2 April 2025

Dr. Sheri Tonn, Chair
Washington State
Board of Pilotage Commissioners
Email: TonnS@wsdot.wa.gov

Dear Dr. Tonn,

Subject: Proposed Application/Interpretation of *RCW 88.16.180* to Oil Tankers in Innocent Passage

On behalf of the Chamber of Shipping, which represents ship owners, operators and their agents operating at ports and terminals in British Columbia, including Westridge Marine Terminal in the Port of Vancouver, I am writing to express our concerns regarding the proposed application of *RCW 88.16.180*. This rule requires any registered oil tanker of 5,000 gross tons or greater to take a Washington State-licensed pilot while navigating Puget Sound and its "adjacent waters."

1. Background and Current Practice

Under *RCW 88.16.070*, vessels inbound to or outbound from Canadian ports may employ a pilot licensed by the Pacific Pilotage Authority if they remain west of specific coordinates and do not enter Puget Sound. This has long granted Canadian-licensed pilots to navigate oil tankers bound to Canadian ports via Haro Strait and Boundary Pass, with no need for switching to a Washington State-licensed pilot.

In current practice, inbound tankers pick up a Canadian pilot at the Brotchie Pilot Station (near Victoria) and then safely transit Haro Strait and Boundary Pass to the Port of Vancouver. This long-standing arrangement has proved both efficient and safe, supported by robust safety measures and rigorous TERMPOL risk assessments conducted by Transport Canada.

2. Operational and Safety

If *RCW 88.16.180* is interpreted to apply to every oil tanker >5,000 gross tons bound for the Port of Vancouver, even if that tanker does not navigate the Puget Sound, the resulting operational challenges and additional shipping risks would be significant:

Multiple Pilot Exchanges via Haro Strait and Boundary Pass

Under the proposed interpretation, an inbound oil tanker would first board Puget Sound Pilots near Port Angeles, then proceed to Brotchie Victoria Pilot Station to board Canadian pilots. The Canadian pilots would navigate the ship to the south tip of Haro Strait, where the Puget Sound

Pilots would then assume conduct of the vessel until reaching the west tip of Boundary Pass. At that point, the Canadian pilots would regain the con and continue to the east point of Boundary Pass, where the Puget Sound Pilot would again take over until the vessel nears the U.S.–Canada border near Roberts Bank. Finally, the Canadian pilots would assume conduct one last time to bring the tanker into the Port of Vancouver. These multiple shifts in navigational control—while both pilots remain onboard—introduce unnecessary complexity, increase the potential for confusion in bridge resource management, and raise questions regarding operational efficiency and liability.

Continuously handing over the con can disrupt clear lines of authority and communication during critical transit segments, increasing the risk of misunderstanding or miscommunication among the bridge team.

Bridge Resource Management Implications

Modern tanker transits depend on a single, well-coordinated Master–Pilot Exchange (MPX). Splitting responsibility between two sets of pilots on the same vessel during different segments of what has historically been a cohesive route can introduce operational inefficiencies. The potential for conflicting directions or confusion about who holds authority at each segment of the transit undermines seamless bridge resource management.

Liability and Oversight

The question of liability grows more complex when two pilots from different jurisdictions are on board simultaneously. In the event of an incident, determining who holds legal responsibility in boundary waters can become complicated, particularly in those areas recognized and considered "innocent passage" for vessels bound for Canadian ports.

Extended Transit Time and Added Distance

Requiring Puget Sound Pilots to embark or disembark at points beyond the established Canadian pilot boarding stations means at least 2 additional hours and 10–14 extra nm of passage alteration. The vessel may also need to make extra pilot station calls and navigate the dual-jurisdiction Vessel Traffic Service (VTS) rotary, further complicating logistics and increasing fuel consumption.

Increased Costs and Complexity

Extra pilotage fees, travel costs, and administrative burdens for vessel owners, operators, and agents pose significant concerns. Requiring two sets of pilots to coordinate on board also adds logistical hurdles—such as scheduling, transportation to/from the vessel, and cross-border communication regarding fees and responsibilities. The complexity of managing the resources required with shared operations increases the potential for delays, congestion in the cooperative vessel traffic system and poses a greater risk of vessel conflicts.

Intent of RCW Provisions and Existing Cooperative Framework

It is worth noting that under other Washington State requirements—such as the tug escort provisions in RCW 88.16.190—there are often more explicit distinctions between unladen and laden tankers, with crude oil specifically identified as a determining factor for heightened safety measures. However, RCW 88.16.180 makes no such distinction, instead treating any oil tanker of 5,000 GT or greater in the same manner, regardless of whether the vessel is laden or unladen, or whether it is carrying crude oil or a refined product. This broad categorization appears to diverge from Washington's more nuanced approach to risk management in other areas of its pilotage and escort laws.

Additionally, there is a long-standing, cooperative oil spill response regime covering "innocent passages" such as the Strait of Juan de Fuca, Haro Strait, and Boundary Pass. This regime has facilitated a robust regional partnership on spill prevention and response, involving U.S. and Canadian authorities and stakeholders for decades. If safety and environmental concerns are indeed the core drivers behind interpreting RCW 88.16.180 so broadly, it is important to recognize that this approach may inadvertently undermine those same cooperative agreements. By imposing additional, overlapping pilotage requirements without distinguishing between varying operational risks, the proposed interpretation risks creating confusion, duplicative procedures, and potential conflicts with existing spill prevention protocols—ultimately detracting from the shared goal of protecting these sensitive waters.

Environmental Impact

Deviating to pick up or exchange pilots (or altering routes to accommodate multiple jurisdictions) leads to increased transit times and additional fuel burn. Given that Haro Strait and Boundary Pass are the safest, shortest, and most environmentally efficient corridors for vessels calling at the Port of Vancouver, shifting to alternative routes or adding multiple pilot-handovers undermines both safety and sustainability goals. Trans Mountain's direct evidence (October 31, 2018) to the National Energy Board concludes that, while the Rosario Strait route is feasible under the Canada–U.S. vessel traffic management framework, it is inferior to the Haro Strait and Boundary Pass route. The additional 16 nautical miles add over two hours per transit, increase fuel costs and GHG emissions, and introduce narrower channels more prone to congestion.

These factors, along with higher operational expenses—estimated at over $31 million annually—offer no net environmental benefit for the region. Moreover, simply redirecting traffic through Rosario Strait would shift impacts to other southern resident killer whale habitats, potentially undermining cooperative protection efforts.

Additionally, the Chamber of Shipping, its member vessel owners, Pacific Pilotage Authority, and the British Columbia Coast Pilots have been actively involved in the Port of Vancouver's Enhancing Cetacean Habitat and Observation (ECHO) Program, aimed at protecting southern resident killer whales and other marine life. These waters are active, seasonal voluntary slowdown areas, where the pilot's responsibilities include:

- Navigating with heightened awareness of marine mammal presence,

- Coordinating with Canadian Coast Guard Marine Communications and Traffic Services (MCTS), and
- adhering to local, region-specific environmental initiatives and voluntary measures.

If Puget Sound Pilots assume conduct during specific fragments of the passage, they may be less familiar with the initiatives or local guidance protocols in these ecologically sensitive areas. This could introduce unnecessary complexity and hamper the seamless coordination that is crucial for both navigational safety and environmental protection. Maintaining a single, consistent pilotage conduct with in-depth knowledge of the local environmental measures better supports the goals of the ECHO Program and minimizes disruption to marine life.

3. Clarifying "Adjacent Waters" and Applicability

The language in *RCW 88.16.180* references pilotage requirements for vessels navigating Puget Sound and "adjacent waters." However, Haro Strait and Boundary Pass lie much north of Puget Sound and have historically been regarded as distinct channels of transit—particularly in the context of U.S. and Canadian pilotage jurisdictions. In support of this position:

33 CFR Part 328 defines "adjacent" as "bordering, contiguous, or neighbouring." Haro Strait and Boundary Pass are separated from Puget Sound by a significant distance and do not border it directly.

Additionally, while *33 CFR Part 328* defines "adjacent" in a federal context primarily focused on environmental and navigable waters considerations, there is no corresponding definition for "adjacent waters" within the Washington State legislature itself. Without a clear state-level definition, applying a broad interpretation of "adjacent waters" to encompass Haro Strait and Boundary Pass—areas neither contiguous with nor directly bordering Puget Sound—introduces a significant degree of ambiguity. This lack of clarity underscores the need for a more precise legal framework or regulatory guidance to avoid confusion and unintended consequences for vessels merely transiting to or from Canadian ports.

RCW 88.16.070 has consistently exempted vessels bound for Canadian ports from Washington State pilotage so long as they remain outside Puget Sound and employ a Pacific Pilotage Authority-licensed pilot.

These definitions and established practices underscore that Haro Strait and Boundary Pass lie outside the area intended for Washington State pilotage coverage unless a vessel deliberately enters Puget Sound.

4. Proven Safety Record Under Canadian Pilotage

Since 1974, the British Columbia Coast Pilots have successfully conducted over 450,000 safe transits through Haro Strait and Boundary Pass, including over 100,000 in the last decade. In addition, the Transport Canada TERMPOL Review Process has already assessed tanker transits extensively, recommending safety measures such as tethered tug escorts and robust MPX protocols. Disrupting this established framework could inadvertently introduce risk rather than enhance safety.

5. Request for Clarification and Collaborative Resolution

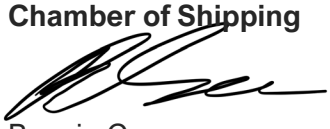
Given the above, we respectfully request the Board of Pilotage Commissioners:

- Clarify whether "adjacent waters" under RCW 88.16.180 is intended to include Haro Strait and Boundary Pass, areas that are physically separated from and not contiguous to Puget Sound.
- Consider the Established Safety Record and existing international pilotage arrangements when evaluating any changes to current procedures.
- Engage Stakeholders in meaningful dialogue to ensure that any new interpretation of *RCW 88.16.180* is both practical and in keeping with the safety and environmental objectives of all parties.

We believe maintaining the current practice under *RCW 88.16.070*, paired with well-established Canadian pilotage oversight, remains the most effective, safe, and efficient option for transits to the Port of Vancouver.

Thank you for your attention to this important matter.

Yours sincerely,
Chamber of Shipping



Bonnie Gee
President