24.0'N, Long. 122° 39.9'W (near W. Point). See Figure 1. *Note: this definition is different from the VTS Special Area as defined in 33 CFR 161.55.*⁵

3. Connected Waterways East

It is the interpretation of the Board that “connected waterways east” is defined as all connected channels, waterways, bays and anchorages East of Rosario Strait and north of 48° 30.0' N Latitude. These waters include but are not limited to Guemes Channel, Bellingham Channel, the channels around Sinclair, Vendovi and Saddlebag islands as well as Bellingham Bay, Samish Bay, Padilla Bay and Fidalgo Bay. *Note: this definition is different from the VTS Special Area as defined in 33 CFR 161.55.*

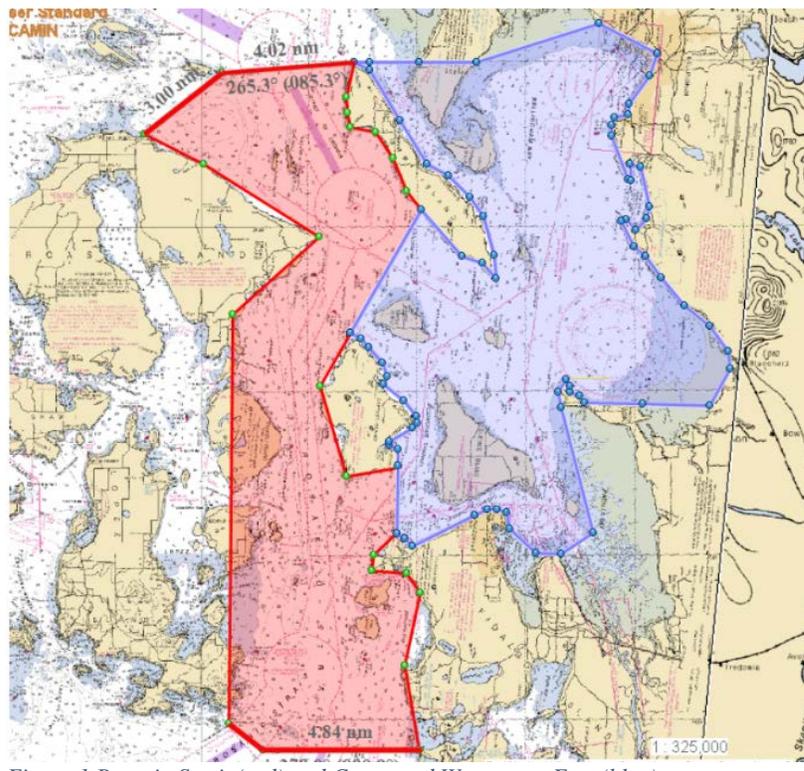


Figure 1 Rosario Strait (red) and Connected Waterways East (blue)

4. Oil

It is the interpretation of the Board that, as per RCW 90.56.010 (19)⁶, the definition of “oil” or “oils” means oil of any kind that is liquid at twenty-five degrees Celsius and one atmosphere of pressure and any fractionation thereof, including, but not limited to, crude oil, bitumen, synthetic crude oil, natural gas well condensate, petroleum, gasoline, fuel oil, diesel oil, biological oils (see note 2 below) and blends, oil sludge, oil refuse, and oil mixed with wastes other than dredged spoil. Oil does not include any substance listed in Table 302.4 of 40 CFR 302 adopted August 14, 1989, under section 102(a) of the federal comprehensive

⁵ 33 C.F.R. § 161.55 (2019)

⁶ Oil and Hazardous Substance Spill Prevention and Response, 90.56, R.C.W. § 010 (2015)

environmental response, compensation, and liability act of 1980, as amended by P.L. 99-499.”

Notes: (1) The Board considers diluted bitumen to be a part of this definition;

(2) The Board considers biological oils to include: “fats, oils, or greases of animal, fish, or marine mammal origin; vegetable oils, including oils from seeds, nuts, fruits, or kernels” in alignment with Federal Regulations.⁷

5. Laden/Unladen (In Ballast)

It is the interpretation of the Board that, as per the Board’s existing Statement of Policy,⁸ “any tank vessels 40,000 deadweights tons or more whose clingage, residue, or other applicable cargo onboard is greater than 0.5% of the vessel’s maximum cargo carrying capacity or 3,000 barrels, whichever figure is less, shall be considered laden and therefore not in ballast. The term “Tank Vessel” in this interpretation refers to oil tankers, articulated tug and barge units and towed barges designed to carry oil in bulk”.

It is further the interpretation of the Board that any tank vessels below 40,000 deadweight tons whose clingage, residue, or other applicable cargo onboard is greater than 2% of the vessel’s maximum cargo carrying capacity or 3,000 barrels, whichever figure is less, shall be considered laden and therefore not in ballast.

Note: This interpretation was developed to acknowledge most tank vessels are capable of pumping their tanker down to 0.5% of their capacity. However, some 5,000 – 40,000 deadweight ton bunker barges do not have the pumping capacity to reach the 0.5% threshold in order to be considered unladen.

In addition, that “for the purpose of interpreting the above referenced RCW and WAC section, “in ballast” is defined when an LPG carrier is deemed to be in a ballast condition if the vessel has retained on board only the minimum cargo necessary plus a safety factor to arrive at its next load port in a cold condition. This quantity is not to exceed 1.5% of the cargo carrying capacity”.⁹

6. Vessels Providing Bunkering or Refueling Services.

It is the interpretation of the Board that bunkering means an oil transfer operation to replenish a self-propelled vessel with fuel or bunkers used for ship services or propulsion of the vessel.¹⁰

It is further the interpretation of the Board that “vessels providing bunkering or refueling services” means 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.

⁷ 40 C.F.R § 112.2 (2020)

⁸ *Statement of Policy Regarding Interpretation of the Term “In Ballast” used in RCW 88.16.190 and WAC 363-116-500.* BOARD OF PILOTAGE COMMISSIONERS, (May 1, 2020) <https://pilotage.wa.gov/policystatements.html>.

⁹ *Statement of Policy Regarding Interpretation of the Term “In Ballast” used in RCW 88.16.190 and WAC 363-116-500.* BOARD OF PILOTAGE COMMISSIONERS, (May 1, 2020) <https://pilotage.wa.gov/policystatements.html>

¹⁰ Bunkering Operations, 317-40, W.A.C. § 030 (1994)