

**SB**

**273**

# Alaska State Legislature



*During Interim: (June - Dec.)*  
716 West 4th Avenue, Suite 500  
Anchorage, Alaska 99501-2133  
(907) 269-0200  
Fax (907) 269-0204

*During Session: (Jan. - May)*  
State Capitol  
Juneau, Alaska 99801-1182  
(907) 465-4993  
Fax (907) 465-3872

**Drue Pearce**  
*President of the Senate*

## **SB 273** **Sponsor Statement** 3/21/2000

Alaska arguably has the world's best oil spill prevention and response program. However, the current program is limited to vessels that carry oil as cargo (tank vessels), and on-shore oil facilities such as oil wells, pipelines, refineries, and tank farms.

Most of Alaska's oil spills come from carriers that are currently not required to prepare for spill response. Since 1995, 93 spills totaling 5,286 gallons of oil came from regulated vessels and facilities. During this same period, 945 spills totaling 258,000 gallons of oil came from non-regulated carriers. SB 273 will expand the prevention and response program to include larger non-tank vessels and the railroads transporting oil in bulk.

Specifically, non-tank vessels covered by this bill are defined as self-propelled watercraft of 400 or greater gross registered tons. These vessels include larger fishing and processing vessels, cargo and cruise ships, and public vessels engaged in commerce such as the Alaska State Ferries. SB 273 requires these vessels to provide a response plan that will clean up the spill as quickly as possible with minimal damage to the environment. The legislation also requires vessel operators to provide proof of financial ability to respond to damages resulting from a spill.

Recent major oil spills along the Alaska Railroad system and from a large fishing vessel in Dutch Harbor illustrate the need to expand Alaska's oil spill prevention and response program. The railroad, cruise ships, large fishing vessels, container ships, along with Alaska's State Ferries carry large volumes of oil and should be prepared to respond quickly in the case of an spill.

Alaska is the only state on the West Coast that has not extended its contingency plan and financial responsibility laws to include non-tank vessels. In light of recent spills from these vessels in our waters, and from the railroad on our land, it is time to strengthen our oil spill laws. SB 273 will provide a heightened awareness of prevention and response readiness and will reduce the number and consequences of oil spills in the future.

# Alaska State Legislature

## House Resources Committee

**Co-Chair Beverly Masek**  
(907) 465-3715  
FAX (907) 465-4822

Capitol Building, Room 124  
Juneau, Alaska 99801



**Co-Chair Bill Hudson**  
(907) 465-6890  
FAX (907) 465-2273

Committee Meetings:  
M/W/F 1 - 3 p.m.

Members - Vice Chair John Cowdery. Representatives: Ramona Barnes,  
John Harris, Carl Morgan, Jim Whitaker, Reggie Joule, and Mary Kapsner

### Amendments for SB 273

#### **Amendment 1:**

Exempts oil spill response vessels from the requirements of the bill.

#### **Amendment 2 :**

Clarifies that a primary response contractor who provides oil spill response services does not constitute a C-plan holder..

#### **Amendment 3:**

Amendment to require DEC to establish regulations for prevention credits and providing for a reduced planning standard if the Commissioner has granted prevention credits.

#### **Amendment 4:**

Amendment deleting the word "nonprofit" from the bill, so membership in any type of primary response action contractor may be considered by DEC for compliance.

#### **Amendment 5:**

Amendment authorizing the Department to negotiate with vessel agents to assure compliance by the vessels they represent.

#1

A M E N D M E N T

no object

OFFERED IN THE

TO: CSSB 273(RLS)(title am)

1 Page 4, following line 6:

2 Insert a new subsection to read:

3 "(g) A nontank vessel that is conducting, or is available only for conducting,  
4 oil discharge response operations is exempt from the requirements of (a) of this  
5 section if the nontank vessel has received prior approval of the department. The  
6 department may approve exemptions under this subsection upon application and  
7 presentation of information required by the department."

#2

*No. Object*

Amendment to CSSB 273(RLS)(title am).

Page 4, lines 1-6:

Delete existing language.

Insert:

(f) In place of the requirements of (a)(1), (b)(1), and (c)(1) of this section, the department may adopt regulations by negotiated regulation making under AS 44.62.710 - 44.62.800 to provide for alternative means to obtain equivalent levels of spill prevention and response, including fleet plans, generic contingency plan contents established by regulation, and streamlined contingency plans with membership in a non-profit corporation that is a primary response action contractor.

#### LETTER OF INTENT

Nothing in this Bill is intended to alter the liability provisions of Title 46 of the Alaska Statutes with respect to contingency plan holders, parties responsible for a discharge of oil, or oil spill response action contractors. Unless specifically identified as a contingency plan holder, a non-profit corporation that is primary response action contractor and provides a portion of a department-approved contingency plan is not by virtue of providing that portion of the contingency plan deemed a contingency plan holder for purposes of AS 46.04.030.

#3

Woodgibbon

DRAFT Prevention Credits conceptual amendments to SB 273

Insert into section 7\* TRANSITIONAL PROVISIONS: REGULATIONS

The Commissioner shall negotiate regulations establishing prevention credits which could result in a lower planning standard

in the response planning standard section 46.04.055 (c) (1) (A) and (2) (A)

"containment and control of 15 percent of the maximum oil capacity of the nontank vessel within 48 hours (except in cases where the commissioner has granted prevention credits by regulation in which case the standard may be set as low as 10%)

from CSX Lines  
Paul Furr

#4

1-LS1464\VA.4  
Chenoweth  
4/12/00

*Withdrawn*

AMENDMENT

OFFERED IN THE

TO: CSSB 273(RLS)(title am)

- 1 Page 4, line 4:
- 2 Delete "nonprofit"

*agents amend.  
no objection*

ALASKA MARITIME AGENCIES  
MARKETING & DEVELOPMENT  
ANCHORAGE, ALASKA USA

12 April 2000

Representative Bill Hudson, Co-Chair  
House Resources Committee  
ALASKA STATE LEGISLATURE  
Juneau, Alaska

Via Telefax

Dear Representative Hudson

ALASKA MARITIME AGENCIES, INC is a vessel agency that coordinates and facilitates the entry and voyage of foreign-flag vessels into Alaskan waters. In that capacity we regularly assure vessel compliance with a number of regulations including U.S. Customs & Immigration, U.S. Coast Guard, State-licensed mandatory pilotage, etc.

We represent an efficiency to the foreign-flag fleet calling Alaska on a periodic basis - even though some vessels may only call once a year. We have regular traders as well as those vessels called from the world spot charter market, as required. This flexibility allows the required adaptation necessary for the successful export of Alaska's resource commodities, particularly fishery and mineral exports.

For these reasons we feel, on behalf of our principals and vessel owner/operators, we are suitably placed to best assure compliance with the requirements of SB 273 in an efficient, cost-effective manner. As such, we, as vessel agents, request standing within the proposed legislation so that ADEC would be authorized to negotiate with us directly in the negotiated regulation-making process called for in this bill. This will enable us to negotiate on behalf of our principals on a "vessel-type & trade" basis that ADEC agrees will be a suitable template for the promulgation of this legislation. This would streamline the process immensely, dealing with a "class" of vessel rather than with each owner/operator individually.

We request that you make the following conceptual language and have it drafted as an amendment for inclusion in SB 273 (Page 4, Line 7 insert the following):

**For the purposes of this Act, the Department is authorized to negotiate with vessel agents to assure compliance with the Act by the vessel(s) they represent.**

Thank you for your consideration of our interests in this legislation.

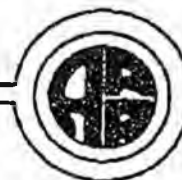
Sincerest best regards,



Jeffrey L. Thompson, Vice-President - Marketing & Development  
ALASKA MARITIME AGENCIES, INC.

4341 B STREET, SUITE 101 ANCHORAGE, ALASKA USA 99503  
907.562.8808 PHONE - 907.562.8810 FAX

## Alaska Railroad Corporation



### **Position Statement** Oil spill prevention and response February 2000

The Alaska Railroad Corporation (ARRC) supports Senator Pearce's goal to strengthen Alaska's safety net by extending the state's oil discharge prevention and contingency plan requirements to various segments of Alaska's transportation industry.

We support the proposed legislation and will work with the legislature and Department of Environmental Conservation toward producing the best results for Alaskans and our environment.

We appreciate the flexibility built into this bill through the negotiated regulation process. This recognizes that the Alaska Railroad is a unique operation and may need a different approach than what is needed for other modes of transportation.

As a state-owned entity, we at the Alaska Railroad believe we should meet, and go beyond, the standards that are required of private regulated entities. While not required by law, the Alaska Railroad has had an emergency response plan in place since 1991 developed after the Dunbar spill in Fairbanks. However, as a result of our recent major oil spills, we realize we need to do more and have begun the process of stepping up our response and prevention measures.

The Alaska Railroad began a formal risk assessment of our rail line that is similar in focus and process to the one developed for the state regarding crude oil shipping in Prince William Sound. Along with the risk assessment, development of a more comprehensive contingent oil spill response plan is underway and will be formalized by Senator Pearce's legislation. As an immediate step, we have implemented the following operational changes to help prevent further derailments and promote rail safety:

- All loaded fuel trains must now remain on the mainline
- All trains carrying hazardous materials will have a caboose
- Additional response equipment has been restocked at our current response caches and new caches have been created at strategic locations along the railbelt to decrease response time and improve capability
- Increased track and equipment inspections, snow fleet call-outs, and switch maintenance
- Conditions at sidings checked more frequently
- Night duty officer on duty every night between 8 p.m. and 8 a.m.
- Operations meetings held at 10 a.m. each day with involvement from all aspects of the railroad including mechanical, engineering and transportation a.

We would like to thank Commissioner Brown for notifying us well in advance that this legislation was being drafted. We are still working to determine the measure's fiscal impact on the Railroad. We are also trying to assess whether our current \$10 million dollar line of credit will satisfy the legislation's requirement for proof of financial ability to respond to damages. We will forward that information as soon as possible.

The operational changes we have made along with the solutions that will result from the legislative process will produce good protection for the environment and all Alaskans.

We look forward to working with DEC and the legislature toward that goal.



# *Alaska Steamship Association*

*234 Gold Street • Juneau, Alaska 99801  
(907) 586-3107 • Fax (907) 586-0165*

April 3, 2000

The Honorable Bill Hudson  
Alaska State House  
State Capitol Building  
Juneau, Alaska 99801

*Re: Senate Bill 273*

Dear Representative Hudson:

The Alaska Steamship Association (ASA) offers the following comments relative to SB – 273. Many of the member companies (cargo, container and cruise) in ASA operate non-tank vessels, and thus we are directly impacted by the proposed legislation. Our members also provide maritime transportation services to the Alaskan timber, mining, and fishing industries.

Our specific concerns are:

- the devil is in the detail in this legislation, and the bill leaves many of our concerns up to the Department of Environmental Conservation (DEC) to address through the negotiated regulation process;
- the additional financial burden this bill places on us, over and above what we already bear under existing federal statute, is not clear and may be substantial;
- the practical impact of this bill is that we will be forced to join the only statewide coop in place at this time, CHADUX;
- to our knowledge, CHADUX does not have the equipment that may be required to respond to spills of the persistent oils that many of our cargo vessels carry as bunkers;
- we do not know how this bill will affect the costs or availability of services we provide to remote areas of the state to service the timber, mining, and fishing industries;

SB 273 Before House Resources Cmte

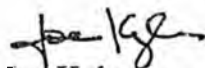
April 5, 2000

Page 2

- how the recent U.S. Supreme Court decision regarding the *Intertanko* case impacts DEC and the *neg reg* process is unclear, and lastly;
- we are anxious that the construct of this bill brings us under the existing statutory language that applies to tank vessels, an altogether different kettle of fish than non-tank vessels.

While we support the intent of this legislation, we do not support it as currently written. We look forward to working with the committee to address our concerns, so we can offer our unqualified support.

Sincerely,



Joe Kyle

Executive Director



Regional Citizens' Advisory Council / "Citizens promoting environmentally safe operation of the Alyeska terminal and associated tankers."

- In Anchorage: 3709 Spenard Road / Anchorage, Alaska 99503 / (907) 277-7222 / FAX (907) 277-4523
- In Valdez: 154 Fairbanks Dr. / P.O. Box 3089 / Valdez, Alaska 99606 / (907) 835-5957 / FAX (907) 835-5926

April 6, 2000

MEMBERS

Alaska State Chamber of Commerce

Alaska Wilderness Recreation & Tourism Association

Chugach Alaska Corporation

City of Cordova

City of Homer

City of Kodiak

City of Seldovia

City of Seward

City of Valdez

City of Whittier

Community of Chenega Bay

Community of Tatitlek

Cordova District Fishermen United

Kenai Peninsula Borough

Kodiak Island Borough

Kodiak Village Mayors Association

Oil Spill Region Environmental Coalition

Prince William Sound Aquaculture Corporation

House Resources Committee, House Finance Committee, House World Trade Committee, House Leadership and Senate Leadership (see distribution list) Alaska State Legislature State Capitol (MS 3100) Juneau AK 99801-1182

SUBJECT: Contingency Planning for Non-Crude Carrying Vessels & Railroad Tank Cars

Dear Representatives and Senators:

The Prince William Sound Citizens' Advisory Council (RCAC) is an independent non-profit corporation whose mission is to promote environmentally safe operation of the Valdez Marine Terminal and associated tankers. Our work is guided by the Oil Pollution Act of 1990 and our contract with Alyeska Pipeline Service Company. RCAC's 18 member organizations are communities in the region affected by the 1989 Exxon Valdez oil spill, as well as commercial fishing, aquaculture, Native, recreation, tourism and environmental groups.

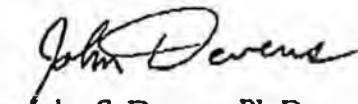
RCAC wishes to express support for the concept of requiring oil discharge prevention and contingency plans for non-crude carrying vessels and for the railroad tank cars that transport oil in bulk, as outlined in SB 273. Additionally, all operators of non-crude carrying vessels and railroad tank cars should be required to furnish the same kind of proof of financial responsibility to respond to damages resulting from a spill that crude carriers are required to furnish.

While we support the concept of this bill, we also have some concerns about the measure:

1. The bill should do nothing to weaken existing law, especially as it applies to crude-oil tankers. The bill should include a provision stating explicitly that nothing in the bill is intended to weaken provisions in existing law.
2. The bill should preserve and extend to non-crude carriers the "direct action" provisions of existing law, which ensure that Alaskans damaged by an oil spill can sue the responsible party in Alaska courts.
3. We understand that the latest version of the measure exempts fuel barges. We oppose this change and urge that it be removed from the bill.

RCAC routinely reviews contingency plans for crude oil carriers and advocates for the highest standards. Alyeska Pipeline Service Company/SERVS, Prince William Sound crude oil shippers, Alaska Department of Environmental Conservation and the U.S. Coast Guard all deserve recognition for creating a world-class response capability for crude carriers in Prince William Sound. The standards that have been developed for crude carriers should be applied to other carriers. Protecting the natural environment should be a high priority for all major carriers of petroleum products, and RCAC appreciates your efforts toward this goal.

Sincerely,



John S. Devens, Ph.D.  
Executive Director

cc: Commissioner Michele Brown, ADEC

fax: 269-7510

**Distribution List:**

**House Resources Committee**

Representative Bill Hudson, Co-Chair	fax: 465-2273
Representative Beverly Masek, Co-Chair	fax: 465-4822
Representative John Cowdery, Vice-Chair	fax: 465-2069
Representative Ramona Barnes	fax: 465-4565
Representative John Harric	fax: 465-3799
Representative Carl Morgan	fax: 465-2197
Representative Jim Whitaker	fax: 465-2070
Representative Reggie Joule	fax: 465-4586
Representative Mary Kapsner	fax: 465-4589

**House Leadership**

Representative Brian Porter, Speaker	fax: 465-3834
Representative Joe Green, Majority Leader	fax: 465-4316
Representative Richard Foster, Majority Whip	fax: 465-3242
Representative Ethan Berkowitz, Minority Leader	fax: 465-2137
Representative Reggie Joule, Minority Whip	(listed above)

**Senate Leadership**

Senator Druc Pearce, President	fax: 465-3872
Senator Jerry Mackie, Majority Leader	fax: 465-3517
Senator Pete Kelly, Majority Whip	fax: 465-5241
Senator Johnny Ellis, Minority Leader	fax: 465-2529

**House Finance Committee**

Representative Eldon Mulder, Co-Chair	fax: 465-3518
Representative Gene Therriault, Co-Chair	fax: 465-3884
Representative Con Bunde, Vice Chair	fax: 465-3871
Representative Alan Austerman	fax: 465-4956
Representative Gary Davis	fax: 465-3835
Representative Richard Foster	(listed above)
Representative Gail Phillips	fax: 465-3472
Representative Bill Williams	fax: 465-3793
Representative John Davics	fax: 465-3519
Representative Ben Grussendorf	fax: 465-3175
Representative Carl Moses	fax: 465-3445

**House World Trade Committee**

Representative Ramona Barnes, Chair	(listed above)
Representative John Cowdery, Vice Chair	(listed above)
Representative Joe Green	(listed above)
Representative Beverly Masek	(listed above)
Representative Gail Phillips	(listed above)
Representative Ethan Berkowitz	fax: 465-2137
Representative Reggie Joule	(listed above)

Bill Hudson Co- Chair  
House Resources Representative  
State Capitol Room 108  
Juneau, Alaska 99801

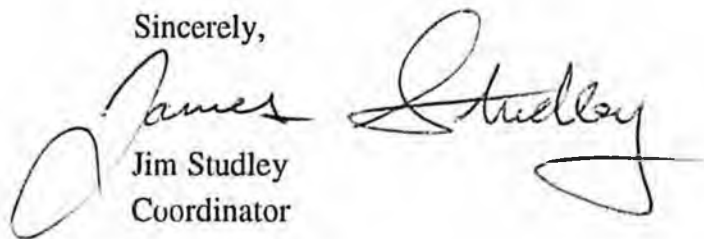
April 6, 2000

Dear Mr. Hudson,

We encourage you to pass SB 273, as it was intended and hope that you will keep from further diluting this legislation. The original Bill as proposed by Senator Pearce was well written and has our support.

Our support is reflected in the enclosed minutes from our committee, which met on December 7<sup>th</sup>, 1999. The Northern Southeast LEPC unanimously endorsed passage of the 300 Gross Ton registry regulations similar to what was found in the neighboring states of Washington, Oregon and California. Enclosed are the minutes that reflect passage.

Sincerely,

  
Jim Studley  
Coordinator

• YAKUTAT

• SRAGWAY  
• HAINES

• GUSTAVUS  
• ELLEN COVE  
• HOONAH  
• TENAKEE SPRINGS



• ANGOON

• KAKI

• PORT ALEXANDER



## NORTHERN S.E. LEPC

P.O. Box 849 • HAINES, ALASKA 99827  
(907) 766-3377 • FAX (907) 766-3373  
nselepc@seaknet.alaska.edu

Dec. 5, 1999

Memo: To LEPD Mayors, LEPC Members, and Interested Public

From: Jim Studley, LEPC Coordinator

As an LEPC one of our responsibilities under state and federal regulations is to address hazardous substance issues that have a direct effect on the life safety of the people and the community in which we live.

At the request of several LEPC members the question was raised on the requirements of vessels which carry a hazardous substance yet are considered the "non" regulated industry, or an industry outside the petroleum industry yet still capable of carrying large amounts of fuel.

Currently the state statute referred to as OP 90 heavily regulates the petroleum industry. These regulations do not include vessels outside the petroleum industry. Essentially Export Chip Ships, Log Ships, Cruise Ships, Ocean Factory Trawlers, Ocean Factory Processors, and large Freight Barges do not fall under these existing state regulations; these vessels are often referred to as 300-ton vessels. Vessels that are 50 foot in length typically may run 40 – 60 tons, a small gill-netter may run 25 – 35 tons, and small day cruise ships 100 – 150 tons. A vessel approaching 200 plus feet might fall into the 300-ton category depending on beam. The Tugboat "Columbia" out of Portland is 100 feet in length and weighs 142 tons. Large gross ton ships run about 1.2 ton for every foot in length. This is rule of thumb ONLY and NOT a science to swear by.

300-ton vessels may carry up to one million gallons of fuel. Under state regulations these ships have limited liability; do not have to prove financial capability to pay for a hazardous substance release, do not have to have an emergency response plan for a hazardous substance release and should they have an incident do not have to respond to their own discharge.

• YAKUTAT

• SKAGWAY Because of recent grounding and discharges of a hazardous substance  
• HAINES into Alaska waters all across the state by a variety of vessels and  
• GUSTAVUS barges, this question was been placed on the agenda tonight. DEC,  
• ELFIN COVE SEAPRO, DES and the USCG are available to address questions  
• HOONAH regarding this subject.  
• TINAKEE SPRINGS

• ANCHORAGE

• KARE

• PORT ALEXANDER

**COPY**



## NORTHERN S.E. LEPC

P.O. Box 849 • HAINES, ALASKA 99827  
(907) 766-3377 • FAX (907) 766-3373  
nselepc@sealnet.alaska.edu

LEPC Minutes Dec. 7, 1999

Open Meeting at 6:00 PM

I. Welcome and Introductions

Guests and community members in attendance, Roc Ahrens, Chairman, Mayor Don Otis, Mayor Albert Dick, Mayor Lonnie Anderson, Mayor Floyd Kookesh, Mayor Bob Ward, Bob Matson, Chris Pace, DEC, John Parson, Dave Owens, SEARRO, Commander Rob Lorigan, US Coast Guard, Vincent Hansen, City Administration, Tim June, Borough Assembly, Larry West, Charlie Roberts, Petro Marine, Fred Gray, Owner / Operator, Bruce Tedtsen, Chuck Young, Environmental, Bob Pinard, Community Groups, Marvin Kadake, Brett Meyers, James Morton, Ray Menaker, Environmental, Tom Willis, Jim Studley, Secretary, Anita Schreckhise, Assistant, recorded the proceedings of the meeting.

II. Attendance

As established by roll call listed above.

III. Recognition of voting members

Voting present members: Roc Ahrens, Chairman, Jim Studley, Secretary, Bruce Tedtsen, Firefighting, Marvin Kadake, Community Groups, Bob Pinard, Community Groups, Mayor Don Otis, Law Enforcement, Chuck Young, Local Environment, Ray Menaker, Local Environment, Fred Gray, Owner /Operator.

IV. Approval of Agenda

Added to the agenda by **Motion to move from Mayor Don Otis. M/S Ray Menaker, motion passed, the following: VIII. "A". New Business 300 Ton Rule, and VII. "A". Near Shore Demonstration Project.**

• YAKUTAT

• SRAGWAY

• HAINES

• GUSTAVUS

• PELICAN

• ELFIN COVE

• HOONAH

• TINAKEE SPRINGS

• ANGOON

• KAKE

• PORT ALEXANDER



COPY

## NORTHERN S.E. LEPC

P.O. Box 849 • HAINES, ALASKA 99827  
(907) 766-3377 • FAX (907) 766-3373  
nselepc@seaknet.alaska.edu

V. Public Comment

Tom Willis, KHNS Radio, commented on the EAS system to be installed by January 1, 2000. It will give Police emergency access to the radio waves to alert the public before any disaster with or without an attendant at the radio station.

VI. Reports of Subcommittees

A. Hoonah Disaster Report

Bob Pinard, Community Groups, commented on the slide areas continuing to occur. They have not been able to get sufficient funding and manpower to stable the slide area. One private residence has been damaged from the slide. There is other unknown potential slide areas. DOT has not sent engineer. Hoonah has a Financial Deficit of \$139,000 that the government may not support. **Motion to draft a letter asking for support to the Governor, Local Representative and State Senate from Jim Studley, M/S Don Otis, Motion passed.**

VII. Old Business

A. Near Shore Demonstration Project (Jim Studley) moved to first on agenda.

Don Otis gave a summary of SEAPRO and ADEC proposal. This proposes an integrated approach that incorporates existing resources; proposed state funded equipment and several on going SEAPRO projects to meet the goal of the nearshore response capability. This is to provide a more time sufficient spill response coverage that will cover all of Southeast Alaska. There will be 5 barges and 2 response vessels. The placement of the 5 barges: Southern barge in Ketchikan, northern barge in Haines, with other barges in Juneau, Gustavus (barge moved to Sitka in winter) and Yakutat. The 2 vessels will be stationed in Ketchikan and Haines. The response vessels are located based on heavily traffic areas were the greatest potential threat is. There was concern on the response time to the smaller communities. Assured there would be vessels of opportunity sent out ahead of the barges. Lonnie Anderson offered the assistance of an 83-ft. landing craft and a 34-ft. rescue boat. **Motion to accept SEAPRO proposal by Jim Studley, M/S Don Otis.**

B. Disaster Publication (Larry West)

Larry West gave a presentation on the Publication on disasters that have happened through out Alaska. Details are attached entitled: Disaster Preparedness Supplement for Chilkat Valley News.

COPY

VIII. New Business

A. 300 Ton Rule. Moved to second on agenda.

Should 300 Gross Ton vessels comply with the same regulations as the petroleum industry's OP90 Rule?

Jim Studley gave a summary on the 300-Ton Rule and what ships would be involved. (See attached memo dated Dec. 5, 1999 to the Mayors.) Don Otis gave a definition of the 300-Ton Rule. Chris Pace, DEC, gave a brief summary on the meeting held Dec. 3, 1999. Commander Rob Lorigan US Coast Guard comments on the financial liability. Fred Gray, Owner/ Operator, made comments about the barges that are void of industry regulations and that in his opinion the industry would support the 300-Ton Rule. **Motion is made to pass the 300-Ton Rule to the Legislature by Jim Studley, M/S Don Otis. Call for all in favor, unanimously accepted.**

B. New Member request from Mayor Don Otis. Tim June to Replace Ray Menaker.

Tim June has been put in to replace Ray Menaker as the Local Environmentalist.

IX. Future Business

Follow up on all items after January SERC.

X. Public Comment

Concerns about Y2K were assured that Alaska is under no threat. Jim Studley comments, "Alaska is Y2K compliant."

XI. Next Meeting

Next meeting to be held in the spring of 2000.

XII. Adjournment

**Motion to adjourn at 7:45 PM, Jim Studley, M/S Don Otis.**

COPY

DRAFT Prevention Credits conceptual amendments to SB 273

Insert into section 7\* TRANSITIONAL PROVISIONS: REGULATIONS

**The Commissioner shall negotiate regulations establishing prevention credits which could result in a lower planning standard**

in the response planning standard section 46.04.055 (c) (1) (A) and (2) (A)

**\*containment and control of 15 percent of the maximum oil capacity of the nontank vessel within 48 hours (except in cases where the commissioner has granted prevention credits by regulation in which case the standard may be set as low as 10%)**

*from CSX Lines  
Paul Fuhs*

Submitted by:  
CSX Lines  
Paul Fuhs

# Kent Dawson Company

INCORPORATED

---

April 12, 2000

Honorable Representative Bill Hudson  
Honorable Representative Beverly Masek  
Co-Chairs, House Resources Committee  
Alaska State Legislature  
Juneau, Alaska 99811

Dear Representatives Hudson and Masek,

Attached please find a compilation of questions and industry concerns regarding SB 273. The affected industries hope to gain a better understanding of the financial obligations and possible economic impacts to the various industries through an analysis of these questions. I hope these questions are of use to you and your committee during today's hearing.

Sincerely,



V/ Kent Dawson

## Question - DEC

### Negotiated Regulation Process

- Please describe in detail how it works, how it would be applied with SB 273.
- Who participates? Who is at the table?
- Public interest groups?
- Is the department bound by the results or is this an advisory process only?
- Have the negotiated regulation process been used before by DEC?

## SB 273 -- Issues and Questions

### Costs

- What new equipment will be required and who will be charged what because of that?
- Training: will ship personnel have (as under the federal Oil Pollution Act of 1990, OPA-90) mandatory annual training? Will it be in addition to OPA-90 training?
- Plan preparation: will each vessel have a separate Contingency Plan (C-Plan), or will the response contractor develop one plan applicable to all its members, as in the case of Washington State?
- Will our current federal OPA-90 Certificate of Responsibility (CFR) qualify under SB 273? Or will a separate state certificate required?
- Extra high costs of remote, rural locals with little vessel traffic.

### Practical Considerations

- How do vessels of opportunity meet SB 273 shops personnel training requirements?
- How do vessels of opportunity receive and carry initial response equipment (boom material, etc.)?
- How is it returned? Are special calls of port required because of this?
- Will inconsistent response and reporting requirements under SB 273 (vs. OPA-90) cause confusion and errors by ship's personnel?
- Remote Alaska problems:
  - Equipment placement.
  - Where?
  - Under who's control?
  - It was suggested that equipment be located in Anchorage and a C-130 deploy it to remote areas. Can a C-130 land in Mekoryok, Hooper Bay, Goodnews Bay, etc. Will DEC guarantee that only this is required to meet spill response requirements in rural Alaska?
- Deployment of equipment.

- From the ships - many have no ships. Local ships are available. Are they big enough? Powerful enough (large seiners are used in Prince William Sound to deploy boom, not 16 ft skiffs)?
- From land - no ports. Tides dictate access to the ocean in most areas. Most areas where large vessels go are in open, unprotected waters. Frequently dangerous for ships. Often ice prevents deploying local skiffs.
- Will some economic activity cease because of the cost or impracticality of compliance?

### **Benefits**

- The state published a list of oil spills 1995-1999 that were from vessels/railroads not covered under OPA-90. The implication was SB 273 would have prevented or improved response to these spills. Is this the justification for the costs we will incur?
- Of the marine spills reported, identify those that came from vessels covered by SB 273. Of these, identify those with persistent fuel and those with non-persistent fuel.
- Of the marine spills reported, identify those that did not receive oil spill response action. Of those that did not, identify those that would receive a response action, and by whom and when, given the equipment deployment required by DEC under SB 273.
- From the analysis of post oil spills, determine what spills would have resulted in better containment and/or clean up as a result of SB 273.
- Would that benefit have been worth the cost imposed over the five-year period 1995-1999?

### **Legal**

- Has anyone thoroughly reviewed the recent U.S. Supreme Court case striking down the Washington rules to determine its applicability to Alaska? As it now stands, tanker vessels voluntarily comply with Alaska rules, and there appears to be no danger to them (the rules) by reason of a legal challenge. However, by putting non-tanker vessels and railroads in the same statutes, do we endanger (from a legal perspective) all rules when or if the railroad or a non-tanker vessel challenges Alaska's authority?

Alaska is geographically unique in that it doesn't boarder any of the lower 48 states therefore we import/export only what Alaskans use/produce.

The other Pacific Coast States are able to spread the cost of oil regulations over import/exports for the entire United States. Given the above, won't the cost of implementing oil regulations put Alaskan resources at an economic disadvantage?

**Please explain how liability issues will be handled should SB 273 become law?**

**Where will liability rest?**

Isn't it true that Cook Inlet Spill Response membership is over \$100,00 to join and then the same per year if they in fact allow non-tank vessels operators to join?

How much will it cost each tramp ship to have a C-Plan?

Understanding that all Oil Spill Response Organizations (OSRO) came about due to the Oil Pollution Act of 1990 and are geared towards the oil transportation industry, do they have a membership category for tramp vessels and what are the conditions of membership?

Subsequently, the Board of Directors of all the OSRO's are made up of all oil carriers. Won't this put the tramp, cruise industry at a disadvantage for membership fees?

Will no-tank vessel operators have to go out and get new quotes each year to prove to the Department of Environmental Conservation that they cannot get an insurance company or mutual club to accept direct action? (This may be, in fact, is the case with barge and tanker operators now.)

Are we going to drive this class of vessel out of Alaska by repeated demands each year to prove that direct action coverage is not available?

Will vessel operators have to join two or more co-ops if they enter both Southeast and Western Alaska?

Are we with this legislation forcing non-tank vessels to fund new equipment purchases by the existing co-ops?

Isn't the oil carried by this class of vessel different than the products carried by barges?

Will this legislation cause the co-ops to raise their fees to an industry already operating on thin margins?

How will trampers that call on Alaska with only a two or three week notice join a co-op, file a C-plan, and get state approval within this short time?

# Alaska State Legislature



*During Interim: (June - Dec.)*  
716 West 4th Avenue, Suite 500  
Anchorage, Alaska 99501-2133  
(907) 269-0200  
Fax (907) 269-0204

*During Session: (Jan. - May)*  
State Capitol  
Juneau, Alaska 99801-1182  
(907) 465-4993  
Fax (907) 465-3872

**Drue Pearce**  
*President of the Senate*

**SB 273**  
**Sponsor Statement**

3/21/2000

Alaska arguably has the world's best oil spill prevention and response program. However, the current program is limited to vessels that carry oil as cargo (tank vessels), and on-shore oil facilities such as oil wells, pipelines, refineries, and tank farms.

Most of Alaska's oil spills come from carriers that are currently not required to prepare for spill response. Since 1995, 93 spills totaling 5,286 gallons of oil came from regulated vessels and facilities. During this same period, 945 spills totaling 258,000 gallons of oil came from non-regulated carriers. SB 273 will expand the prevention and response program to include larger non-tank vessels and the railroads transporting oil in bulk.

Specifically, non-tank vessels covered by this bill are defined as self-propelled watercraft of 400 or greater gross registered tons. These vessels include larger fishing and processing vessels, cargo and cruise ships, and public vessels engaged in commerce such as the Alaska State Ferries. SB 273 requires these vessels to provide a response plan that will clean up the spill as quickly as possible with minimal damage to the environment. The legislation also requires vessel operators to provide proof of financial ability to respond to damages resulting from a spill.

Recent major oil spills along the Alaska Railroad system and from a large fishing vessel in Dutch Harbor illustrate the need to expand Alaska's oil spill prevention and response program. The railroad, cruise ships, large fishing vessels, container ships, along with Alaska's State Ferries carry large volumes of oil and should be prepared to respond quickly in the case of an spill.

Alaska is the only state on the West Coast that has not extended its contingency plan and financial responsibility laws to include non-tank vessels. In light of recent spills from these vessels in our waters, and from the railroad on our land, it is time to strengthen our oil spill laws. SB 273 will provide a heightened awareness of prevention and response readiness and will reduce the number and consequences of oil spills in the future.

**Subject: SB 273 Thoughts**

**Date: Mon, 3 Apr 2000 13:16:51 -0800**


**From: "Tom W. Rueter" <tomr@northstarak.com>**

**To: <tomr@northstarak.com>**

The following document gives some background on the proposed legislation and raises issues which are still of concern. I would be glad to answer any questions.

Tom W. Rueter  
North Star Maritime Agencies  
Tel: (907) 263-0110  
Fax: (907) 272-8755  
E-Mail: tomr@northstarak.com

---

 Senate Bill 273.doc	<p><b>Name:</b> Senate Bill 273.doc <b>Type:</b> Microsoft Word Document (application/msword) <b>Encoding:</b> base64 <b>Download Status:</b> Not downloaded with message</p>
---	---

## Senate Bill 273

**“An Act regarding oil discharge prevention, and relating to contingency plans and proof of financial responsibility for all self-propelled nontank vessels exceeding 400 gross registered tonnage and for railroad tank cars; authorizing inspection of nontank vessels and trains; providing for an effective date.”**

This bill was introduced initially by Governor Knowles and immediately picked up by Senator Drue Pearce with introduction as SB273 on February 15, 2000. Ever since, there has been a noted passion by the sponsor to seek expedited passage of this bill through the legislative process. This has been seen through work sessions and committees. Some modification of the bill has taken place, but there are still some key sections which need to be addressed before it is presented for the governor's signature.

### **History:**

Oil spill prevention with contingency planning and assurance of response capability with financial responsibility have been a keen focus, not only in Alaska but in the United States and worldwide over the past 30 years. That acute awareness was only magnified by the Exxon Valdez spill in Prince William Sound. As a result of that incident, international, federal and state regulations have been changed, multiplied and strict adherence to regulations has been enforced.

The spill contingency plan regulations enacted, addressed vessels or vehicles which carried petroleum products as cargo. Spill response requirements were enacted for all spills, regardless the source. This left some level of disparity between vessels carrying oil products for hire and nontank vessels which obviously is sought to be remedied through this bill.

### **Affected Industry**

Nontank vessels include the following categories and approximate tonnages.

Fishing vessels and Fish Processors over 400 to 5,000 Gross Tons.  
Reefer carrier vessels of 500 to 5,000 G. T.  
Bulk cargo vessels in various ports 10,000 to 50,000 G.T.  
Container and Roll-on Roll-off vessels 18,000 to 40,000 G.T.  
Passenger Cruise vessels 5,000 G.T. to 77,000 G.T.

### **Vessel types and areas of operation**

Fishing vessels and fish processors are concentrated primarily in Western Alaska with some activity which follows the Salmon and Herring fisheries which take place throughout the state. The season and location vary widely and the short periods in many of the remote areas of Alaska result in a much needed infusion of cash into a subsistence based economy. Fish processors providing markets for the local fishermen are very dependant on mobility and part of the chain of transportation for this are the Reefer carriers. Bottomfish catching processors operate independently and move with the season and fish, ranging from the Western Aleutians to some parts of the Western Gulf of Alaska. They are more flexible to move, however with the Olympic style fishery of species other than Pollock, Halibut and sablefish, the economic impact is significant when they have to travel for between active fishing grounds and ports for resupply and cargo discharge.

Reefer Carrier vessels specialize in providing carriage service to the fishing fleet. Due to various federal regulations, they must carryout their operations of cargo transfer in various ports and designated loading areas within Alaska state waters. Before they can commence operations, they enter U.S. and State commerce with inspections conducted by U.S. Immigration service, U.S. Customs, U.S. Coast Guard. They are also required to take State mandated Marine Pilots as advisors to the masters of the vessels to assure safety with local knowledge while navigating and anchoring in compulsory pilotage waters. These carriers follow the fish processors to receive and relieve them during each processing period as many of the processors do not have any holding capacity thus making them an intricate part of the transportation chain. The range of port calls span from Tanaga Island and Attu in the Western Aleutians to Bristol Bay and Norton Sound, Kodiak Island, Cook Inlet and Prince William Sound and some locations in Southeast Alaska. There are both domestic flag and foreign flag reefer carriers.

Bulk cargo vessels provide a means of exporting our state's resources, including logs and woodchips, zinc lead ore and coal, fertilizer and importing of cement, steel products and bulk project cargoes which benefit the Alaskan economy by delivering our resources in to the world market place. These vessels, like the reefer carriers, mentioned above, are all entered into the commerce of the state, inspections are conducted and pilotage is mandatory to their anchoring locations. They call in areas ranging from Red Dog Mine on the Chukchi Sea to Dutch Harbor, Kodiak Island to Homer, Seward, Cook Inlet and Prince William Sound and finally most ports and areas in Southeast Alaska with some focus in Hawk Inlet and log ports.

Container and roll-on, roll-off vessels are active in two distinct roles in the State of Alaska. CSX Lines(previously Sea-Land) and Totem Ocean Trailer Express have two to three times weekly service between Puget Sound and Cook Inlet, Kodiak and Dutch Harbor. There are a total of 6 six U.S. flag vessels in this trade. On average they are making 1 voyage per week into Alaska and supply a large majority of goods and supplies to the South-Central and Interior of Alaska and also carry a considerable amount frozen seafood from Alaska to mainland destinations. The other component container vessels make a convenience port call to Dutch Harbor to carry seafood cargos for export to Asia and the rest of the world.

The Cruiseship element of the industry has been growing in the State of Alaska for the past 20 years. It started with one week roundtrips into Southeast Alaska and has developed to be an extensive part of our tourism economy in the State with primary focus in Southeast and South Central Alaska, but also having port calls in the Aleutian Islands and other remote locations in the Bering Sea. Vessels range in size from 1,000 G.T to 77,000 G.T. During their transits of state waters, they have Sate Marine Pilots onboard which stand bridge watch on rotation. Alaska Marine Highway ferries are also included in this section.

### **Summary of locations accessed by vessels and frequency**

The State of Alaska has in excess of 30,000 miles of coastline. Our resource based economy deems it necessary to locate transfer of those resources to ocean going vessels as close as possible to where the resources originate. The world market determines the sales price of the resource and from there, costs of transportation, extraction and interim handling reduce the final value of the resource to the producer in Alaska.

Red Dog Mine, the world's largest zinc ore deposit, is located in the Northwestern corner of Alaska with access to **Kotzebue Sound**. It's location above the Arctic Circle presents unique transportation problems including having a limited shipping season of approximately 120 days during which they load in excess of 1.2 million tons of ore concentrate for export to world

markets. Approximately 25 vessels call this location between the period June 15 to October 15. These vessels are 25,000 to 55,000 G.T. and anchor outside of state waters, using state Marine Pilots, while dedicated self-discharging barges move the cargo from shore to the ocean going vessels.

**Norton Sound, Cape Romanzof, Nelson Island and Cape Avinof** have a herring fishery for the approximate period of May 15 to June 15 and this provides perhaps the single largest infusion of cash into the local subsistence economies. Fish processing vessels 400 to 5,000 G.T., in conjunction with reefer carriers 500 to 4,500 G.T., visit these locations to provide a market for the local fishermen's catch. Two to four processors and two or three reefer carriers, at most, visit these locations each year.

**Togiak and Bristol Bay** see a focused effort of fishery with herring starting in Togiak as early as April 25<sup>th</sup>. As many as 15 or 20 fish processing vessels and 10 reefer carriers receive and export the products for two or three weeks. After a one month lull, the sockeye salmon season, June 15 to July 31, in Bristol Bay with focus on **Kvichak Bay** vicinity has 20 to 25 Fish processing vessels and 15 to 20 reefer carriers.

**False Pass, Sand Point, Akutan, Beaver Inlet, Adak, Atka, Tanaga Island** and many other locations near the **Alaska Peninsula or in the Aleutian chain** have intermittent visits by Fish Processing vessels, Reefer carriers and larger fishing vessels. Depending on the fishery and season, visits to each of these locations may be anywhere from one to 15 or 20 over the period of one calendar year. The primary purpose of these visits are for the transfer of fish cargo to reefer carriers, although incidental visits may include crew changes and emergency repair of vessels.

The **Pribilof Islands** normally host a winter Opilio Crab fishery which draws 4 to 10 fishing and fish processing vessels and 2 to 5 reefer carriers from the middle of January to the end of February. Here, ice is often a problem and as shown in the 2000 season, it completely delayed the fishery until April 1.

**Dutch Harbor** has been the port of focus where a multitude of vessel calls take place. Nearly all of the fishing vessels and fish processors makes calls here at least once for resupply, crew changes and transfer of cargo. Reefer carriers have used Dutch Harbor as a base also to provide for the collection and consolidation of cargo for export from the various bottom fisheries throughout the year. This, as mentioned before, represents approximately 150 vessel voyages, however each voyage may consist of prolonged stays, in various Alaskan waters, of three to six weeks, moving back and forth between locations to provide pickup service from the fishing fleet. Container carriers, CSX Lines, Maersk-Sealand and APL make weekly calls into Dutch to drop off supplies and pickup containers of seafood for domestic and international markets. This is approximately 140 voyages during the year. Dutch Harbor is also located near the Great Circle Shipping Route which is used by vessels in transit between the West Coast of North America and Asia. Various vessels call at Dutch Harbor for incidental cause, including taking additional fuel, medical emergencies or repairs resulting from damages incurred while in-transit. This may be an additional 25-50 voyages per year. Passenger Cruise Vessels call from one to four times per year here also. This is the westernmost end of the Alaska Marine Highway.

**Kodiak Island** with fishing and logging in it's vicinity has weekly calls into Kodiak Harbor by container carriers, Alaska Marine Highway has numerous calls and occasional reefer carriers and fishing vessels also visit. In the surrounding area, there are maybe 20 voyages of log loading bulk carriers into **Afognak Island** and intermittent calls to other locations by various vessels.

**Cook Inlet** is a primary focus area of various shipping calls to both supply the Southcentral and Interior Alaska population as well as export some refined and raw materials. **Homer** and **Kachemak Bay** service as a holding area for all of Cook Inlet in the event of inclement weather, tidal fluctuation or berth congestion. Approximately 20 bulk carriers per year visit Homer specifically for loading at that port, while another 40 to 60 bulk carriers anchor in Homer while waiting to proceed up the inlet to other destinations. In total, there are probably 50 bulk carriers proceeding to **Nikiski**, 5 to 7 bulk carriers calling at **Anchorage**. CSX Line and TOTE have two to three voyages per week in to Anchorage for a total of approximately 250 voyages per year. There are other incidental voyages by Passenger Cruise lines and cargo carriers. There are also Oil and LNG tankers and Fuel Barges operating in Cook Inlet.

**Seward** is the northernmost terminus of a majority of Passenger Cruise vessels having anywhere from 80 to 110 voyages in the season from May to September. The Alaska Marine Highway Ferries call weekly or more. Additionally, coal is shipped out on 8 to 12 large bulk carriers per year after being delivered there by the Alaska Railroad. During oil field development, medium size bulk carriers, about 5 to 15 per year, will call to discharge steel products and there are about 2 to 5 log loading bulk carriers which call. The Seward Ship Drydock also receives a number of vessel calls for repairs and general maintenance. Reefer carriers and fishing/fish processors will occasionally call to cargo transfer and resupply.

**Prince William Sound** has some remote log loading ports, but at present most are inactive. Maybe a total of 10 to 15 voyages per year in this region by cargo vessels. Passenger Cruise carriers will transit here with riding Marine Pilots for sightseeing of glaciers and other sights. **Valdez**, of course has approximately 450 tank vessel calls and 30 to 50 cruise ship calls.

**Icy Bay** has about 10 to 15 bulk carriers loading logs each year with some fluctuation.

**Yakutat Bay** may occasionally have reefer carriers, fishing vessels, bulk carriers and cruise vessel navigate it's waters but not on a consistent annual basis.

**Southeast Alaska** has a myriad of locations where logs are loaded, but in any event, with the downturn of log exports, not more than a total of 30 to 50 bulk carrier voyages per year. **Hawk Inlet** ore concentrate shipments have 10 to 15 bulk carrier voyages per year and there are other locations which may have the occasional reefer carrier and fish processor visit. A majority of the calls in Southeast Alaskan ports, **Skagway**, **Juneau**, **Sitka**, **Ketchikan** and others, are the Passenger Cruise Vessels which in excess of 300 voyages per during the April to October season.

## Areas of concern with SB273

### Proof of Financial Responsibility

Page 1 line 13 (Sec. 46.04.055 (a)(2)) indicates "the person has furnished to the department (ADEC) and the department has approved proof of financial ability to respond to damages ..."

Page 2 line 19 (Sec. 46.04.055 (b)(2)) "...approved proof of financial responsibility..."

Page 3 line 12 (Sec. 46.04.055 (d)) "Notwithstanding the requirements of AS46.04.040(1) and AS 46.04.047 for the purposes of (a)(2) and (b)(2) of this section, an applicant may provide evidence of financial responsibility provided by an insurer or other person who does not agree to be subject to direct action in state courts or to appoint an agent for service of process."

This is a problem because it incorporates financial responsibility proof from the Tanker statute 46.04.040<sup>i</sup>. Regulations were issued by ADEC, when previous alterations to the tanker statute were made, to circumvent the alterations and continue to require direct action. This is reflected in 18 AAC 75.270<sup>ii</sup> which requires the insurer to incorporate and accept the terms as listed in 18 AAC 75.250(b)<sup>iii</sup> into their insurance policy which basically requires the insurer to agree to direct action. P&I clubs have consistently refused to accept this language and as a result, tank vessels have been required to find alternate coverage to meet this regulation. Other states, including the State of California, accept proof of entry in a recognized P&I club as proof of financial responsibility. P&I club coverage currently is at \$1 billion.

This should be remedied by a substitute statute which allows proof of financial responsibility for nontank vessels to be demonstrated by self insurance, proof of entry of the vessel in a protection and indemnity association (P&I Club) or other insurance without duplication of coverage or expense.

### What is direct action?

Alaska's statute for tankers (AS 46.04.040) requires proof of financial responsibility. One means of providing financial responsibility is for an Alaska person or corporation to pledge Alaskan assets to meet this requirement. In the case of log shippers, fishing companies, coal and ore shippers and others, assets may not meet the requirement and the vessels involved have a very different relationship with the shippers.

Oil tankers, approximately 450 voyages in 1999, in the primary trade to and from PWS are mostly dedicated to this trade and as such, may have limited opportunity to be competitive in other trades and markets. In contrast to this, the bulk and reefer carriers coming into Alaska are vessels of opportunity which may make one or two visits to the state during the period of a year, if they ever return at all. There are a total of approximately 150 bulk carrier voyages per year and 150 reefer carrier voyages. These vessels are often in other trades, including calls to the U. S. West Coast and Canada or even further through the Panama canal and worldwide.

These contrasting conditions make it very different and difficult for one time visits by carriers if they are required to go through an arduous process to prove financial responsibility. These ships normally carry P&I coverage with one of the international group of P&I club. These clubs insure in excess of 90% of the world's fleet over 2,000 G.T. These clubs are mutual organizations which now provide pollution coverage with limits of \$1 billion. ( P&I club coverage is not to be fused with the \$1+ billion National Pollution fund which is maintained by the U.S. government to provide payment for response cleanup in the remote event that the responsible party does not pay immediately.

### **C-Plan requirements**

Page 1, Line 10 Sec. 46.04.055 (a)(1) "... oil discharge prevention and contingency plan has been approved..."

Page 2, Line 29 Sec. 46.04.055 (c) " Effective April 1, 2002,..."

Page 3, Line 2 Sec. 46.04.055 (c) (1) (A) through (B) "Containment and control of 15% of the maximum oil capacity..."

Reviewing the above locations, many of the remote sites, particularly in Western Alaska have little hope of meeting the planning standard of "Containment and control of 15% of the maximum oil capacity with 48 hours...". This is further complicated by lack of shipping volume into any one location, making this cost prohibitive to conduct business, if the standard is not revised. In addition to this, the department is required by Sec. 46.04.210 (a)<sup>iv</sup> to develop a Regional Master Plan as the basis of establishing guidelines by which submitted C-Plans will be reviewed. In consulting with the department, it was advised that the Regional Plans for Northwest Arctic Borough, Bristol Bay and Western Alaska have not been completed and currently a completion estimate is not available.

### **How can operators/owners develop C-Plans if the guidelines have not been developed?**

It has been suggested that with the Negotiated regulation making, as provided for under AS 44.62.710 to 44.62.800, referred to on page 4, line 1 (Sec. 46.44.055 (f) ) and page 6, line 1 (Sec. 7 of this bill) that an Alternative Compliance agreement has been accomplished between Fuel Barge operators and ADEC and that this would be the pattern for similar NEG REG processes to address the remote location C-planning for vessels affected under this bill.

The Alternative Compliance Plan for fuel barges has been three years in negotiation and at this time, has not been finally approved by all parties. This raises great concern about the length of time needed and amount of flexibility which the agency may have to complete these negotiations.

It would be suggested that this section be changed to address various regions and shipping volumes throughout the state. There must be a fiscal consideration when it comes to this issue. The idea of "cost of doing business" is certainly one aspect to be heavily weighted in this equation, however the world marketplace establishes a price for the delivered product and it is a matter of operating within that ceiling and the residual amount being that which can be paid for the resource.

### **Actual Response vs. C-Plan requirements**

Apart from this bill there are also inconsistencies between what is required to be shown in a C-Plan and what is accepted when a spill actually occurs. Certainly, Best efforts will be made to respond and clean-up a spill, but this is not good enough for the C-plan. In actual response, a SERVS TUG was requested and responded to the recent grounding the bulk carrier PACSUN. However, the fact that SERVS has an extreme inventory of response equipment can not be included in a C-Plan of a Nontank vessel, even if operating in Prince William Sound. This is a similar situation for Cook Inlet and CISPRI. As well it is the case for Alaska State and Federal inventories of spill response materials and equipment.

In essence, duplication and triplication of materials and equipment occurs for the C-Plan because the Primary Response Action Contractor must be in control of inventoried items. But when a spill response action take place, then all resources can be accessed at the urging of state and federal authorities.

This puts an increased burden of expense to fill an inventory to meet the C-Plan requirements which seems unnecessary.

**Some addition to this bill should be considered to allow identifying all spill response resources located in the state or otherwise as part of available primary and secondary inventories for C-Plans.**

### **Best Available Technology**

Best available technology for contingency planning, is inferred by the current regulations which are in place for tank vessels and would be utilized by the department in this bill. Again the concern is raised for mobility and availability of equipment to reach all locations in Alaska's vast coast line.

**BAT in one location, easily accessed by air or sea may be greatly different in other locations which are more remote and consideration must be made accordingly.**

### **C-Plan preparation and approval**

Page 4, Line 1 Sec. 46.04.055 (f) indicates that " alternative means to obtain equivalent levels of spill prevention and response, including the use of fleet plans, membership in non profit corporation that is a primary response action contractor and a contingency plan holder,..." Cost of preparing plans and getting them accepted by the Department as well as carrying out the drills required in the regulations have not been considered.

Vessels which operate in Alaskan waters on a regular basis could find justification for the extensive cost of developing a C-plan, location specific for their intended operation because they have the opportunity to amortize that cost over the period of one or more years, knowing that they will plan to operate in Alaskan waters on a continuing basis.

Many foreign flag vessels are opportunistic. Bulk carriers receiving logs, ore, coal and fertilizer and reefer carriers are nominated to come into Alaska within two weeks of fixing a charter and this time constraint raises serious concern as to the ease of complying with the regulations. 250 voyages per year, for Alaska, may appear to be a large number, but is relatively miniscule when considering the world shipping market.

These vessels are affectionately called "tramps" because they go from one employment to the next without a clear indication of where their next employment may be or when it starts. Many of these vessels may visit Alaska one time for a period of 1-5 days and never come again. Some method to allow ease of compliance is necessary.

Taking the Washington State model (WSMC), there is a generic contingency plan for the Puget Sound region into which all affected vessels may be entered and charged on a voyage basis. For non-tank vessels this is approximately \$500 and tankers are charged in the range of \$3,500. Puget Sound has nearly 3,800 voyages per year in an area the size of roughly Cook Inlet. For carriers transiting Cook Inlet, specifically CSX Lines and TOTE, the sponsor has suggested "

cost per vessel per transit would be comparable to Washington State." It is quite difficult to understand how this could be the case with all of Alaska, unless it was focused on High Activity Centers such as Cook Inlet. The number calls to Cook Inlet is by far, much lower than the number of calls to Puget Sound and so the cost per transit being comparable is highly questionable.

"Cost of doing business" is again a factor that needs to be considered and in the case of goods being delivered to Alaska, increased shipping costs would be passed on to the consumer and has been a fact of life for the state populace.

**This section has not addressed the financial impact on industry and thus on the state of Alaska population. The liability issue which currently is attached to the holder of the C-plan is also not clarified. If an independent co-operative is the holder of the plan, the responsible party/vessel owner still needs to be liable and as such the current regulations which assume the C-plan holder to be the responsible party must be changed.**

In closing, this bill is the beginning of an inevitable statute and regulatory process to further assure responsible non-tank vessel operations for the protection of our vast and pristine environment. It needs to be thoroughly examined and all affected parties must be allowed sufficient input in it's finalization. Progress has been made in various sectors, both with the bill and independently, however, in an apparent rushed effort to accommodate an unclear agenda, enactment of this bill in it's current form would have long term, detrimental affects on the entire State of Alaska. It is urged that responsible review and appropriate amendments be made to this bill to insure a strong but workable set of regulations be enacted.

**Endnotes:**

---

**Sec. 46.04.040. Proof of financial responsibility.**

(a) A person may not cause or permit the operation of an oil terminal facility in the state unless the person has furnished to the department, and the department has approved, proof of financial ability to respond in damages. Proof of financial responsibility required for a crude oil terminal is \$50,000,000 per incident. Proof of financial responsibility required for a noncrude oil terminal is \$25, per incident, for each barrel of total noncrude oil storage capacity at the terminal or \$1,000,000, whichever is greater, subject to a maximum of \$50,000,000. For purposes of this subsection, an oil terminal facility that stores both crude oil and noncrude oil is subject to the financial responsibility requirements applicable to the type of facility that corresponds to the type of oil storage that predominates at the facility. However, if the facility stores more noncrude oil than crude oil, the \$25 per incident, per barrel requirement of this subsection applies to each barrel of oil storage capacity at the facility.

(b) A person may not cause or permit the operation of a pipeline or an exploration or production facility in the state unless the person has furnished to the department, and the department has approved, proof of financial ability to respond in damages. Proof of financial responsibility required for

---

(1) a pipeline or an offshore exploration or production facility is \$50,000,000 per incident;

(2) an onshore production facility is

(A) \$20,000,000 per incident if the facility produces over 10,000 barrels per day of oil;

(B) \$10,000,000 per incident if the facility produces over 5,000 barrels per day but not more than 10,000 barrels per day of oil;

(C) \$5,000,000 per incident if the facility produces over 2,500 barrels per day but not more than 5,000 barrels per day of oil;

(D) \$1,000,000 per incident if the facility produces 2,500 barrels per day or less of oil;

(3) an onshore exploration facility is

(A) \$25,000 per incident for a facility used solely to explore for shallow natural gas by means of drilling a well to explore for gas, whether methane associated with and derived from coal deposits or otherwise, from a source that is within 3,000 feet of the surface; and

(B) except as provided by (A) of this paragraph, \$1,000,000 per incident.

(c) Except as provided in (m) of this section, a person may not operate a tank vessel or an oil barge within the waters of the state, or cause or permit the transfer of oil to or from a tank vessel or an oil barge, unless the person operating the tank vessel or oil barge has furnished to the department, and the department has approved, proof of financial ability to respond in damages. Proof of financial responsibility required under this subsection is

(1) \$300, per incident, for each barrel of storage capacity or \$100,000,000, whichever is greater, for a tank vessel or barge carrying crude oil;

(2) \$100, per incident, for each barrel of storage capacity or \$1,000,000, whichever is greater, subject to a maximum of \$35,000,000, for a tank vessel or barge carrying noncrude oil.

(d) Except as provided in (k) of this section, it is not a defense to an action brought for violation of (a) - (c) of this section that the person charged believed in good faith that proof of financial ability to respond in damages had been furnished to, and approved by, the department.

(e) Financial responsibility may be demonstrated by (1) self-insurance, (2) insurance, (3) surety, (4) guarantee, (5) letter of credit approved by the department, or (6) any other proof of financial responsibility approved by the department, including proof of financial responsibility provided by a group of insureds who have agreed to cover pollution risks of members of the group under terms the department may prescribe. An action brought under AS 46.03.758, 46.03.759, 46.03.760(a) or (d), 46.03.822, or AS 46.04.030

(g) may be brought in a state court directly against the insurer, the group, or

---

another person providing evidence of financial responsibility; however, the liability under this section of a third-party insurer is limited to the type of risk assumed and the amount of coverage specified in the proof of financial responsibility furnished to and approved by the department. The applicant, and an insurer, surety, guarantor, person furnishing an approved letter of credit, or other group or person providing proof of financial responsibility approved by the department shall appoint an agent for service of process in the state. For purposes of this subsection, an insurer, other than a group of insureds whose agreement has been approved by the department, must either be authorized by the Department of Community and Economic Development to sell insurance in the state or be an unauthorized insurer listed by the Department of Community and Economic Development as not disapproved for use in the state. In this subsection, "third-party insurer" means a third-party insurer, surety, guarantor, person furnishing a letter of credit, or other group or person providing proof of financial responsibility on behalf of an applicant under this section; "third-party insurer" does not include the applicant.

(f) Acceptance of proof of financial responsibility expires

(1) one year from its issuance for self-insurance;

(2) on the effective date of a change in the surety bond, guarantee, insurance agreement, letter of credit, or other proof of financial responsibility; or

(3) on the expiration or cancellation of the surety bond, guarantee, insurance agreement, letter of credit, or other proof of financial responsibility.

(g) The person whose proof of financial responsibility is accepted by the department under this section shall notify the department at least 30 days before the effective date of a change, expiration or cancellation in the surety bond, guarantee, insurance agreement, letter of credit, or other proof of financial responsibility. Application for renewal of acceptance of proof of financial responsibility under this section must be filed at least 30 days before the date of expiration.

(h) The department, after notice and hearing, may revoke acceptance of proof of financial responsibility if it determines that

(1) acceptance was procured by fraud or misrepresentation; or

(2) a change of circumstance has occurred other than a change specified in (f)(1) - (3) of this section, which would have warranted denial of the application.

(i) Financial responsibility under this section extends to a loss compensable under AS 46.03.760 (d) or 46.03.822 and an assessment under AS 46.03.758 , 46.03.759, 46.03.760(a), or AS 46.04.030 (g).

(j) Upon acceptance and approval of proof of financial responsibility under this section, the department shall issue to the applicant a certificate stating that the state's financial responsibility requirements have been satisfied. The certificate must include the name of the facility, pipeline, tank vessel, or oil barge for which it is issued and the expiration date of the certificate.

---

(k) It is a defense to an action brought for violation of (a) - (c) of this section that the person charged relied on a certificate of approval issued under (j) of this section unless the person knew or had reason to know at the time of the alleged violation that the approval had been revoked or was expired.

(l) Notwithstanding the requirements of (e) of this section, the applicant may provide evidence of financial responsibility provided by an insurer or other person who does not agree to be subject to direct action in state courts or to appoint an agent for service of process if

(1) the department is satisfied that the insurance or other form of financial responsibility covers judgments under the statutes listed in (e) of this section;

(2) the applicant provides proof of \$50,000,000, or the amount required by (a) - (c) of this section, whichever is less, in insurance or other form of financial responsibility that meets the requirements of (e) of this section; and

(3) the applicant provides a sworn statement or affidavit that insurance or other form of financial responsibility that meets the requirements of (e) of this section is not available in greater amounts.

(m) A tank vessel or oil barge that is conducting, or is available only for conducting, oil discharge response operations is exempt from the requirements of (c) of this section if the tank vessel or oil barge has received prior approval of the department. The department may approve an exemption under this subsection upon application and presentation of information required by the department.

ii

#### 18 AAC 75.270

#### OTHER PROOF OF FINANCIAL RESPONSIBILITY.

(a) An applicant may demonstrate financial responsibility for the applicable amount required under 18 AAC 75.235 (a), in full or in part, with a contract of indemnity or with insurance issued by a group of insureds who have agreed to cover the pollution risks of the group's members, if approved by the department.

(b) Subject to AS 46.04.040 (e), the department will, in its discretion, approve a Protection and Indemnity (P&I) club or an insurance syndicate contract of indemnification as demonstrating financial responsibility if

(1) a statement of indemnification issued by the P&I club or insurance syndicate contains an endorsement that meets the requirements of 18 AAC 75.250 (b);

(2) the P&I club or insurance syndicate has the financial solvency and a favorable history of claim handling to meet the obligations contained in the contract of indemnity; and

(3) the P&I club or insurance syndicate appoints an agent for service of process in the state as required under AS 46.04.040 (e).

(c) The department will, in its discretion, approve a P&I club or insurance syndicate that does not agree to be subject to direct court action in this state or that does not agree to appoint an agent for service of process in this state if the requirements of AS 46.04.040 (l) are met with respect to the amount of

---

\$62,850,000 or the amount required by 18 AAC 75.235 (a), whichever is less.

History -

Eff. 5/14/92, Register 122; am 11/26/94, Register 132; am 10/1/99, Register 151

Authority -

AS 46.03.020

AS 46.04.040

AS 46.04.045

AS 46.04.070

iii

**18 AAC 75.250** (b) If a policy of insurance, certificate, or binder is submitted, it must include an endorsement with the following, or substantially similar language: "Any other provision of this policy notwithstanding: (1) this policy insures against any liability the insured may incur under Alaska Statute 46.04.040(i) or any provision cited in it as a result of an unlawful discharge of oil within or affecting land or waters within the territorial jurisdiction of the State of Alaska; however, the insurer's liability does not exceed the limits of coverage set out in Section (Article or Clause) of this policy, subject to any deductible as specifically set out in Section (Article or Clause) of this policy (binder, certificate); (2) the insurer agrees that any final judgment against the insured for damages under AS 46.04.040 (i) or any provision cited in it resulting from an unlawful discharge of oil from or by any vessel or facility named in this policy may be enforced or executed in Alaska state courts, directly against the insurer, subject to the limits of coverage in this policy; the insurer will be bound by such a judgment as if the judgment were against the insurer; any person obtaining such a judgment against the insured is expressly made a third-party beneficiary of this provision;

iv

**Sec. 46.04.210. Regional master plan.**

(a) For any region of the state, the boundaries of which are determined by the commissioner by regulation, in which the department is required to review and approve an oil discharge prevention and contingency plan submitted by a person under AS 46.04.030 , the department shall prepare, annually review, and revise as necessary a regional master oil and hazardous substance discharge prevention and contingency plan.

(b) The provisions of AS 46.04.200 (j) and (c) apply to preparation and review of a regional master plan under this section.

(c) In setting boundaries under (a) of this section, the department shall, when possible, group together communities that are likely to require coordination of their efforts to respond effectively to a discharge.

ALASKA MARITIME AGENCIES  
MARKETING & DEVELOPMENT  
ANCHORAGE, ALASKA USA

12 April 2000

Representative Bill Hudson, Co-Chair  
House Resources Committee  
ALASKA STATE LEGISLATURE  
Juneau, Alaska

Via Telefax

Dear Representative Hudson:

ALASKA MARITIME AGENCIES, INC. is a vessel agency that coordinates and facilitates the entry and voyage of foreign-flag vessels into Alaskan waters. In that capacity we regularly assure vessel compliance with a number of regulations including U.S. Customs & Immigration, U.S. Coast Guard, State-licensed mandatory pilotage, etc.

We represent an efficiency to the foreign-flag fleet calling Alaska on a periodic basis - even though some vessels may only call once a year. We have regular traders as well as those vessels called from the world spot charter market, as required. This flexibility allows the required adaptation necessary for the successful export of Alaska's resource commodities, particularly fishery and mineral exports.

For these reasons we feel, on behalf of our principals and vessel owner/operators, we are suitably placed to best assure compliance with the requirements of SB 273 in an efficient, cost-effective manner. As such, we, as vessel agents, request standing within the proposed legislation so that ADEC would be authorized to negotiate with us directly in the negotiated regulation-making process called for in this bill. This will enable us to negotiate on behalf of our principals on a "vessel-type & trade" basis that ADEC agrees will be a suitable template for the promulgation of this legislation. This would streamline the process immensely, dealing with a "class" of vessel rather than with each owner/operator individually.

We request that you make the following conceptual language and have it drafted as an amendment for inclusion in SB 273 (Page 4, Line 7 insert the following):

**For the purposes of this Act, the Department is authorized to negotiate with vessel agents to assure compliance with the Act by the vessel(s) they represent.**

Thank you for your consideration of our interests in this legislation.

Sincerest best regards,



Jeffrey L. Thompson, Vice-President - Marketing & Development  
ALASKA MARITIME AGENCIES, INC.

4341 B STREET, SUITE 101 ANCHORAGE, ALASKA USA 99503  
907.562.8808 PHONE - 907.562.8810 FAX



# Alaska Center for the Environment Valley Office

642 South Alaska Street, Suite 201 ♦ Palmer, Alaska ♦ 99645  
(907) 745-8223 ♦ fax (907) 745-8223

E-mail- valley@pobox.alaska.net ♦ <http://www.akcenter.org>

CoChairs Halford and Masek, and other Representatives of the House Resource Committee and Senator Pearce:

My name is Joe LeBeau. I live in the Mat-Su Borough where I have resided since 1979. I recently retired from state government with over 23 years of service. 20 of those years were in areas of the railbelt, the remainder in coastal communities. Currently I work for the Alaska Center for the Environment, Valley Office. The Alaska Center for the Environment has almost 10,000 dues paying members. During my state career I responded to hundreds of oil spills. On March 24, 1989, I traveled to Valdez by car over three mountain passes and flew out to the EXXON VALDEZ within 12 hours of the grounding. I stood on the bridge waiting for the oil spill equipment to arrive. There was no oil spill equipment in sight until after 2:30 in the afternoon. Then the equipment that did arrive was filled to capacity in a few minutes.

Non-tank vessels without contingency plans currently spill more oil than the vessels with contingency plans. Non-tank vessels need to have contingency plans and certificates of financial assurance to make the state whole when their vessels run aground again. Non-tank vessels and the railroads need to have contingency plans so we can responsibly say we tried to protect our resources.

While working in the Mat-Su area, I responded to at least three train wrecks. At each of these derailments, I was frustrated when I saw the railroad workers trying to cleanup a spill with no spill response equipment or training. The railroad workers were frustrated too. Railroad workers are good people, just like you and me. During the winter of 1999-2000, the railroad had two more derailments. At one of these derailments Mother Nature provided some beaver ponds for oil spill containment. The railroad finally had some equipment.

At the second spill this winter, over 120,000 gallons of oil was discharged. Mother Nature failed to provide the beaver ponds for this one, but provided lots of snow. Again the railroad had inadequate equipment to deal with the immediate response. To date the railroad has only been able to recover 10 to 12% of the spilled oil. The railroad needs to have the capacity to respond to oil and hazardous substance spills in the railbelt communities. The railroad needs to have a contingency plan. The railroad needs to have insurance, just like we do when we drive our cars.

Please vote to pass CSSB 273 out of this committee. Please vote to enact this bill.

Thank you for your time.

Joe LeBeau



## ALASKA CHADUX CORPORATION

## ASSOCIATE MEMBER BRIEFING PAPER AND SB 273 ISSUES

### **Purpose**

The purpose of this briefing paper is to provide general information about the Alaska Chadux Corporation (Chadux) Associate Member classification and rate structure.

### **Background**

Chadux has an Associate Member classification for operators who are required to have oil spill response services under contract as a component of their oil spill contingency plan requirements. Associate Members are typically operators who do not transport oil as their primary business.

Associate Members are assessed a one time initiation fee of \$5,000 on a per company basis when joining Chadux. An annual fee is assessed to offset the costs of operating the corporation. The Board determines the annual fee and, if an Associate Member chooses, the annual fee can be paid in quarterly installments. The current Associate Member rate sheet is attached.

Chadux provides access to a variety of oil spill response equipment located at several response equipment depots throughout Prince William Sound, Southcentral and Western Alaska. In addition, Chadux maintains response service contracts for emergency response labor, wildlife and logistics support.

Associate Members can access Chadux response services 24 hours a day and can request those services be provided on a statewide basis.

### **SB 273 Issues**

➤ The Board anticipates if an increase in the number of Associate Members does not require a substantial addition to capital and operating expenses, it is likely there will be a decrease in the current Associate Member fees.

➤ If new Associate Members request seasonal and trip rates, the Board will consider those rate options.

### **Summary**

Chadux is a member-owned non profit corporation. Chadux has evolved over the past 7 years to provide oil spill response services statewide. During this time, membership has grown to include non-tank vessels. Chadux will continue to accommodate non-tank vessel operators that are required to have oil spill response plans with an Associate Membership category in the corporation.

Alaska Chadux Corporation stands ready to accept new Associate Members and to assist them with meeting their oil spill response compliance needs.



ALASKA CHADUX  
CORPORATION

FEE EXAMPLES


BASED ON ASSOCIATE MEMBER  
RATES FOR 2000

This schedule is provided as an example of fees for four different vessel capacity scenarios. Examples are based on the Chadux Associate Member rates for 2000. Associate Member rates are assessed annually. Members may elect to pay the annual fee in quarterly installments.

Vessel Capacity In Gallons	RATE SCHEDULE Annual Fee for Vessel Capacity	INITIATION FEE One-Time Initiation Fee Per Company	Quarterly	YEAR 1		YEAR 2	
			<u>one vessel</u>	<u>Assuming one vessel</u>	<u>Assuming two vessels</u>	<u>Assuming one vessel</u>	<u>Assuming two vessels</u>
10,001-50,000	\$3,000	\$5,000	\$750 **	\$8,000 *	\$11,000 *	\$3,000	\$6,000
150,000-200,000	\$8,000	\$5,000	\$2,000 **	\$13,000 *	\$21,000 *	\$8,000	\$16,000
600,000	\$12,000	\$5,000	\$3,000 **	\$17,000 *	\$29,000 *	\$12,000	\$24,000
1,000,000	\$16,000	\$5,000	\$4,000 **	\$21,000 *	\$37,000 *	\$16,000	\$32,000

**Footnotes:**

- \* Includes one-time initiation fee of \$5,000
- \*\* Annual dues may be paid quarterly. The initiation fee is a one-time cost and is not included in the quarterly payment option.

 <b>ALASKA CHADUX CORPORATION</b>	<b>ASSOCIATE MEMBER FEE SCHEDULE</b>
---	--

### Facility Fee Schedule for Associate Members

<b>Application Fee</b> \$500.00 <i>Applied to initiation fee upon acceptance into the Alaska Chadux Corporation.</i>	<b>Initiation Fee</b> \$5,000.00 <i>Due upon acceptance into the Alaska Chadux Corporation</i>
<b><u>Annual Facility Capacity</u></b> <i>Based on total capacity of storage</i>	<b><u>Annual Facility Fee Amount</u></b>
0-1,000 bbl	\$500.00
1,001 - 5,000 bbl	\$1,000.00
5,001 - 10,000 bbl	\$4,000.00
10,001 - 25,000 bbl	\$6,000.00
> 25,001-35,000 bbl	\$8,000.00
Each addition 10,000 bbl > 50,000 bbl	\$1,000.00

### Barge/Vessel Fee Schedule for Associate Members

<b>Application Fee</b> \$500.00 <i>Applied to initiation fee upon acceptance into the Alaska Chadux Corporation.</i>	<b>Initiation Fee</b> \$5,000.00 <i>Due upon acceptance into the Alaska Chadux Corporation</i>
<b><u>Annual Barge/ Vessel Capacity</u></b> <i>Based on total capacity of storage</i>	<b><u>Annual Barge/ Vessel Fee Amount</u></b>
0-1,000 gal	\$500.00
1,001 -5,000 gal	\$1,000.00
5,001 - 10,000 gal	\$2,000.00
10,001 - 50,000 gal	\$3,000.00
50,001 - 110,000 gal	\$4,000.00
110,001 - 150,000 gal	\$5,000.00
150,001-200,000 gal	\$8,000.00
Each additional 100,000 gal > 200,000 gal	\$1,000.00

This is the current rate structure for Associate Members in Alaska Chadux. The Board of Directors sets the rates annually. These rates are subject to change.



750 W 2nd Ave #109, Anchorage AK 99501 Ph. 907-258-6171 Fax 907-258-6177

P.O. Box 22131, Juneau AK 99802 Ph. 907-463-3366 Fax 907-463-3312 unite@akvoice.org

---


### SB 273 ~ OIL SPILL RESPONSE: NONTANK VESSELS & RAILROADS

TO: House Resources Members  
FROM: Susan Schrader, Conservation Advocate  
DATE: April 12, 2000

Alaska Conservation Alliance and Alaska Conservation Voters are sister nonprofit organizations dedicated to protecting Alaska's environment through public education and advocacy. Our 40 member organizations represent over 21,000 registered Alaskan voters. Many of our members in Southeast Alaska are concerned with the issue of cruise-ship related pollution while our members in the Rail Belt would like to see the Alaska Railroad Corporation improve their record in respect to oil and other hazardous material spills. Thus, we were pleased to see the introduction of SB 273 and support its requirement that nontank vessels and the railroads have financial assurance and contingency plans that meet response planning standards that are consistent with those of other industries that handle petroleum in this state.

- Currently, most oil spills in our state waters are from nonregulated carriers.
- The Alaska Railroad Corporation has had 89 spills of fuel in recent years for which they did not have a prepared spill contingency plan, the most recent occurring near Gold Creek in December, 1999, where the railroad spilled 125,000 gallons of jet fuel. The railroad has had great difficulty cleaning up this spill and has recovered less than 15,000 gallons to date.
- SB 273 will help the railroad workers do a better job protecting the environment by providing tools and training for their workers to adequately address oil spill responses.
- SB 273 brings nontank vessels and railroad fuel trains under the umbrella of financial responsibility requirements so the state does not have to pay for their cleanups.

This much-needed legislation fills a large gap in the state's efforts to protect our natural resources that so many Alaskans depend upon for subsistence activities, recreational uses and economic livelihoods. We encourage all legislators to support SB 273.

  
Susan Schrader, Conservation Advocate

Conserve Alaska. It's Only Natural.

Submitted by:

D.E.C.

# Spill Safety Net Legislation

400 Gross Ton Vessels and Bulk Oil Rail Tank Cars

---

## Questions and Answers

### What would be covered?

- Vessels operating in Alaska over 400 gross tons. This would include vessels such as the cruise ships, Alaska State Ferries, cargo ships, large fish processors and trawlers. Government owned and operated vessels not engaged in commerce would be exempt.
- Railroads transporting bulk oil in rail cars.

### Why expand the safety net?

- To increase protection of the environment and Alaska's valuable natural resources by improving efforts to prevent spills, ensure preparedness and response and provide financial responsibility for resource damages.
- To reduce the impacts and liability when a spill does occur.
- To provide a better response at a lower cost through a broadening of the membership base for participation in Alaska's spill cooperatives.

### Why cover vessels greater than 400 gross ton carrying oil as fuel?

- These vessels may carry more volume than some regulated vessels and pose a comparable or in some cases greater risk. Some vessels also carry persistent products that can be more difficult to contain, control and cleanup than crude oil.
- Nontank vessels have been involved in significant spill events on the Pacific West Coast. These have included, the Kuroshima, New Carissa, Milos Reefer, and the Redfin.

### Why cover the railroad?

- The Alaska Railroad has had three train derailments since 1992 and three spills in the last four months. The largest incident spilled 167,000 gallons and there were two recent spills of approximately 125,000 and 12,450 gallons.

### How would nontank vessels and the railroad be covered?

- Operators of vessels over 400 gross tons and the railroad would be required to prepare an Oil Discharge Prevention and Contingency Plan that identifies the prevention and response equipment, personnel, and response resources needed to respond to a worst case oil spill.
- Proof of financial responsibility would be required, based on the maximum oil carrying capacity.
- Spill drills and inspections would be required.

### Alternative compliance options:

- The bill allows DEC to adopt alternative ways to achieve equivalent levels of spill prevention and response in place of certain contingency plan requirements in the bill.
- Alternative compliance would be determined through the negotiated rulemaking process. The process may include establishing a workgroup of stakeholders, industry, agencies and other interested parties to assist in development of these regulations.

### What proof of financial responsibility would be required?

- A vessel operator or owner and the railroad would be required to demonstrate proof of financial responsibility.

### When would these new laws take effect?

- September 1, 2000, to provide proof of financial responsibility and to conduct inspections.
- June 1, 2001, for an Oil Discharge Prevention and Contingency Plan to respond to a spill.

# Spill Safety Net Legislation

400 Gross Ton Vessels and Bulk Oil Rail Tank Cars

---

---

## Frequently Asked Questions:

### 1. Why did the bill exempt public vessels?

The draft exempted public vessels to be consistent with federal law. OPA 90 exempts public vessels not engaged in commerce. There are very few Navy, NOAA and U.S. Coast Guard vessels that routinely operate in Alaska. While in Alaska, the Navy Supervisor of the Salvage Response Team located at Fort Richardson provides for oil spill emergency response.

### 2. Does the ADF&G, Dept. of Public Safety or the University have any public vessels greater than 400 gross tons?

Our research to date reveals that the Department of Public Safety has one vessel >400GT:

<i>Agency</i>	<i>&gt;400GT</i>	<i>Vessel Name</i>	<i>GT</i>
ADF&G:	No.	Media,	246 GT
U of A:	No.	Alpha Helix,	297 GT
DPS:	Yes.	Stimson,	716 GT
	No.	Woldstad,	305 GT

### 3. Can tonnage be manipulated?

Yes, on smaller vessels tonnage can be reduced by removing walls, hatches or bulkheads and replacing them with temporary doors or walls. However, these changes are somewhat permanent and can not be easily accomplished without involvement of a survey.

### 4. Why is California's financial responsibility amount different from what Alaska is proposing?

The California legislature set their financial responsibility amounts by referring to actuarial tables. California used the 95<sup>th</sup> percentile of all spill sizes and the 95<sup>th</sup> percentile of all spill damages (in dollar amounts). They are confident that \$300,000,000 will cover at least 95 percent of all damages resulting from 95 percent of all spill sizes. The proposed amounts for Alaska are consistent with those established in the 1990 legislation.

### 5. Is financial responsibility required by the Oil Pollution Act (OPA 90) and if so how much is required for nontank vessels?

Financial responsibility, for nontank vessels over 300 gross tons, is required by OPA 90 and CERCLA. The amount for a nontank vessel over 300 gross tons is \$600 per gross ton. Vessels of 300 gross ton. or less using waters of the U.S. to transship or lighter oil destined for a place subject to U.S. jurisdiction must also meet Federal financial responsibility requirements.

### 6. Can the financial responsibility requirements under the Oil Pollution Act or under other West Coast states be used to satisfy the Alaska requirement?

The same evidence that an operator uses to satisfy OPA 90, CERCLA or other West Coast State Laws may also be used to satisfy Alaska requirements. However, there is no reciprocity provision among the various jurisdictions to accept another's approval certificate because the standards and dollar amounts differ.

# Spill Safety Net Legislation

400 Gross Ton Vessels and Bulk Oil Rail Tank Cars

---

---

**7. Should the legislation require a "qualified individual" be designated?**

Existing contingency plan regulations in 18 AAC 75, Article 4 require that an Incident Command System (ICS) be identified. Under the ICS a specific person must be designated as the Incident Commander to run the ICS. The Incident Commander is responsible for responding to the discharge and notifying government agencies of the discharge. The regulations also require a signed statement by senior management, committing the resources necessary to implement the plan.

**8. How is Best Available Technology (BAT) defined and when would it apply?**

Alaska Statutes AS 46.04.030(e) require that an oil discharge prevention and contingency plan provide for use of "the best technology that was available at the time the contingency plan was submitted or renewed." DEC has established in regulation three ways to demonstrate use of best available technology, depending on the type of technology involved and its purpose. Spill response technology must be appropriate and reliable for its intended use as well as the magnitude of the applicable response planning standard. Technologies that meet specific performance standards set forth in regulation are considered BAT if they satisfy the performance standard. Finally, other specific practices and technologies are subject to a case-by-case analysis using eight different evaluation factors.

**9. Would it be possible to prepare contingency plans on a fleet basis?**

Yes. This is already being done for tank vessels and oil barge fleets. In addition, operators such as Tesoro and Williams Petroleum Company have spot charter plans and financial responsibility for Cook Inlet that specify a designated vessel route and a generic vessel size.

**10. Would an operator have to belong to more than one spill co-op in the same area?**

Only if a designated co-op did not have sufficient resources to satisfy their Response Planning Standard. A plan holder can contract with as many coops as necessary for the response resources need. Existing coops are already equipped to satisfy the planning standards of tank vessels or oil barges, which are generally larger than the currently non-regulated vessels that would be covered by this legislation.

**12. Are contingency plans required for nontank vessels under the Oil Pollution Act?**

No.

**13. How difficult would it be to obtain a complete listing of all response equipment in the state?**

Efforts are now underway in Alaska to standardize terminology for spill response equipment and include all equipment inventories in one statewide database that would be used by all parties. At this time inventories are kept by individual organizations and spill cooperatives and are in different formats and organization. A state of the art database has been developed by the crude oil industry that will be used in Alaska in cooperation with state and federal agencies and Alaska's spill cooperatives. Once this project is completed all equipment inventories will be readily accessible and eliminate the current need to access individual inventories to get information.

**14. How are the response planning standards under OPA structured?**

For vessels carrying oil as primary cargo, oil recovery standards have been established under a three tiered system based on the total volume of oil carried, area of operations and the type of oil carried. Tiers 1, 2, and 3 require a

response capability to recover a calculated percentage of the vessel's oil cargo capacity, measured in barrels per hour, to arrive at the spill within 24, 48 and 72 hours, respectively.

**15. How are the response planning standards under OPA different than Alaska's response planning standards?**

OPA 90 vessel response plans (VRP) use a different method to derive a response planning standard for the minimum amount of response resources required. VRP's measure resources based on the time equipment must arrive on-scene, while Alaska's system requires oil to be recovered by specific times. OPA 90 planning standards are

# Spill Safety Net Legislation

## 400 Gross Ton Vessels and Bulk Oil Rail Tank Cars

---

generally more restrictive for smaller vessels and less restrictive for the large tanker vessels. Response planning requirements under OPA 90 are a maximum of 10,000 barrels per day under Tier 1 (24 hour response) while the State does not specify a maximum.

### **16. What equipment does the state have and where is it located?**

- DEC has developed local community spill response agreements to include and integrate local resources and local knowledge into the state response. These agreements are used to identify what equipment is needed at the local level to respond to oil spill risks posed in their area so an immediate response can be initiated using prepositioned equipment.
- DEC has prepositioned response conex containers at 13 locations in the Southeast, 11 sites in Southcentral and Southwestern, and 3 in Northern Alaska. Each conex contains a variety of sorbent materials, rope mop skimmers and personal protection equipment. In addition, the Southeast conexes contain 1000 feet of on-water boom.
- The state also has areawide communication systems in those areas of the state with a catastrophic spill potential.
- The state also has a response ferry that provides an expanded communications capability as well as operates as an Incident Command System to manage a spill. Other state-operated ferries may also be called upon to provide support services such as berthing and forward staging platforms for work crews.

# Spill Safety Net Legislation

400 Gross Ton Vessels and Bulk Oil Rail Tank Cars

---

## Streamlined Contingency Plans for Nontank Vessels

### What is a contingency plan?

- A contingency plan is the document that defines how you will prevent, prepare and respond to a spill.

### Why use the negotiated rulemaking process to define the contingency plan requirements?

- The negotiated rulemaking process is a collaborative process which includes all stakeholder interests and concerns.
- This process allows for consideration of innovative, cost effective and efficient alternatives.
- Due to the number of vessels covered, use of this process is critical to developing an efficient alternative to the existing complex and lengthy contingency plan requirements.

### Will the nontank vessels have to develop contingency plans similar to the crude oil tankers?

- No. The ultimate format and requirements for a nontank vessel contingency plan will be developed via the negotiated rulemaking process; however, it is clear that a system must be developed which reduces the administrative burden on the planholder, and the agency.
- Historically Alaska' crude oil vessel contingency plans have been lengthy, complex documents which were created to address the catastrophic risk potential for the large crude oil industry.
- It is expected that nontank vessels contingency plans will not be lengthy documents. Rather the documentation will focus on key spill prevention and response issues such as: a demonstration of financial responsibility, certification of membership in a spill response co-operative, and a prevention program.

### Why Streamline the Contingency Plans for Nontank Vessels?

- Because of the number, highly mobile nature, need for unfettered movement in Alaska's waters and desire for a less burdensome means for participating in the safety net, the contingency plan process will need to be streamlined.
- The fundamental goal of the legislation is expand the spill safety net. The goal is not to develop lengthy written contingency plans. Membership in a cooperative, and certification of financial responsibility will go a long way in improving Alaska's spill prevention and response system.
- The contents of a contingency plan will need to take into consideration the number of nontank vessels covered, the need to minimize paperwork burdens on small operators and the need for a rapid approval process.

### What type of streamlining options could be considered?

- "Plan by Rule". This approach sets regulatory standards for spill prevention and response to be met by all nontank vessels of a certain class. With a "Plan by Rule" approach, you would simply need to certify that the standards for your vessel have been met.
- Spill Co-operative to provide the Spill Response Action Plan (RAP). Allowing membership in spill co-ops to satisfy the response-planning standard eliminates the need for individual plans to address the RAP requirements in their plan. Under this model a vessel owner may simply need to belong to a spill co-operative to cover their response needs, outline their prevention measures, and provide proof of financial responsibility.
- Spill Co-operatives to provide a "full-service" solution; this is typically referred to as the "fire house" model. Potentially, market forces will provide enough incentive for spill co-ops to become the plan holder or provide a full spectrum of spill prevention and response services. Under this model a vessel owner may simply need to belong to a spill co-operative and provide proof of financial responsibility.
- Certification of plan existence. This approach would eliminate the agency review of each plan. The vessel owner would simply need to certify that the plan exists. Compliance verification would occur through drills and inspections.
- Fleet plans or other existing contingency plans that meet minimum requirements may be considered as acceptable substitutes.

# Spill Safety Net Legislation

400 Gross Ton Vessels and Bulk Oil Rail Tank Cars

---

---

## Negotiated Regulations Work Process

**May 2000**

### **“Kick-off”**

- Negotiated regulation making process is governed under AS 44.62.710-44.62.800.
- DEC Commissioner announces negotiated regulations process will be used to develop the proposed regulations
- DEC will select a Committee Chair (SPAR Director) and department representative (SPAR, IPPP Manager)
- DEC Commissioner selects a Facilitator to conduct Committee discussions and negotiations to achieve consensus.<sup>1</sup>
- DEC will assign several technical and administrative support staff to assist the facilitator complete the process.

**June 2000**

### **“Establish Committee Procedures”**

- Meetings will be public noticed and open to the public.
- Committee meetings will be taped and may be transcribed if determined to be appropriate by the Facilitator and Chair.
- Consensus is the Committee’s goal.

**July 2000**

### **“Establish Committee Procedures and Committees Needed”**

- Notify general public and list of potential interested parties and stakeholders of the opportunity to apply for appointment on Committee.
- Request specific industries/stakeholders nominate primary and backup representatives to the Committee (eg, fishing industry, cruise lines, dry cargo transporters, railroad, Coast Guard, regional citizen advisory groups, others)
- DEC Commissioner selects final Committee members.

**Aug. – Dec. 2000**

### **“Complete Committee Work in Process”**

- Kick off Committee work sessions (after main tourism and fishing season to ensure full participation).
- Determine if subcommittees should be formed to focus on specific industry types (ie, railroad, cruise ships, fishing vessels, cargo vessels, others).

**Jan. 2001**

### **“Develop Draft Regulations”**

- Proposed Draft regulations will be public-noticed and comments requested no later than March 2001.
- All public comments will be responded to in writing by the department.

**Feb. 2001**

### **“Committee Reports to Commissioner”**

**Mar. 2001**

### **“Commissioner Reports to Legislature”**

<sup>1</sup> Facilitator Selection Criteria: Impartiality, knowledge of Alaska spill prevention and response network, experience in managing work groups and building consensus.

# Spill Safety Net Legislation

400 Gross Ton Vessels and Bulk Oil Rail Tank Cars

---

---

Aug. 2001	Regulations Adopted by the Commissioner and forwarded to Department of Law and Lieutenant Governor.
Jan. 2002	"Commissioner Reports to Legislature"
Apr. 2002	Effective Date





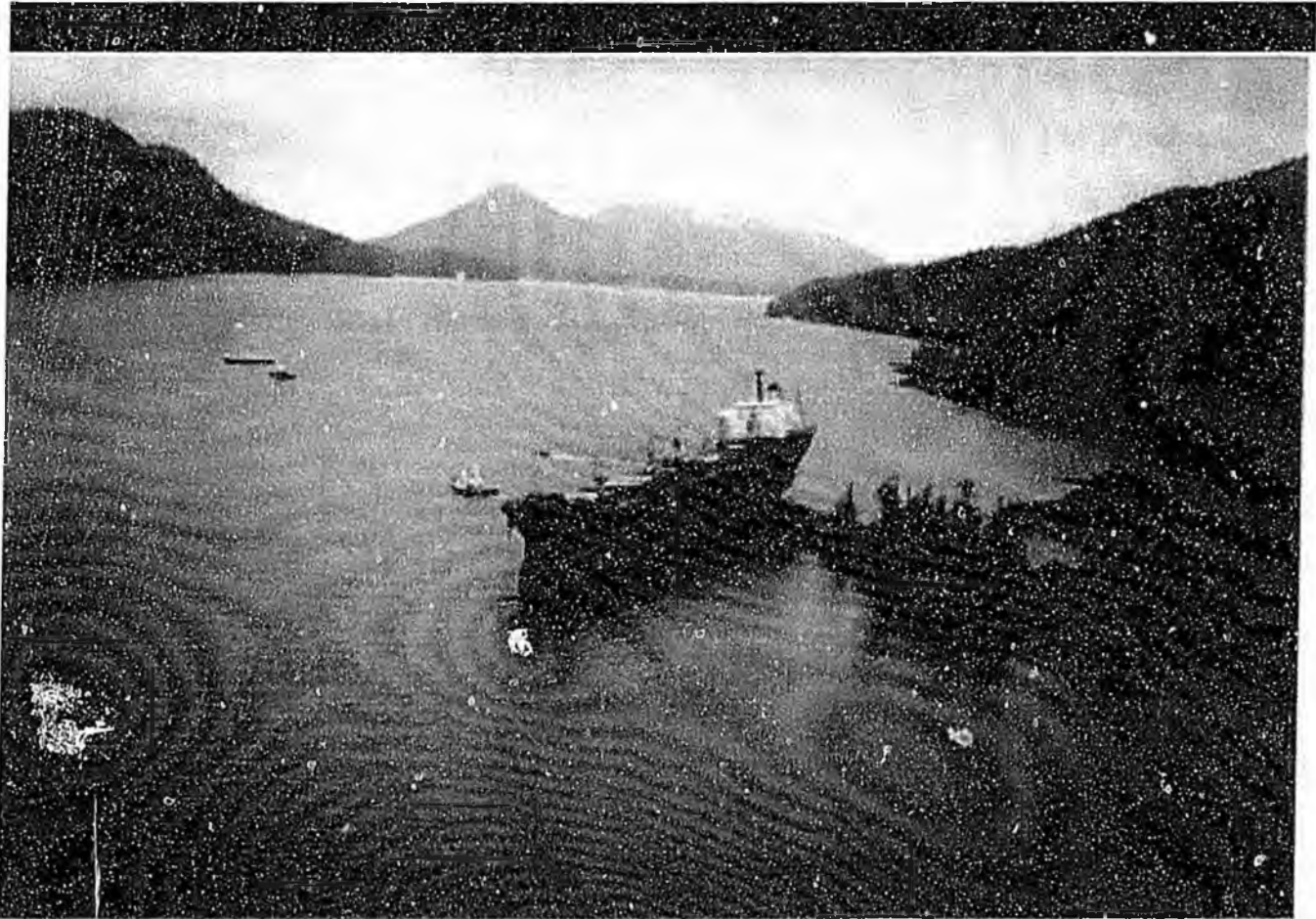
Fisheries and Oceans  
Canada  
Coast Guard

Pêches et Océans  
Canada  
Garde côtière

Canada

[HOME](#) | [SEARCH](#) | [SITE MAP](#) | [FRANCAIS](#) | [FEEDBACK](#)

# M/V BOVEC



[^ RETURN TO TOP](#)

*Last Updated: 04/01/00*

*prepared + submitted by:  
Sen Pearce*



Fisheries and Oceans  
Canada  
Coast Guard

Pêches et Océans  
Canada  
Garde côtière



[HOME](#) | [SEARCH](#) | [SITE MAP](#) | [FRANCAIS](#) | [FEEDBACK](#)

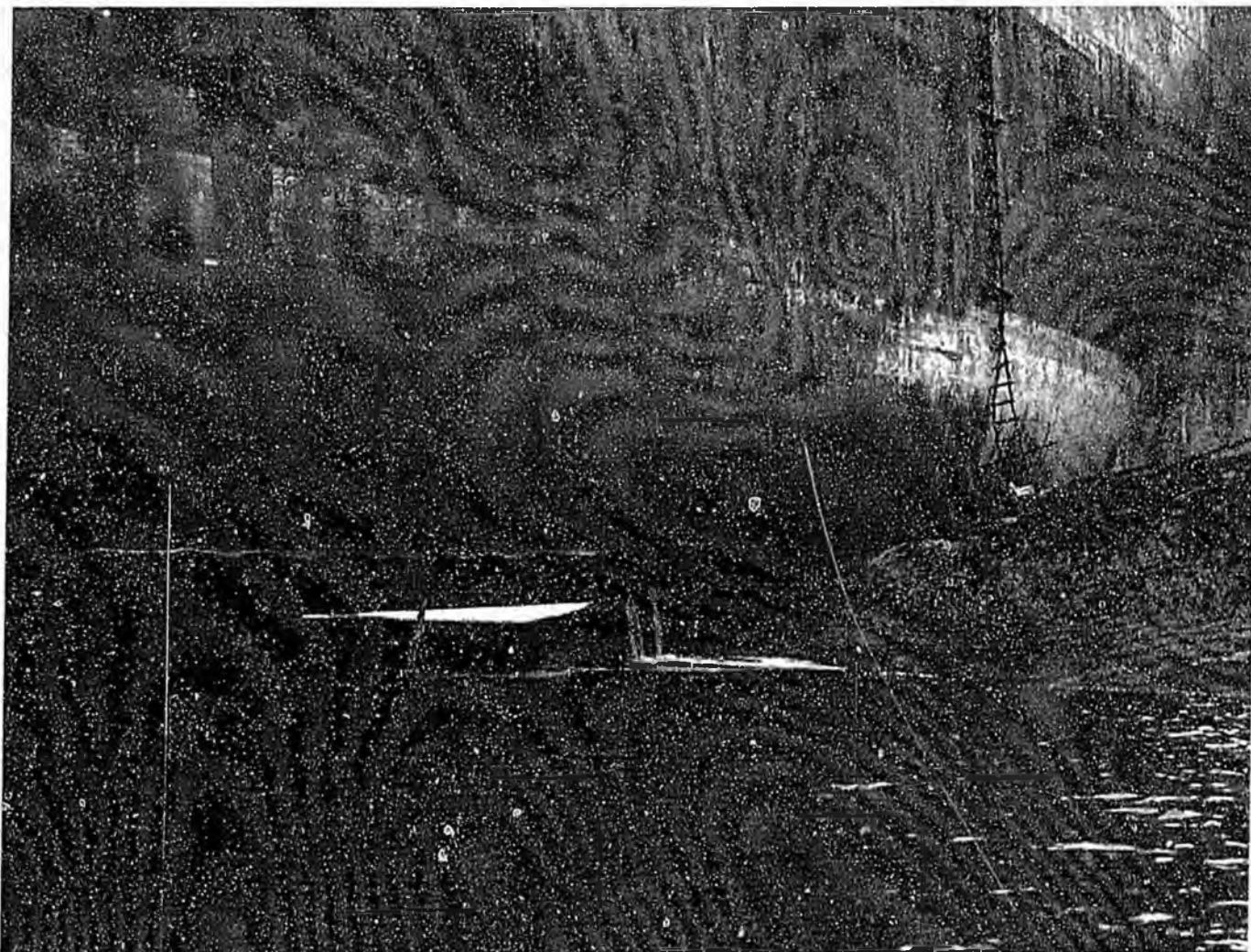
# M/V BOVEC



[^ RETURN TO TOP](#)

*Last Updated: 03/24/00*

# M/V BOVEC



[^RETURN TO TOP](#)

*Last Updated: 03/25/00*

## SUMMARY OUTLINE, LETTERS OF DOCUMENTATION

The attached documents provide examples which illustrate the need for reform within Alaska's system of pilotage. The following briefs were prepared to highlight each of the documents pertinent information.

- I) **Kuroshima Grounding** This letter points to the fact that during the Kuroshima investigation it was discovered the ship moved twice prior to the grounding without a pilot aboard. The first movement without a pilot was made before the ship was in an extremist situation. The USCG report raises two significant questions that have yet to be answered. First, why did this ship move without a pilot? Second, if a pilot had been called, could this accident have been prevented?
- II) **Prompt Notification of Hazardous Conditions** This letter reminds the agents of their responsibility to report hazardous conditions, as per 33 CFR 160.215. The USCG recognizes that this reporting assists in the prevention of marine casualties.
- III) **Jacha Investigation** This USCG report concerning the MV Jacha serves an example of a marine casualty which went unreported and further states that the company may have lied about any wrongdoing. Additionally, item 12 of the findings of fact raises the possibility that there may have been an oil spill. This narrative is an example of why vessels should be monitored at all times while in State waters, as well as the need for someone to be responsible for such reporting.
- IV) **Multiple Ship Movements W/O Pilots** This investigation is an example of ships moving without pilots with the agents knowledge. This USCG report illustrates the effect an agents decisions can have on the safety of shipping, and is an example why the agents decision making process should be regulated by this State.
- V) **Warning Letter** This letter was issued to a vessel operator stating the USCG's "grave concern" when ships move without pilots and without notifying pilots in areas where pilots are required. This letter supports the position that the State must take action to prevent this sort of activity from continuing.
- VI) **USCG Requests Agents Support** This letter identifies the fact that agents have a shared commitment to the maritime community and for their part, must ensure the vessels they manage have the appropriate charts aboard.
- VII) **Severe Weather Advisory** This letter illustrates the agents role and responsibility in the transmittal of information vital to the safety of shipping. This document illustrates the agents responsibility as a primary courier of information between parties.

compiled + submitted by:  
Sen. Pearce

U.S. Department  
of Transportation

United States  
Coast Guard



Officer in Charge  
Marine Inspections  
Western Alaska

510 L St, Ste 100  
Anchorage, AK 99501-1946  
Phone: (907)271-6770

RECEIVED

COG. 970126 11 2 1997

5732

97016851

January 1, 1998

Board of Marine Pilots  
Attn: Mr. Peter Christensen  
Department of Commerce and Economic Development  
PO Box 110806  
Juneau AK 99811-0806

Dear Mr. Christensen:

As you are aware, the M/V KUROSHIMA (IMC No. 8710699) grounded in Summers Bay, Unalaska Island, Alaska on November 26, 1997. During the Coast Guard investigation it was determined the vessel got underway from anchorage and reanchored without a state licensed pilot on board on the morning of November 26, 1997. Both anchorages were to the north of Second Priest Rock and were located in compulsory pilotage waters as defined by 12 AAC 56.100(8). See Enclosure 1. The vessel shifted position in the morning due to pending heavy weather and the fact the anchor was dragging. Early in the afternoon of November 26, 1997 the Master made preparations to get the vessel underway from anchor, again without a pilot on board, due to the anchor dragging. Our investigation has also determined the Master did not notify the vessel agent, Alaska Maritime Agencies, or the Alaska Marine Pilots of his intentions to move the vessel on either occasion.

The vessel is 4160 gross tons freight ship and is registered in the Republic of Panama. The operator of the vessel is Kyokuyo Shipping Co., Ltd., Nitochi-Nitonbashi Building, 3-6, 2-Chome Nihonbashi, Chud-ku, Tokyo 103, Japan. The Master was Yuji Kamezaki, who was sailing on a license issued by the Republic of Panama.

Please contact the assigned Investigating Officer, LT Alan Blume, at 907-271-6726 for any additional information you might require.

Sincerely,

A handwritten signature in black ink, appearing to read "E. P. Thompson".

E. P. THOMPSON  
Captain, U. S. Coast Guard  
Officer in Charge, Marine Inspection  
Western Alaska

Encl: (1) Figure showing anchorage positions  
(2) M/V KUROSHIMA deck log for November 26, 1997

OC  
PO  
CI

U.S. Department  
of Transportation

United States  
Coast Guard



MSO Anchorage  
United States Coast Guard

510 L Street, Suite 100  
Anchorage, AK. 99501  
Staff Symbol: CID /  
Phone: (907) 271-6712  
FAX: (907) 271-6751

16700  
12-Jan-98

Mr. Robert Arts  
Vice President  
Alaska Maritime Agencies  
4341 E Street, Suite 101  
Anchorage, AK 99503

Dear <sup>Bob</sup> Mr. Arts:

Due to recent events in the Western Alaska area, I want to re-enlist your support with respect to prompt notification of hazardous conditions involving vessels that your agency represents. Prompt notice may greatly assist in the prevention of casualties.

Hazardous Condition reporting requirements in 33 CFR 160.215 state "Whenever there is a hazardous condition either aboard a vessel or caused by a vessel or its operation, the owner, agent, master, operator, or person in charge shall immediately notify the nearest Coast Guard Marine Safety office or Group office." A hazardous condition is defined in 33 CFR 160.203 as any condition that may adversely affect (1) the safety of any vessel, bridge, structure, or shore area or (2) the environmental quality of any port, harbor, or navigable waterway in the United States. It may - but need not - involve a collision, allision, fire, explosion, grounding, leaking, damage injury or illness of a person aboard, or a manning shortage. Examples of hazardous conditions that would have to be reported include, but are not limited to:

- Main propulsion problems
- Power outages
- Nonfunctioning/improperly functioning radar
- Steerage malfunctions
- Generator/Emergency Generator malfunctions
- Lifeboat motors will not start
- Inability to lower lifeboats
- Excessive wastage, corrosion, pitting, holes or damage to the hull, cargo hatch covers, tanks, cargo piping, firemain or other vital systems

Thank you for your assistance in preventing marine casualties in Western Alaska. If you have any questions, please call my Chief of Inspections, LCDR Eric Walters, at 271-6712.

Sincerely,

*Bill*

W. J. HUTMACHER  
Captain, U.S. Coast Guard  
Officer in Charge Marine Inspection, Western Alaska

OPTIONAL FORM 39 (7-80)

FAX TRANSMITTAL

# of pages 1 of 1

To <i>Capt. Tom Dundas</i>	From <i>CG MSO ANCHORAGE</i>
Coord./Agency <i>ALASKA MARINE PILOTS</i>	Phone # <i>271-6700</i>
Fax #	Fax #

GENERAL REGISTRY ADMINISTRATION

## JACHA NARRATIVE

1. Summary: The M/V JACHA, a Panamanian flagged, South Korean owned and operated. NKK classed, refrigerated cargo ship was in the Toksook Bay, Alaska area on 10 June 1999 completing loading herring and then travelling to Norton Sound, Alaska to load more cargo. At approximately 1945 on 10 June, JACHA was beginning to enter an area with a significant number of ice floes. According to the Master, as the vessel tried to travel between what he thought were two floes, he rammed some ice, discovering the two floes were in fact one, connected just beneath the surface. The rest of the trip to Norton Sound occurred in heavy ice, with JACHA arriving on 13 June 1999. JACHA departed Norton Sound on June 22<sup>nd</sup> bound for Japan to offload cargo. After offloading, the vessel went to emergency drydock where there were extensive repairs made to the shell plating at the bow on both sides, the propeller, and rudder.

### 2. Vessel and Cargo Data:

Name:	JACHA
Official Number:	L8512920
Flag:	Panama
Classification Society:	NKK
Service:	Refrigerated breakbulk cargo
Gross Tons:	3264
Net Tons:	1575
Length:	302.5 feet
Beam:	53 feet
Draft:	31 feet
Propulsion:	Diesel Direct
Homeport:	Panama
Owner/Operator:	Operator: Boyang Ltd. 5 <sup>th</sup> Floor, Han-Seo Building 1163-6 Choryang-3 Dong Dong-Ku Pusan, South Korea
License:	Issued by Panama
Cargo:	Frozen fish product

3. Weather: temperature: 50F; wind: East at 4 knots; visibility: unlimited; clear skies; sea ice

### FINDINGS OF FACT

1. M/V JACHA is a Panamanian flagged, South Korean operated, NKK classed refrigerated breakbulk cargo vessel. JACHA departed Pusan, South Korea on 18 May 99 en route to Alaska. The vessel arrived in Togiak, Alaska on 26 May 1999. On June 4<sup>th</sup>, JACHA left Togiak and went to Toksook Bay, Alaska. On June 10<sup>th</sup>, JACHA left Toksook Bay bound for Norton Sound, Alaska.
2. The pilot who took JACHA out of Toksook Bay was John Schibel. He advised the master of JACHA that there was sea ice to the north and advised JACHA to take a southerly course around Nunivak Island to make transit through the sea ice easier. He reported no ice damage at the point where he departed the vessel at approximately 0930 on 10 June 1999.
3. On 10 June 1999 the master reported after dropping off the pilot that throughout the remainder of the day they encountered steadily increasing sea ice. According to the master at 1945 he was attempting to sail between what appeared to be two large ice floes. In fact, the floes were connected under water and JACHA struck the floes under power. The master reported he immediately backed down.

4. The collision with the ice floe occurred at position N 61 degrees 07 minutes, W 165 degrees 58 minutes. This location is approximately 9 miles offshore from the coast of western Alaska, within the territorial sea of the United States.
5. For the rest of the transit to Norton Sound, which lasted until 13 June 1999, he had to proceed very slowly and in heavy ice. John Schibel reported that vessels following JACHA were able to do so by following the bottom paint scraping JACHA left on ice floes.
6. JACHA stopped and anchored in heavy ice at 2300 on 11 June 1999. During that stop, all the vessel's tanks were sounded and the JACHA's log states there was no damage found. During interviews on 3 September 1999, the Master, Chief Mate, and Chief Engineer all stated they found no damage during this period.
7. JACHA arrived in Norton Sound on 13 June 1999 and was anchored at Besboro Island for loading fish. She remained there until 22 June 1999. On 22 June JACHA departed Norton Sound bound for Ishikari, Japan. On June 21<sup>st</sup>, the pilot who handled JACHA in Norton Sound, Stuart Mork, was on board the DISCOVERY STAR, the processor loading to JACHA, and noted that there was a crack in at the top of the bulbous bow, just inches from the waterline. He also saw shell plating rippled and buckled for many feet aft of the bulbous bow.
8. Thomas Dunatov, the Master of the processing vessel DISCOVERY STAR was tied along side JACHA for 4 days, from 19 through 22 June, in Norton Sound. He stated the Master of JACHA and the other deck officers were aware of damage to the hull. The Master of JACHA was on DISCOVERY STAR one day in Norton Sound and both he and Mr. Dunatov saw and discussed damage to his bow. The Master of JACHA had been concerned about going through an area where there was sea ice, stating en route to Norton Sound that their hull was made of inferior grade steel. Mr. Dunatov also stated he later spoke to Boyang's Port Engineer in Port Moller, Mr. Lee, who stated that JACHA had ice damage and would go into emergency drydock as soon as they offloaded cargo in Japan.
9. At Ishikari, JACHA did a partial offload. She departed Ishikari on July 5<sup>th</sup> and arrived later that same day at Rumoi, Japan. While at Rumoi, JACHA completed her offload. The Master stated that it was not until the vessel was in Rumoi and enough of the cargo removed that the bulbous bow was out of the water that he could tell there was damage. He and the Chief Engineer insisted that during their entire transit they experienced no significant vibration.
10. The emergency drydock of JACHA revealed extensive damage in a number of locations. The bulbous bow was smashed, much of the shell plating in the bow needed to be replaced, the rudder required adjustment, as well as the repair of a crack at the top of the No. 1 Starboard Fuel tank. JACHA entered dry dock on July 12<sup>th</sup> and left on July 22<sup>nd</sup>.
11. The Coast Guard received no report of the incident of June 10<sup>th</sup> involving the JACHA. The incident was first brought to the Coast Guard's attention by Stuart Mork, the pilot who saw the vessel damaged. JACHA has still yet to file a report of marine casualty.
12. The damage to the hull and a crack in one of the fuel tanks raised the possibility there may have also been an oil spill. Initial review of the vessel's sounding records and oil record book indicated there was a discrepancy of 40 metric tons. Further review of the records, discussion with JACHA's officers, and the vessel's agent revealed the missing fuel was fuel not reported to the company in order to ensure the ship did not run out of fuel.

#### CONCLUSIONS:

1. The report of Survey from Nippon Kaiji Kyokai, the classification society for the JACHA reveals extensive damage to the vessel. The amount of damage far exceeds \$25,000. The collision with the

ice floe that is the purported cause of the damage occurred within the territorial sea of the United States. Under 46 C.F.R. Section 4.05(a)(7) this was a reportable marine casualty.

2. No report of this casualty was ever made to the Coast Guard.
3. The extensive damage to the hull, as well as damage to the propeller, created a situation where the JACHA was seriously at risk. The vessel continued to load in a damaged condition in U.S. waters for 12 days. The vessel never reported these conditions to the Coast Guard as required by 33 C.F.R. Section 160.215.
4. While the master of the vessel and his chief officers denying knowing of the damage to their vessel, I discount their assertions for the following reasons. They and their company potentially face a substantial penalty for failing to report the collision and the damage it caused. The ship took several hours the following day to sound all the tanks in the vessel, an uncommon event for a ship en route to a destination to pick up cargo. Finally, other witnesses stated the JACHA's officers were aware of the damage.

#### RECOMMENDATIONS

1. Recommend a civil penalty case against the operators of JACHA for failure to report a marine casualty.
2. Recommend a civil penalty case against the operators of the JACHA for failure to notify of a hazardous condition.

Enclosures: (1) Summary of Interview with JACHA Officer, dd 20 Sep 99

(2) Statement from John Schibel, pilot in Toksook Bay

(3) Statement from Stuart Mork, pilot in Norton Sound

(4) Statement from Thomas Dunatov, Master of P/V DISCOVERY STAR

(5) Letter to Japan Ministry of Transport with confirmation receipt

(6) Reply from Japan Ministry of Transport concerning damage to JACHA

(7) Report of Survey from Nippon Kaiji Kyokai, M/V JACHA drydock 12-22 Jul 99

(8) Order for Compliance with Technical Standards-Japan Ministry of Transport

(9) M/V JACHA Voyage 99-03 Daily Work Sheet

(10) PSVH for M/V JACHA

(11) Letter of Undertaking for M/V JACHA

(12) Bridge Logs for M/V JACHA 9 June through 19 July 1999

(13) Tank Sounding Report for M/V JACHA from June and July 1999

(14) Oil Record Book excerpts from M/V JACHA

(15) Tank Sounding Calculations for M/V JACHA made by Trans-Ports International

(16) NOAA Chart 16006 copy showing location of JACHA collision with ice on 10 June 1999

## MONONOK PILOTAGE MCNS

1. On 17 February 2000, MVs JACHA and MABAH were at anchor in Captains Bay, Unalaska Island, Alaska. MV MONONOK was moored at the Offshore Systems Inc dock in Captain's Bay. During the course of that afternoon, the weather began to deteriorate. JACHA and MABAH decided to go to sea rather than wait to see if they could ride out the bad weather at anchor. The winds were blowing from the South, and Captain's Bay runs essentially from north to south. They contacted their agent and requested the agent arrange for a pilot.
2. In the course of talking with the agent, those JACHA and MABAH discussed the fact they were partially full of cargo. Their cargo consists of frozen fish product in boxes stacked within the refrigerated holds of the vessels. The agent expressed concern about possible damage to the cargo in heavy seas. The vessel Captain's and the agent, Mr. Andrew Murphy, determined to contact the Coast Guard Command Center in Juneau and request that the ships be allowed to anchor in a Bay just west of Cape Cheerful. The mountains in that area it was hoped would provide a lee so that the ships would not be subject to the rolling they might otherwise be drifting in the open ocean. Mr. Murphy contacted the Command Center and talked to LT Berry, who was the Command Duty Officer that day. He informed LT Berry of the request and LT Berry later granted permission for the vessel to anchor in their proposed location for weather avoidance.
3. As this was being arranged, MV MONONOK contacted Mr. Murphy and also stated they would be more comfortable riding out the storm at sea rather than remaining at the dock and possibly having to anchor in Captain's Bay later. The agent and the master conferred and they determined MONONOK would anchor in the same vicinity as the other two vessels. MONONOK did not have cargo on board at the time. Mr. Murphy contacted the Command Center again and MONONOK was granted permission to anchor in the same general location for weather avoidance.
4. All three vessels were taken to the pilot station by a member of the Alaska Marine pilots between 1935 and 2120 on 17 February. Neither the masters nor the agent informed the pilots of their intention to anchor around the corner from the pilot station. As a result, the pilots disembarked at the pilot station in Unalaska Bay. JACHA, MABAH, and MONONOK anchored in their proposed locations on their own, without a pilot. They anchored in position N 54.02.30, W 166.43.00. This trip and the anchoring required state licensed pilots according to Alaska law. See Title 12, Alaska Administrative Code, Sections 56.090 and 56.100.

S. P. McCLEARY  
LCDR, USCG  
Investigating Officer

U.S. Department  
of Transportation

United States  
Coast Guard



Supervisor  
United States Coast Guard  
Marine Safety Detachment Unalaska

P.O. Box 920446  
Dutch Harbor, AK 99692  
Staff Symbol:  
Phone: 807-581-3466  
FAX: 807-581-3466

16710  
February 8, 2000

Pacific Ship Management Co. Ltd.  
C/o Alaska Maritime Agencies  
P. O. Box 920105  
Dutch Harbor, Alaska 99692

**received**  
2/10/00

Dear Sir:

It came to my attention that during the night of January 24<sup>th</sup> and 25<sup>th</sup>, 2000, your vessel, MV CHERRY STAR (Official Number L9015840) which was anchored at Hog Island, Unalaska Bay, Unalaska, Alaska, shifted position without a pilot on board and without consulting the pilots concerning the movement.

Vessels engaged in foreign commerce that enter Unalaska Bay are required by the State of Alaska to have a state licensed pilot on board. The state makes determinations concerning pilot requirements in order to improve the navigation safety of vessels in particular areas. The Coast Guard fully supports the state of Alaska's pilotage location requirements. It is a matter of grave concern to the Coast Guard that a vessel moves without a pilot, and without notifying the pilots, in areas where they are required. While the Coast Guard is not responsible directly for the regulation of the pilots themselves, we are responsible for ensuring the safety of the ports of the United States. The Coast Guard believes that movement without a pilot, and without notification of the pilots, in pilotage waters, violates two federal laws: Title 33, Code of Federal Regulations, Section 160.215 requiring notification to the Coast Guard of hazardous conditions, and Title 46, United States Code, Section 2302(a), concerning negligent operation of vessels.

In the future, if your vessel moves without a pilot in an area where one is required, and without having consulted the pilots prior to movement, civil penalty action will be pursued against the ship.

If you send a letter contesting this Letter of Warning, I have the option of withdrawing this letter and forwarding a Report of Violation to Commander, Seventeenth Coast Guard District for appropriate action. Such action, after you have been afforded the opportunity to present evidence, might include dismissal or the assessment of a civil penalty. If no response to this Letter of Warning has been received within 30 days of this date, I will assume that you do not wish to contest this violation.

Sincerely,

A handwritten signature in black ink, appearing to read "S. P. McCleary".

S. P. McCLEARY  
Lieutenant Commander, U.S. Coast Guard  
By direction of the Captain of the Port,  
Western Alaska

U.S. Department  
of Transportation

United States  
Coast Guard



Commanding Officer  
U. S. Coast Guard  
Marine Safety Office Juneau

2760 Sherwood Lane Suite 2A  
Juneau, AK 99801-8545  
Staff Symbol:  
Phone: (907) 463-2450  
FAX: (907) 463-2445

16670

FEB 22 2000

Northstar Maritime  
P. O. Box 102019  
Anchorage, AK 99510

I am writing this letter to express my concern about the increased incidence of deepdraft vessel operators failing to comply with the navigation safety regulations contained in 33 CFR Part 164.33. Specifically, in the course of routine boardings, my inspectors have noted that vessels have navigated far within the internal waters of Southeast Alaska with inadequate charts and in some cases, prior to boarding a licensed Marine Pilot. This poses a significant risk to safe navigation and protection of the sensitive Alaskan marine environment. To address that risk and assist vessel agents and operators, my staff, with input from other marine professionals, has compiled a listing of charts (Enclosure 1) which I consider appropriate for entry into Southeast Alaskan waters and prior to boarding a licensed Marine Pilot.

For vessels greater than 1600 gross tons operating in the navigable waters of the United States, the navigation safety regulations specify in part, that each vessel must have charts that are "of a large enough scale and have enough detail to make safe navigation of the area possible....". This is particularly critical for vessels entering Southeast Alaskan waters and transiting to one of the several pilot boarding stations. Enclosure (1) lists the specific charts I consider necessary for that segment of the voyage. Vessel agents should use this information when coordinating pre-arrival arrangements for a vessel. This list does not relieve the vessel operator from having on board appropriate charts for the remainder of the transit inside Southeast Alaska. Failure to do so could result in vessel movement controls or civil penalty actions.

As Captain of the Port for Southeast Alaska, I am responsible for ensuring safe and environmentally sound maritime operations. To do that effectively, requires a shared commitment by all segments of the maritime community. I appreciate your continued support and ask that you use the information I provided to ensure the vessels you manage have the appropriate charts on board. If you have any questions please contact Lieutenant Jim Bartlett at (907) 463-2444.

Sincerely,

A handwritten signature in black ink, appearing to read "R. C. LORIGAN".

R. C. LORIGAN  
Commander, U. S. Coast Guard  
Officer in Charge, Marine Inspection  
Southeast Alaska

Encl: (1) Navigation Charts Listing

Copy: Southeast Alaska Pilots' Association  
Alaska Coastwise Pilots' Association  
Alaska Marine Pilots Association  
Southwest Alaska Pilot's Association  
MSO Anchorage

received  
3/1/00



Supervisor  
United States Coast Guard  
Marine Safety Detachment Unalaska

P.O. Box 920446  
Dulch Harbor, AK 99632  
Staff Symbol:  
Phone: 907/581-3468  
FAX: 907-581-3468

16670  
18 March 2000

**SUBJ: SEVERE WEATHER ADVISORY**

Reference: COTP Western Alaska Special Operating Guidelines for Severe Weather in the Aleutian Islands

The National Weather Service has issued a "storm warning", for areas 12A, 12A1, 12B, and 13 with winds forecast to 60kts for Saturday March 18, 2000. Wind directions for 12A and 12A1 are S.E., 12B and 13 are N.E.

From 0800 AST Saturday March 18, 2000 through 0800 AST Sunday March 19, 2000, or canceled earlier by this office, the "Special Operating Guidelines for Severe Weather in the Aleutian Islands" are in effect.

All vessel agents are to inform their vessels in port of the upcoming foul weather and ensure the guidelines in the above reference are adhered to.

If you have any questions regarding this advisory or should a hazardous condition arise, contact MSD Unalaska at 907/581-3466 or 907/391-7322.

Sincerely,

S. P. McCLEARY  
Lieutenant Commander, U.S. Coast Guard  
Supervisor  
Marine Safety Detachment Unalaska

Enclosure: NWS Selected Forecast FZAK65 PANC for 181215 March 2000.

## Senate Bill 273

### Response to "Areas of Concern with SB 273" Raised by North Star Maritime Agencies

#### **Proof of Financial Responsibility**

1. *Is direct action required for nontank vessels under SB 273?*

No. SB 273 was amended to not require direct action for nontank vessels.

2. *Will proof of entry in a recognized P&I Club satisfy the proposed requirement for proof of financial responsibility under SB 273 for nontank vessels?*

Yes.

3. *Does SB 273 need to be amended to allow proof of financial responsibility for nontank vessels to be demonstrated by self-insurance, proof of entry of the vessel in a protection and indemnity association or other insurance?*

No.

#### **C-Plan Requirements**

4. *How will nontank vessels meet the response planning standard in remote sites like western Alaska?*

Nontank vessels could meet this requirement using the response framework developed for existing regulated fuel barges and tank vessels in remote Alaska. Nontank vessels may also pursue alternatives to this response framework if they want to form their own spill co-operative or pursue other options.

5. *Do Regional Master Plans establish guidelines by which individual contingency plans will be reviewed?*

No. Guidelines for reviewing individual contingency plans are established in regulation.

6. *Have Regional Plans for Northwest Arctic Borough, Bristol Bay and Western Alaska been completed?*

Yes. Technically these plans were completed and published in 1993 to meet the requirements of the federal Oil Pollution Act of 1990. Since 1993 the state and federal government have developed a Unified Plan that covers all of Alaska. Under this scheme both the state and federal plans are consolidated and regional plans are now called Subarea Plans and are being completed on an agreed upon schedule. The new Subarea Plans for these three areas will be completed this calendar year.

**How can operators/owners develop C-Plans if the guidelines have not been developed**

7. *How can operators/owners develop C-Plans if the guidelines have not been developed?*

Guidelines for review of nontank vessel plans are not included in regional master plans and will be developed consistent with the negotiated rule making process.

8. *Should SB 273 be changed to address various regions and shipping volumes?*

No. Under SB 273 it is intended that this be addressed in the negotiated rule making process so that all shippers may participate in developing solutions to address unique conditions or circumstances. Through the negotiated regulations process, paragraph 46.04.055(f) of the proposed bill provides for changing the standards under (b)(1), including the 15 percent containment standard.

**Actual Response vs. C-Plan Requirements**

9. *Should nontank vessels be able to include response equipment from an existing spill co-op in their C-Plan?*

Yes. By belonging to a spill co-op a nontank vessel is able to use the resources of the spill co-op to meet the response planning standard.

10. *Can contingency plan holders use state or federal equipment to meet their response planning standards?*

No. Using state or federal equipment has not been allowed because neither the state nor federal government has sufficient resources to satisfy the response equipment needs on an equal footing for all operators in the state. Under state and federal law the contingency plan holder bears the cost of preparedness and response equipment. In an actual spill any response assets, regardless of ownership, are used by the Unified Command.

*11. Is a change needed in the bill to allow for identification of spill response resources?*

No. Inventories of spill response equipment are currently available for each co-op.

### **Best Available Technology (BAT)**

*12. How will BAT for response equipment be applied to nontank vessels?*

By definition, BAT for response equipment is met when the plan holder demonstrates that it has access to adequate equipment to meet its response planning standard. This can be done through membership in a spill co-op.

*13. How will BAT for prevention measures be applied to non-tank vessels?*

Prevention measures that meet BAT will be identified in the negotiated rule-making process. These might include but not be limited to such things as: prompt leak detection, rapid communications, stopping a discharge at its source, having a ready towline available, having portable pumps to manage flooding or fuel transfer pumps to remove oil from damaged tanks to other tanks.

*14. What kind of response equipment would be required on board nontank vessels?*

Tank vessels do not currently carry any significant response equipment, such as boom or skimmers, due to space limitations. They depend on their response action contractor. It is expected that nontank vessels would have the same space limitations and would have a similar reliance with a spill co-op or response action contractor.

*15. How did DEC apply BAT to the Non-crude tank vessels under the Alternative Compliance Schedule (ACS)?*

The ACS was developed only for the tank barges and did not apply to the noncrude tank vessels. By definition, BAT for response equipment is met if the plan holder can demonstrate that it has access to adequate equipment to meet its response planning standard. The ACS addressed the need to obtain additional response equipment and

properly positioning that equipment to ensure that the response planning standard could be met in remote areas of the state.

### **C-Plan Preparation and Approval**

*16. How will the costs of carrying out drills required by regulations be considered?*

All drills are currently coordinated to maximize the lessons learned and minimize costs. It is expected that drills testing the response capability would continue to be coordinated with the spill co-ops and that those costs would be reflected in the fees for its members.

*17. How will foreign flag vessels of opportunity be able to comply with the nontank vessel requirements?*

A "plan by rule" with a rapid approval and streamlined process is envisioned for all nontank vessels. This would include the possibility of using ship agents or spill co-ops as the go between for obtaining approvals in a short time frame. The "plan by rule" would act as a contingency plan and be approved consistent with promulgation of the regulations. Compliance with the response planning standard can be met through membership in a spill co-op that has that capability.

*18. How is the "cost of doing business " being considered in the requirements for development and compliance with contingency plans?*

Cost will be considered during the negotiated rule making process. Rates set by Alaska's nonprofit co-ops will be set by private sector market forces and how industry and the spill co-ops develop market driven options.

# FISCAL NOTE

STATE OF ALASKA  
2000 LEGISLATIVE SESSION

BILL NO. SB 273

Revision Date/Time (Note if correction) 04/13/2000

Dept. Affect: DCED

Title Spill response legislation

BRU ARRC

Component \_\_\_\_\_

Sponsor Senator Drue Pearce

Requester \_\_\_\_\_

Component No. \_\_\_\_\_

**Expenditures/Revenues**

Thousands of Dollars

Note: Amounts do not include inflation unless otherwise noted below.

OPERATING EXPENDITURES	FY 2001	FY 2002	FY 2003	FY 2004	FY 2005	FY 2006
Personal Services						
Travel						
Contractual		1,650.0	750.0	750.0	750.0	750.0
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
<b>TOTAL OPERATING</b>	<b>0.0</b>	<b>1,650.0</b>	<b>750.0</b>	<b>750.0</b>	<b>750.0</b>	<b>750.0</b>

<b>CAPITAL EXPENDITURES</b>						
-----------------------------	--	--	--	--	--	--

<b>CHANGE IN REVENUES ( )</b>						
-------------------------------	--	--	--	--	--	--

**FUND SOURCE**

(Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1037 GF/Mental Health						
Railroad		1,650.0	750.0	750.0	750.0	750.0
<b>TOTAL</b>	<b>0.0</b>	<b>1,650.0</b>	<b>750.0</b>	<b>750.0</b>	<b>750.0</b>	<b>750.0</b>

Estimate of any current year (FY2000) cost:

0.0

**POSITIONS**

Full-time						
Part-time						
Temporary						

**ANALYSIS:** *(Attach a separate page if necessary)*

Information attached outlines ARRC's proof of financial responsibility and provides estimates for oil discharge, prevention and contingency plans.

Prepared by: Wendy Lindskoog

Phone 265-2498

Division ARRC

Date/Time 4/13/00 9:53 AM

Approved by Commissioner 

Date 4/13

Agency \_\_\_\_\_

**PREPARER TO PROVIDE ALL DISTRIBUTION COPIES TO GOVERNOR'S LEGISLATIVE OFFICE**

For further distribution information, call the Governor's Legislative Office

SB 273: By Senator Drue Pearce

**Alaska Railroad Corporation Financial Responsibility:**

Over the last several years, the Alaska Railroad corporation has had in place two \$10,000,000 lines of credit. One to meet self insurance requirements and one to meet operational requirements. These credit lines are with two separate national banks. They are currently for one year and are renewable annually. At this time, the lines of credit are whole and have not been drawn on.

The proposed legislation would require the Alaska Railroad to have proof of financial responsibility to respond to damages of approximately \$5,450,000. This amount is derived from a maximum of 100 tank cars per train, multiplied by 545 barrels per tank car, multiplied by \$100 per barrel. Typically, an Alaska Railroad fuel train pulls approximately 50 car loads of fuel.

It is the railroad's intent to use a portion of an existing line of credit as proof of financial ability.

The Alaska Railroad also estimates the following cost for oil discharge prevention and contingency plans:

- 1) Contingency plan development: \$250,000  
Includes mapping, environmental assessment, response needs (personnel and equipment), public involvement, agency review
- 2) Risk assessment: \$400,000  
Includes risk assessment and recommendations by consultants and public review
- 3) Contingency plan implementation: \$1,000,000 - first year, \$750,000 - subsequent years  
Assumes cost of equipment, personnel, training, drills annually

Under Chadux's proposed fee structure

Fishing vessel – Kuroshima (5000 tons of fish) and 200,000 gallon fuel capacity

- $\$550 / 5000 \text{ tons} = 11 \text{ cents per ton}$

Coal Ship – 60,000 tons of coal and 200,000 gallon fuel capacity

- $\$550 / 60,000 \text{ tons} = > 1 \text{ cent per ton}$

Cruise Ship – 2000 passengers x 20 trips over 4 months = 40,000 passengers and 1,000,000 gallon fuel capacity

- $\$6050 / 40,000 = 15 \text{ cents per passenger}$



## ALASKA CHADUX CORPORATION

## ASSOCIATE MEMBER BRIEFING PAPER AND SB 273 ISSUES

### **Purpose**

The purpose of this briefing paper is to provide general information about the Alaska Chadux Corporation (Chadux) Associate Member classification and rate structure.

### **Background**

Chadux has an Associate Member classification for operators who are required to have oil spill response services under contract as a component of their oil spill contingency plan requirements. Associate Members are typically operators who do not transport oil as their primary business.

Associate Members are assessed a one time initiation fee of \$5,000 on a per company basis when joining Chadux. An annual fee is assessed to offset the costs of operating the corporation. The Board determines the annual fee and, if an Associate Member chooses, the annual fee can be paid in quarterly installments. The current Associate Member rate sheet is attached.

Chadux provides access to a variety of oil spill response equipment located at several response equipment depots throughout Prince William Sound, Southcentral and Western Alaska. In addition, Chadux maintains response service contracts for emergency response labor, wildlife and logistics support.

Associate Members can access Chadux response services 24 hours a day and can request those services be provided on a statewide basis.

### **SB 273 Issues**

➤ The Board anticipates if an increase in the number of Associate Members does not require a substantial addition to capital and operating expenses, it is likely there will be a decrease in the current Associate Member fees.

➤ If new Associate Members request seasonal and trip rates, the Board will consider those rate options.

### **Summary**

Chadux is a member-owned non profit corporation. Chadux has evolved over the past 7 years to provide oil spill response services statewide. During this time, membership has grown to include non-tank vessels. Chadux will continue to accommodate non-tank vessel operators that are required to have oil spill response plans with an Associate Membership category in the corporation.

Alaska Chadux Corporation stands ready to accept new Associate Members and to assist them with meeting their oil spill response compliance needs.



Alaska Chadux  
CORPORATION

Proposed Fee Examples  
Based on 2000  
Associate Member Rates

The proposed fee examples do not effect current Associate Member fee schedule.  
This schedule is provided as an example of fees for four different vessel capacity scenarios.  
These examples assume SB 273 becomes law, resulting in an increase in Associate Membership within two years.

Vessel Capacity in Gallons	RATE SCHEDULE Annual Fee for Vessel Capacity	INITIATION FEE One-Time Initiation Fee Per Company				YEAR 1	YEAR 2
			<u>Bi-weekly</u>	<u>Monthly</u>	<u>Quarterly</u>	<u>Annual</u>	<u>Annual</u>
10,000-50,000	\$3,000	\$5,000	\$300	\$425	\$750**	\$8,000*	\$3,000
150,000-200,000	\$8,000	\$5,000	\$550	\$1,050	\$2,000**	\$15,000*	\$8,000
600,000	\$12,000	\$5,000	\$800	\$1,550	\$3,000**	\$17,000*	\$12,000
1,000,000	\$16,000	\$5,000	\$1,050	\$2,050	\$4,000**	\$21,000*	\$16,000

**Footnote:**

- \* Includes one-time initiation fee of \$5,000  
\*\* Annual dues may be paid quarterly. The initiation fee is a one-time cost and is not included in the quarterly payment option.

April 14, 2000



# ALASKA CHADUX CORPORATION

## ASSOCIATE MEMBER FEE SCHEDULE

### Facility Fee Schedule for Associate Members

<b>Application Fee</b> \$500.00 <i>Applied to initiation fee upon acceptance into the Alaska Chadux Corporation.</i>	<b>Initiation Fee</b> \$5,000.00 <i>Due upon acceptance into the Alaska Chadux Corporation</i>
<b><u>Annual Facility Capacity</u></b> <i>Based on total capacity of storage</i>	<b><u>Annual Facility Fee Amount</u></b>
0-1,000 bbl	\$500.00
1,001 - 5,000 bbl	\$1,000.00
5,001 - 10,000 bbl	\$4,000.00
10,001 - 25,000 bbl	\$6,000.00
> 25,001-35,000 bbl	\$8,000.00
Each addition 10,000 bbl > 50,000 bbl	\$1,000.00

### Barge/Vessel Fee Schedule for Associate Members

<b>Application Fee</b> \$500.00 <i>Applied to initiation fee upon acceptance into the Alaska Chadux Corporation.</i>	<b>Initiation Fee</b> \$5,000.00 <i>Due upon acceptance into the Alaska Chadux Corporation.</i>
<b><u>Annual Barge/ Vessel Capacity</u></b> <i>Based on total capacity of storage</i>	<b><u>Annual Barge/ Vessel Fee Amount</u></b>
0-1,000 gal	\$500.00
1,001 -5,000 gal	\$1,000.00
5,001 - 10,000 gal	\$2,000.00
10,001 - 50,000 gal	\$3,000.00
50,001 - 110,000 gal	\$4,000.00
110,001 - 150,000 gal	\$5,000.00
150,001-200,000 gal	\$8,000.00
Each additional 100,000 gal > 200,000 gal	\$1,000.00

This is the current rate structure for Associate Members in Alaska Chadux. The Board of Directors sets the rates annually. These rates are subject to change.

# FISCAL NOTE

STATE OF ALASKA  
2000 LEGISLATIVE SESSION

BILL No. 2  
Bill Version: SB 273  
(S) Publish Date: 3-21-00

Revision Date/Time (Note if correction) \_\_\_\_\_ Dept. Affected: Environmental Conservation  
Title "An Act requiring oil discharge prevention BRU Spill Prevention & Response  
and contingency plans...for non-tank vessels and railroad..." Component Industry Preparedness & Pipeline Program  
Sponsor Senator Pearce  
Requester Senate Resources Component No. 1922

## Expenditures/Revenues (Thousands of Dollars)

Note: Amounts do not include inflation unless otherwise noted below.

OPERATING EXPENDITURES	FY 2001	FY 2002	FY 2003	FY 2004	FY 2005	FY 2006
Personal Services	168.5	168.5	168.5	168.5	168.5	168.5
Travel	19.8	19.8	19.8	19.8	19.8	19.8
Contractual	127.7	37.7	37.7	37.7	37.7	37.7
Supplies	3.3	3.3	3.3	3.3	3.3	3.3
Equipment	19.5	3.7	3.7	3.7	3.7	3.7
Land & Structures						
Grants & Claims						
Miscellaneous						
<b>TOTAL OPERATING</b>	<b>338.8</b>	<b>233.0</b>	<b>233.0</b>	<b>233.0</b>	<b>233.0</b>	<b>233.0</b>
<b>CAPITAL EXPENDITURES</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>
<b>CHANGE IN REVENUES ( )</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

## FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other (Specify Type) 1052 Oil/Haz FD	338.8	233.0	233.0	233.0	233.0	233.0
<b>TOTAL</b>	<b>338.8</b>	<b>233.0</b>	<b>233.0</b>	<b>233.0</b>	<b>233.0</b>	<b>233.0</b>

Estimate of any current year (FY2000) cost: 0.0

### POSITIONS

Full-time	3	3	3	3	3	3
Part-time	0	0	0	0	0	0
Temporary	0	0	0	0	0	0

### ANALYSIS: (Attach a separate page if necessary)

**Fiscal Impact:** Three (3) full time positions will be required to draft and administer regulations for approximately 50 new nontank vessel operators and railroads. Two Environmental Specialists III will be located in Anchorage to initially develop regulations, and will then subsequently review and approve individual oil discharge prevention and contingency plans, inspect vessels and railroad facilities, and conduct and evaluate spill response drills. One Environmental Specialist II in Juneau will initially assist in developing regulations, and will subsequently review financial responsibility documentation and maintain the associated database, and conduct southeast vessel inspections. During the first year, \$90.0 for professional services contracts is included to assist in the negotiated rule making process and technical issues associated with the regulations. Other contractual funds cover position support costs and technical assistance with inspections and spill response drills.

**Economic Impact:** This bill will require some operators to incur additional costs for oil spill response equipment, contracts with spill response organizations if they are not already voluntarily meeting the regulatory standard, and costs to obtain and demonstrate proof of financial responsibility.

Prepared by: Larry Dietrick Phone 465-5250  
Division: SPAR Date/Time 2/18/00 5:35 PM  
Approved by: Commissioner [Signature] Date 2-19-00  
Agency: Department of Environmental Conservation

PREPARER TO PROVIDE ALL DISTRIBUTION COPIES TO GOVERNOR'S LEGISLATIVE OFFICE

For further distribution information, call the Governor's Legislative Office

## Personal Services Component Summary

FY: 2001  
 Scenario: FY2001 Legislative Fiscal Note Info  
 Department: Environ Conservation

BRU: Spill Prevention and Response  
 Component: Industry Prep. & Pipeline Op. (1922)

**Line 100 Summary:**

Salaries:	125,796
Benefits:	42,711
Premium Pay:	0
COLA:	0
Pre-vacancy total:	168,507
Minus 0.00% vacancy:	(0)
Post-vacancy total:	168,507
Lump sum prem. pay:	0
<b>Total Line 100:</b>	<b>168,507</b>
Change Record Total:	0.0
Total Component Months:	36.0

**Active Positions:**

	Existing	New	Transferred In	Total Positions
Full Time:	0	3	0	3
Part Time:	0	0	0	0
Non-Perm:	0	0	0	0
<b>Total:</b>	<b>0</b>	<b>3</b>	<b>0</b>	<b>3</b>

**Inactive Positions:**

	Deleted	Transferred Out
Full Time:	0	0
Part Time:	0	0
Non-Perm:	0	0
<b>Total:</b>	<b>0</b>	<b>0</b>

**Split Positions:**

	Counted	Not Counted	Total Splits
Full Time:	0	0	0
Part Time:	0	0	0
Non-Perm:	0	0	0
<b>Total:</b>	<b>0</b>	<b>0</b>	<b>0</b>

**Component PCN Funding Summary:**

	Amount	w/Vacancy
1004 General Fund Receipts	168,507	168,507
<b>Total</b>	<b>168,507</b>	<b>168,507</b>

**Component PCN Summary:**

PCN	Status	Job Title	Rng	Stp	BU	Pos	Split	Location	Mths	Salary	Prem	COLA	Benes	Total
18-#004	N	[No job title provided]	18	A	GG	FT		Anchorage	12.0	43,860	0	0	14,617	58,477
18-#005	N	[No job title provided]	16	A	GG	FT		Juneau	12.0	38,075	0	0	13,477	51,553
18-#006	N	[No job title provided]	18	A	GG	FT		Anchorage	12.0	43,860	0	0	14,617	58,477

Status Key: N=New D=Deleted TI=Transferred-in TO=Transferred-out

**Personal Services Detail For PCN 18-#004**

FY: 2001

Scenario: FY2001 Legislative Fiscal Note Info (890)  
 Department: Environ Conservation

BRU: Spill Prevention and Response  
 Component: Industry Prep. & Pipeline Op. (1922)

**Position Detail:**

Position Status: New	Budgeted Months: 12.0
Bargaining Unit: GG General Gov't Employees	Component Months: 12.0
Class: #0018 [No Job Title Provided]	Merit Date: none
Location: EBA Anchorage	Salary Change Date: none
Position Type: FACL Full Time	Calculation Method: Monthly - Steps and Months
Retirement: A PERS Other	Range / Step 1: 18 A 3,655.00/mth. for 12.0 mths.
Salary Schedule: 1A BASE	Range / Step 2:
Strike Class: 1	
Overtime Eligible: Yes	Total Salary: 43,860
Position Frozen: No	Total Premium Pay: 0
Position Split: No	Total Benefits: 14,617
Project:	Total COLA: 0
Region:	Total Position Cost: 58,477

**Premium Pay:**

Overtime Pay: 0.00 Hours: 0.00	Higher Class Pay: 0.00
Graveyard Pay: 0.00 Mths: 0.00	Standby Pay: 0.00
Swing Shift Pay: 0.00 Mths: 0.00	Subsistence Pay: 0.00
Hazardous Pay: 0.00	Additional Pay: 0.00
Seaduty Pay: 0.00	Total Premium Pay: 0

**Benefits:**

<u>Department Benefits:</u> <span style="border: 1px solid black; padding: 2px;">FULL</span>	<u>Statewide Benefits:</u> <span style="border: 1px solid black; padding: 2px;">FULL</span>
Leave Cash-In: 1.36% = 596.50	Health Insurance: 488.50 / Mth. = 5,862.00 / Yr.
Risk Management: 0.82% = 359.65	Life Insurance: 1.54 / Mth. = 18.48 / Yr.
Unemployment Insurance: 0.42% = 184.21	Legal Trust Fund: 8.00 / Mth. = 96.00 / Yr.
Term Leave: 1.88% = 824.57	<u>Total Statewide Benefits:</u> 498.04 / Mth. = 5,976.48 / Yr.
Short Term Non Perm: 0.00% = 0.00	<u>SBS Benefits:</u> <span style="border: 1px solid black; padding: 2px;">FULL</span>
Unique Rate: 0.00% = 0.00	Supplement Benefits: 6.13% = 2,688.62
Bargaining Unit Override Rate: 0.00% = 0.00	<u>Medicare Deduction:</u> <span style="border: 1px solid black; padding: 2px;">FULL</span>
<u>Total Department Benefits:</u> 4.48% = 1,964.93	Medicare Cost: 1.00% = 438.60
<u>Retirement Benefit:</u> <span style="border: 1px solid black; padding: 2px;">FULL</span>	<b>Total Benefits: 14,617</b>
Retirement Benefit: 8.09% = 3,548.27	

Notes: [none]

**Position Justification:**

**Funding Detail:**

	Percent	Amount
1004 General Fund Receipts	100.00%	58,477.00
<b>Total Funding:</b>	<b>100.00%</b>	<b>58,477.00</b>

**Personal Services Detail For PCN 18-#005**

FY: 2001  
 Scenario: FY2001 Legislative Fiscal Note Info (890)  
 Department: Environ Conservation

BRU: Spill Prevention and Response  
 Component: Industry Prep. & Pipeline Op. (1922)

**Position Detail:**

Position Status: New  
 Bargaining Unit: GG General Gov't Employees  
 Class: #0016 [No Job Title Provided]  
 Location: AWA Juneau  
 Position Type: FACL Full Time  
 Retirement: A PERS Other  
 Salary Schedule: 1A BASE  
 Strike Class: 1  
 Overtime Eligible: Yes  
 Position Frozen: No  
 Position Split: No  
 Project:  
 Region:

Budgeted Months: 12.0  
 Component Months: 12.0  
 Merit Date: none  
 Salary Change Date: none  
 Calculation Method: Monthly - Steps and Months  
 Range / Step 1: 16 A 3,173.00/mth. for 12.0 mths.  
 Range / Step 2:  
 Total Salary: 38,076  
 Total Premium Pay: 0  
 Total Benefits: 13,477  
 Total COLA: 0  
 Total Position Cost: 51,553

**Premium Pay:**

Overtime Pay: 0.00 Hours: 0.00  
 Graveyard Pay: 0.00 Mths: 0.00  
 Swing Shift Pay: 0.00 Mths: 0.00  
 Hazardous Pay: 0.00  
 Seaduty Pay: 0.00

Higher Class Pay: 0.00  
 Standby Pay: 0.00  
 Subsistence Pay: 0.00  
 Additional Pay: 0.00  
 Total Premium Pay: 0

**Benefits:**

Department Benefits: FULL  
 Leave Cash-In: 1.36% = 517.83  
 Risk Management: 0.82% = 312.22  
 Unemployment Insurance: 0.42% = 159.92  
 Term Leave: 1.88% = 715.83  
 Short Term Non Perm: 0.00% = 0.00  
 Unique Rate: 0.00% = 0.00  
 Bargaining Unit Override Rate: 0.00% = 0.00  
 Total Department Benefits: 4.48% = 1,705.80  
Retirement Benefit: FULL  
 Retirement Benefit: 8.09% = 3,080.35

Statewide Benefits: FULL  
 Health Insurance: 488.50 / Mth. = 5,862.00 / Yr.  
 Life Insurance: 1.54 / Mth. = 18.48 / Yr.  
 Legal Trust Fund: 8.00 / Mth. = 96.00 / Yr.  
 Total Statewide Benefits: 498.04 / Mth. = 5,976.48 / Yr.

SBS Benefits: FULL  
 Supplement Benefits: 6.13% = 2,334.06  
Medicare Deduction: FULL  
 Medicare Cost: 1.00% = 380.76  
 Total Benefits: 13,477

Notes: [none]

**Position Justification:**

Funding Detail:	Percent	Amount
1004 General Fund Receipts	100.00%	51,553.00
<b>Total Funding:</b>	<b>100.00%</b>	<b>51,553.00</b>

**Personal Services Detail For PCN 18-#006**

FY: 2001

Scenario: FY2001 Legislative Fiscal Note Info (890)  
 Department: Environ Conservation

BRU: Spill Prevention and Response  
 Component: Industry Prep. & Pipeline Op. (1922)

**Position Detail:**

Position Status: New	Budgeted Months: 12.0
Bargaining Unit: GG General Gov't Employees	Component Months: 12.0
Class: #0018 [No Job Title Provided]	Merit Date: none
Location: EBA Anchorage	Salary Change Date: none
Position Type: FACL Full Time	Calculation Method: Monthly - Steps and Months
Retirement: A PERS Other	Range / Step 1: 18 A 3,655.00/mth. for 12.0 mths.
Salary Schedule: 1A BASE	Range / Step 2:
Strike Class: 1	
Overtime Eligible: Yes	Total Salary: 43,860
Position Frozen: No	Total Premium Pay: 0
Position Split: No	Total Benefits: 14,617
Project:	Total COLA: 0
Region:	Total Position Cost: 58,477

**Premium Pay:**

Overtime Pay: 0.00 Hours: 0.00	Higher Class Pay: 0.00
Graveyard Pay: 0.00 Mths: 0.00	Standby Pay: 0.00
Swing Shift Pay: 0.00 Mths: 0.00	Subsistence Pay: 0.00
Hazardous Pay: 0.00	Additional Pay: 0.00
Seaduty Pay: 0.00	Total Premium Pay: 0

**Benefits:**

<u>Department Benefits:</u> <span style="border: 1px solid black; padding: 2px;">FULL</span>	<u>Statewide Benefits:</u> <span style="border: 1px solid black; padding: 2px;">FULL</span>
Leave Cash-In: 1.36% = 596.50	Health Insurance: 488.50 / Mth. = 5,862.00 / Yr.
Risk Management: 0.82% = 359.65	Life Insurance: 1.54 / Mth. = 18.48 / Yr.
Unemployment Insurance: 0.42% = 184.21	Legal Trust Fund: 8.00 / Mth. = 96.00 / Yr.
Term Leave: 1.88% = 824.57	<u>Total Statewide Benefits:</u> 498.04 / Mth. = 5,976.48 / Yr.
Short Term Non Perm: 0.00% = 0.00	<u>SBS Benefits:</u> <span style="border: 1px solid black; padding: 2px;">FULL</span>
Unique Rate: 0.00% = 0.00	Supplement Benefits: 6.13% = 2,688.62
Bargaining Unit Override Rate: 0.00% = 0.00	<u>Medicare Deduction:</u> <span style="border: 1px solid black; padding: 2px;">FULL</span>
<u>Total Department Benefits:</u> 4.48% = 1,964.93	Medicare Cost: 1.00% = 438.60
<u>Retirement Benefit:</u> <span style="border: 1px solid black; padding: 2px;">FULL</span>	<b>Total Benefits: 14,617</b>
Retirement Benefit: 8.09% = 3,548.27	

Notes: [none]

**Position Justification:**

Funding Detail:	Percent	Amount
1004 General Fund Receipts	100.00%	58,477.00
<b>Total Funding:</b>	<b>100.00%</b>	<b>58,477.00</b>

# FISCAL NOTE

STATE OF ALASKA  
2000 LEGISLATIVE SESSION

No. 1  
Bill Version: SB 273  
(S) Publish Date: 3-21-00

Revision Date/Time (Note if correction) \_\_\_\_\_ Dept. Affected DOT&PF  
Title "An Act requiring oil discharge prevention and contingency plans,..." BRU Marine Highway System  
Sponsor Senator Pearce Component Southeast & Southwest  
Requester Senate Resources Component Serial No. \_\_\_\_\_  
Vessel Operations

**Expenditures/Revenues** (Thousands of Dollars)

Note: Amounts do not include inflation unless otherwise noted below.

OPERATING EXPENDITURES	FY 2001	FY 2002	FY 2003	FY 2004	FY 2005	FY 2006
Personal Services						
Travel						
Contractual	125.0	125.0	125.0	125.0	125.0	125.0
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
<b>TOTAL OPERATING</b>	<b>125.0</b>	<b>125.0</b>	<b>125.0</b>	<b>125.0</b>	<b>125.0</b>	<b>125.0</b>

<b>CAPITAL EXPENDITURES</b>						
-----------------------------	--	--	--	--	--	--

<b>CHANGE IN REVENUES ( )</b>						
-------------------------------	--	--	--	--	--	--

**FUND SOURCE** (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other: Oil Spill Response Fund	125.0	125.0	125.0	125.0	125.0	125.0
<b>TOTAL</b>	<b>125.0</b>	<b>125.0</b>	<b>125.0</b>	<b>125.0</b>	<b>125.0</b>	<b>125.0</b>

Estimate of any current year (FY00) cost: 0.0

**POSITIONS**

Full-time						
Part-time						
Temporary						

**ANALYSIS:** (Attach a separate page if necessary)

This represents the estimated cost to the Alaska Marine Highway System to contract for oil spill response services to meet the requirements of this bill.

Prepared by Dennis Poshard, Special Assistant to the Commissioner Phone 465-3904  
Division Office of the Commissioner Date/Time 2/18/00 2:21 PM  
Approved by Joseph L. Perkins, DOT&RF Date \_\_\_\_\_  
Agency for Joseph L. Perkins, DOT&RF

**PREPARER TO PROVIDE ALL DISTRIBUTION COPIES TO GOVERNOR'S LEGISLATIVE OFFICE**

For further distribution information, call the Governor's Legislative Office

# FISCAL NOTE

**STATE OF ALASKA**  
**2000 LEGISLATIVE SESSION**

**BILL NO. SB 273**

Revision Date/Time (Note if correction) 04/13/2000

Dept. Affect: DCED

Title Spill response legislation

BRU ARRC

Component \_\_\_\_\_

Sponsor Senator Drue Pearce

Requester \_\_\_\_\_

Component No. \_\_\_\_\_

**Expenditures/Revenues**

Thousands of Dollars

Note: Amounts do not include inflation unless otherwise noted below.

OPERATING EXPENDITURES	FY 2001	FY 2002	FY 2003	FY 2004	FY 2005	FY 2006
Personal Services						
Travel						
Contractual		1,650.0	750.0	750.0	750.0	750.0
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
<b>TOTAL OPERATING</b>	<b>0.0</b>	<b>1,650.0</b>	<b>750.0</b>	<b>750.0</b>	<b>750.0</b>	<b>750.0</b>

<b>CAPITAL EXPENDITURES</b>						
-----------------------------	--	--	--	--	--	--

<b>CHANGE IN REVENUES ( )</b>						
-------------------------------	--	--	--	--	--	--

**FUND SOURCE**

(Thousands of Dollars)

FUND SOURCE	FY 2001	FY 2002	FY 2003	FY 2004	FY 2005	FY 2006
1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1037 GF/Mental Health						
Railroad		1,650.0	750.0	750.0	750.0	750.0
<b>TOTAL</b>	<b>0.0</b>	<b>1,650.0</b>	<b>750.0</b>	<b>750.0</b>	<b>750.0</b>	<b>750.0</b>

Estimate of any current year (FY2000) cost: 0.0

**POSITIONS**

POSITIONS	FY 2001	FY 2002	FY 2003	FY 2004	FY 2005	FY 2006
Full-time						
Part-time						
Temporary						

**ANALYSIS:** *(Attach a separate page if necessary)*

Information attached outlines ARRC's proof of financial responsibility and provides estimates for oil discharge, prevention and contingency plans.

Prepared by: Wendy Lindskoog

Phone 265-2498

Division ARRC

Date/Time 4/13/00 9:53 AM

Approved by Commissioner 

Date 4/13

Agency \_\_\_\_\_

**PREPARER TO PROVIDE ALL DISTRIBUTION COPIES TO GOVERNOR'S LEGISLATIVE OFFICE**

For further distribution information, call the Governor's Legislative Office

SB 273: By Senator Drue Pearce

**Alaska Railroad Corporation Financial Responsibility:**

Over the last several years, the Alaska Railroad corporation has had in place two \$10,000,000 lines of credit. One to meet self insurance requirements and one to meet operational requirements. These credit lines are with two separate national banks. They are currently for one year and are renewable annually. At this time, the lines of credit are whole and have not been drawn on.

The proposed legislation would require the Alaska Railroad to have proof of financial responsibility to respond to damages of approximately \$5,450,000. This amount is derived from a maximum of 100 tank cars per train, multiplied by 545 barrels per tank car, multiplied by \$100 per barrel. Typically, an Alaska Railroad fuel train pulls approximately 50 car loads of fuel.

It is the railroad's intent to use a portion of an existing line of credit as proof of financial ability.

The Alaska Railroad also estimates the following cost for oil discharge prevention and contingency plans:

- 1) Contingency plan development: \$250,000  
Includes mapping, environmental assessment, response needs (personnel and equipment), public involvement, agency review
- 2) Risk assessment: \$400,000  
Includes risk assessment and recommendations by consultants and public review
- 3) Contingency plan implementation: \$1,000,000 – first year, \$750,000 – subsequent years  
Assumes cost of equipment, personnel, training, drills annually