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Charles P. Costanzo
General Counsel & Vice President – Pacific Region

September 14, 2020

Ms. Christine Kluge
Department of Fish and Wildlife
Office of Spill Prevention and Response
P.O. Box 944209
Sacramento, California 94244-2090

Re: Proposed Rulemaking to Adopt New
Regulations for the Certification of
Spill Management Teams and Amend
Regulations for Contingency Plans

Dear Ms. Kluge:

On behalf of The American Waterways Operators (AWO), I would like to offer comments regarding the Office of Spill Prevention and Response's (OSPR) proposed rulemaking on Certification of Spill Management Teams, 14 CCR 830.1-830.11.

The U.S. tugboat, towboat, and barge industry is a vital segment of America's transportation system. The industry safely and efficiently moves more than 760 million tons of cargo each year, including more than 60 percent of U.S. export grain, energy sources, and other bulk commodities that are the building blocks of the U.S. economy. The fleet consists of nearly 5,500 tugboats and towboats and over 31,000 barges. The industry supports more than 15,310 jobs in California and contributes \$1.1 billion in labor income. More than \$51 billion worth of cargo is moved on California waters each year, reducing greenhouse gas emissions by 26% over rail and 90% over trucks.

The domestic maritime transportation industry has a long-standing commitment to safety and environmental protection. Investing in technological advancements, adhering to safety management systems, and developing training programs to promote and develop best practices are some of the steps our industry has taken to mitigate the risk of oil spills. In rare instances of oil spills from a barge or towing vessel, AWO members meet state and federal planning and financial responsibility requirements to quickly respond and minimize environmental impact. Many barge and towing companies contract with third-party oil spill response organizations (OSROs) to perform Spill Management Team (SMT) functions to fulfill the state's statutory

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oil spill response requirements. AWO appreciates that OSPR's new proposed rules on the certification of SMTs could help ensure qualified, capable, and accountable SMTs.

This proposed rulemaking aligns with the maritime transportation industry's goal of mitigating environmental impacts. Also, holding SMTs themselves accountable for complying with planning standards, instead of plan-holders, is an appropriate allocation of responsibility. It is important, though, that this rulemaking does not impose prohibitive training costs or create a system of over-burdened trainers.

However, AWO also has concerns that this rule will impose additional costs on barge and towing vessel operators and erode the economic efficiency of California's least carbon intensive mode of transportation. This decrease in efficiency threatens to put maritime transportation at a disadvantage relative to less carbon efficient modes. Additionally, vessel operators that do not contract with external SMTs and those who use external SMTs to supplement internal SMTs will feel a direct cost increase and resource burden. This proposal will increase training costs for operators that use internal resources to perform spill management functions.

There is also a serious question as to whether there are enough qualified trainers. There has been a dearth of trainers, particularly during the COVID-19 pandemic. OSPR's rule could reduce the availability of qualified state mandated SMT trainers. During this pandemic in-person training and assessments will be difficult, if not impossible. This logistical limitation should also be considered when determining how to practically comply with increased training.

AWO members believe in effective and efficient contingency planning standards that are commensurate with the risks associated with moving oil over water. We are happy to provide additional feedback on this rulemaking to ensure that vessel operators can comply with new standards and are comprehensively prepared to respond to oil spills in California.

Sincerely,



Charles. P. Costanzo
General Counsel & Vice President – Pacific Region