

**HB**

**289**

SFIN

FILE

5

# SENATE FINANCE COMMITTEE REPORT

DATE: 3/28/08

FURTHER:

DATE TURNED  
IN TO OFFICE: \_\_\_\_\_

Finance Committee considered CS FOR HOUSE BILL NO. 289(FSH)

## HB 289 EMPLOYMENT TAX EXEMPTION: SPILL RESPONSE

"An Act exempting employers from paying unemployment tax for temporary services provided by fishing vessel crewmembers and related to emergency oil spill training and response activities; and providing for an effective date."

and recommends:

- be replaced with  SCS or  CS \_\_\_\_\_ (\_\_\_\_\_)
- adopt previous  SCS or  CS \_\_\_\_\_ (\_\_\_\_\_)
- attached amendment(s)
- adopt \_\_\_\_\_ Letter of Intent
- further referral to \_\_\_\_\_ Committee

<b>SENATE BILL:</b>	
<input type="checkbox"/>	Same Title
<input type="checkbox"/>	New Title
<hr/>	
<b>HOUSE BILL:</b>	
<input type="checkbox"/>	Same Title
<input type="checkbox"/>	Technical Title Change
<input type="checkbox"/>	New Title w/ SCR # _____

### NEW FISCAL NOTE(S):

Department	Date	Fiscal	Indet.	Zero	FN#

### PREVIOUS FISCAL NOTE(S):

Department	Date	Fiscal	Indet.	Zero	FN#
HWF	2/19/08			✓	

APPROPRIATION - no fiscal note

SIGNATURES AND RECOMMENDATIONS:	PRINTED LAST NAME	Do PASS	DO NOT PASS	NO REC	AMEND
	Elton	✓			
	Thomas			✓	
	HUGGINS			✓	
	O'LEARY			✓	
CO-CHAIR:					
CO-CHAIR:	SPEDMAN	✓			

# FISCAL NOTE

STATE OF ALASKA  
2008 LEGISLATIVE SESSION

Fiscal Note Number: 3  
Bill Version: CSHB 289(FSH)  
(H) Publish Date: 3/13/08

Identifier (file name): HB289CS-DOLWD-11-02-19-08 Dept. Affected: Labor and Workforce Development  
Title: Employment Tax Exemption: Spill Response RDU: Employment Security  
Component: Unemployment Insurance  
Sponsor: Representative Harris Component Number: 2276  
Requester: House RLS

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

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

	Appropriation Required	Information					
		FY 2009	FY 2010	FY 2011	FY 2012	FY 2013	FY 2014
<b>OPERATING EXPENDITURES</b>							
Personal Services							
Travel							
Contractual							
Supplies							
Equipment							
Land & Structures							
Grants & Claims							
Miscellaneous							
<b>TOTAL OPERATING</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>0.0</b>

<b>CAPITAL EXPENDITURES</b>							
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<b>CHANGE IN REVENUES</b>							
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**FUND SOURCE** (Thousands of Dollars)

	FY 2009	FY 2010	FY 2011	FY 2012	FY 2013	FY 2014
1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other Interagency Receipts						
<b>TOTAL</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>

Estimate of any current year (FY2008) cost: None

**POSITIONS**

	FY 2009	FY 2010	FY 2011	FY 2012	FY 2013	FY 2014
Full-time						
Part-time						
Temporary						

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

This bill excludes from the definition of "employment" temporary services related to oil spill training and response activities by crewmembers on fishing boats described under 23.20.526(a)(17). The term "temporary" is defined as a period of less than 7 continuous days.

There are no anticipated costs associated with administering this piece of legislation.

Because the exclusion is limited to services performed for a period of less than 7 continuous days, it is believed the loss of revenue into the Unemployment Insurance (UI) Trust Fund would be minimal.

Prepared by: Thomas W. Nelson, Director  
Division: Employment Security Division  
Approved by: Click Bishop, Commissioner  
Department of Labor and Workforce Development

Phone: 465-5933  
Date/Time: 2/19/08 2:51 PM  
Date: 2/19/08

## Alaska State Legislature

Speaker John Harris  
Room 208  
Juneau, AK 99801  
Phone: 907-465-4859



Rep. Paul Seaton  
Room 102  
Juneau, AK 99801  
Phone: 907-465-2689

### House District 12 ~ House District 35

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HB 289 encourages participation in the state's oil spill response program by exempting fishing vessel owners and crew who participate from having to pay unemployment taxes while they are performing oil spill response duties.

Vessel owners and crew members undergo oil spill response training to be prepared to respond to state disasters as a service to the state on a voluntary basis. Training for the program and responding to small spills only takes a few days at a time, filing paperwork and paying unemployment taxes for such a short period of service is unreasonably burdensome. Because commercial fishermen are not covered by unemployment insurance when they engage in commercial fishing, most will not be in a position to have enough service time accrued to collect unemployment after having only worked a handful of qualified days in the oil spill response program.

In the unfortunate event of a large spill (such as the Exxon Valdez), if vessels spend seven or more continuous days responding to an oil spill vessel owners would be required to participate in the unemployment system and their crew would be covered.

In summary, HB 289 encourages fishermen to continue to participate in the state's oil spill response program by removing burdensome unemployment requirements. The state needs more vessels willing and able to respond to such disasters and must work to remove barriers to their participation.

# MEMORANDUM

RECEIVED  
Department of Labor

State of Alaska

FEB 24 1999

Department of Law

TO: Honorable Ed Flanagan  
Commissioner  
Department of Labor  
Office of the Commissioner

February 17, 1999

FILE NO: 661-98-0255

TOL. NO: 269-5178

SUBJECT: Test Fishing

*Comm. cc  
Dwyer cc  
cc: Alaska  
Shell  
Gry  
AG Opinion Com*

FROM: Toby N. Steinberger *TNS*  
Assistant Attorney General  
Governmental Affairs Section, Anchorage  
Department of Law

Commissioner Cashen requested our opinion on whether fishermen performing "test fishing" are entitled to benefits from the Fishermen's Fund established under AS 23.35.010 if they are injured while conducting "test fishing." It is our opinion that fishermen who are injured while they are performing test fishing are not entitled to benefits from the Fishermen's Fund because they were not commercial fishing when they were injured.

Under AS 16.05.050, the Department of Fish and Game contracts with the owner or master of a vessel to conduct test fishing.<sup>1</sup> The terms of the contracts vary. In some cases, the contract provides that, in return for conducting the test fishing, the owner or master of the vessel may receive a portion of the value of the fish delivered to the state. In some cases, the owner or the master of the vessel may keep and sell the fish. Yet, in other cases, the Department of Fish and Game may contract to have the vessel owner conduct test fishing for a fee unrelated to the value of the fish. Crew members of the fishing vessel will likely have commercial fishing licenses or fishing permits.

Under AS 23.35.070, "a fisherman, upon becoming disabled, is entitled to receive benefits . . . ." However, only fishermen actually engaged in commercial fishing at the time of their injury are entitled to benefits from the Fishermen's Fund. Alaska Statute 23.35.150(3) defines "fisherman" to mean a fisherman engaged in commercial fishing. Alaska Statute 23.35.150(3) reads:

(3) "fisherman" means a person who is licensed by the state to engage in commercial fishing under AS 16.05.480 or who is the holder of a permit issued under AS 16.43 and who, at the time injury is sustained or illness is contracted, is actually

<sup>1</sup> See generally Kodiak Seafood Processors Ass'n. v. State, 900 P.2d 1191 (Alaska 1995).

Fish FEB 26 99  
FUD 1

DOL-WC FEB 25 1999  
JUNEAU

Honorable Ed Flanagan  
Commissioner, Department of Labor  
File No. 661-98-0255

February 17, 1999  
Page 3

We trust this answers the questions raised in your request for advice. If you have any questions, please feel free to call us.

TNS:vb

Fish Fund FEB 25 '99

FEB 25 1999

**STATE OF ALASKA / SARAH PALIN, GOVERNOR**

Department of Labor &  
Workforce Development  
Employment Security Division  
Kenai Tax Office

11312 Kenai Spur Hwy, Ste 2  
Kenai, AK 99611  
Phone: 1-907-283-4476  
Fax: 1-907-283-5152

November 14, 2007

Robert Porter  
Surburst  
P.O. Box 7081  
Nikiski, AK 99635

Dear Mr. Porter:

Please find enclosed information on contract labor.

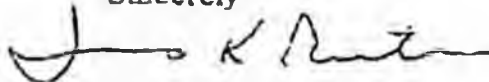
As I understand the procedure, the training is done by Alyeska Pipeline and you as the boat owner are paid by Alyeska and in turn you pay the crew members.

After reading the information on contract labor versus employee employment status, it should be quite clear you have employees, not contract labor. We would appreciate your cooperation in filing the registration form with Department of Labor. Be advised; by not sending in the registration form, could lead to tax audits, interest & penalty fees, and possible fine by Worker's Comp. insurance which could be quit severe.

If you still disagree, may I suggest you contact Bruce Garrison at 1-888-448-3527. Mr. Garrison is the Supervisor, Audit Operations.

I thank you for your time in responding to the letter of November 5, 2007.

Sincerely



James K. Nantau  
Field Tax Auditor

Encl. Contract Labor Info

The following table is an example of the factors used to determine employment status comparing the employee versus the independent contractor.

FACTOR	EMPLOYEE	INDEPENDENT CONTRACTOR
CONTINUING RELATIONSHIP	An employee has an ongoing working relationship with you, even if work is performed at frequently recurring, although irregular, intervals.	An independent contractor's relationship with you will have an identifiable end when the job is completed.
EXPENSES	An employee may be eligible for reimbursement of business related expenses.	An independent contractor is not reimbursed for expenses. Estimated expenses are included in the job bid.
FULL-TIME WORK	Full-time hours spent at one job indicate employee status.	An independent contractor spends less than a full-time workweek at each job.
HIRING ASSISTANTS	An employee does not employ assistants or additional staff.	An independent contractor provides all workers required to accomplish the job.
INSTRUCTIONS	An employee must comply with your instructions about when, where and how to work. Your right to issue such instructions is the controlling factor.	An independent contractor is responsible only for accomplishing the job; when, where and how it's accomplished is up to him or her.
INTEGRATION	An employee's services are important to the success or continuation of your business.	The services provided by an independent contractor are often peripheral to the success or continuation of the business.
INVESTMENT	An employee does not have a significant financial business investment in your business.	An independent contractor has a significant financial investment in his or her business.
OFFERS SERVICES TO THE GENERAL PUBLIC	An employee does not offer his or her services to the general public.	An independent contractor solicits work from the general public.
ORDER OR SEQUENCE SET	An employee may be required to perform his or her job in an order or sequence determined by you.	An independent contractor determines the order in which he or she will accomplish a job.
PAYMENTS	An employee is paid by the hour, week, month or year.	An independent contractor is paid by the job or on a straight commission.
PROFIT OR LOSS	An employee can't realize a loss or a profit. He or she receives a set wage.	An independent contractor may realize a profit or loss dependent upon the expenses incurred.

REPORTS	An employee may be required to make periodic written or verbal reports to you regarding the status of ongoing projects.	Because an independent contractor is responsible only for the completed products, he or she doesn't make reports.
RIGHT TO FIRE	You may fire an employee at any time.	An independent contractor may not be fired so long as he or she produces the required results.
RIGHT TO QUIT	An employee has the right to quit at any time without incurring liability.	An independent contractor is responsible for the satisfactory completion of the job contracted for. He or she incurs liability for failure to complete it.
SERVICES RENDERED PERSONALLY	An employee must perform his or her job personally.	An independent contractor may hire any labor needed.
SET HOURS OF WORK	An employee must work set hours as established by you.	An independent contractor may work the hours he or she chooses.
TOOLS AND MATERIALS	You provide an employee with necessary tools, materials and facilities.	An independent contractor provides the tools, materials, and facilities required.
TRAINING	You train an employee to perform the job to your standards.	An independent contractor is responsible for acquiring any training needed.
WORK DONE ON PREMISES	An employee works on your business premises or along a route designated by you.	An independent contractor provides or determines the area where he or she works.
WORKS FOR MORE THAN ONE PERSON OR FIRM	An employee usually works for one person or firm.	An independent contractor works for more than one person or firm at the same time.

DEPARTMENT OF LABOR & WORKFORCE DEVELOPMENT  
EMPLOYMENT SECURITY DIVISION

Sarah Palin, GOVERNOR

11312 KENAI SPUR HIGHWAY  
SUITE 2  
KENAI ALASKA 99611-9106  
PHONE: (907) 283-4476  
FAX: (907) 283-5152

November 5, 2007

LEE MARTIN  
BAD BETTY  
PO BOX 743  
HOMER AK 99603

Dear Boat Owner:

We have received information that indicates that you may be engaged in tendering operations or oil spill response drill exercises in Alaskan waters.

Under Alaska law, wages paid to your employees (crew) for tendering operations or oil spill response drills are reportable for unemployment insurance purposes. Alaska laws exempt fishing operations for Alaska-based employers fishing with a crew of fewer than ten members who are paid on a share basis (AS 23.20.526 a 17). However, Alaska law does not exempt wages or shares paid to your employees while working in tendering or oil spill drill operations.

If you are paying wages reportable to the Alaska Department of Labor and Workforce Development, please complete and return the enclosed Registration Form TREG and return it within 15 days to be in compliance with the Alaska Employment Security law.

If you are not paying any reportable wages, please date and sign this letter below and return it within 15 days. Please also include your phone number in case we have further questions.

Thank you for your time and cooperation. Please call me at (907) 283-4478 if you have any questions concerning this matter.

Sincerely,

James Nantau  
Field Auditor

Encl: Employer Registration Form

**Alaska Department of Labor  
and Workforce Development  
Employment Security Division  
Employment Security Tax**

**Juneau - Registration**  
1111 W. 8<sup>th</sup> St., Room 203  
PO Box 115509  
Juneau, AK 99811 - 5509  
(907) 465-2757  
Fax (907) 465-2374

**Anchorage Employment Security Tax Office**  
3301 Eagle St., Room 106  
PO Box 241767  
Anchorage, AK 99524 - 1767  
(907) 269-4850  
Fax (907) 269-4845

**Fairbanks Employment Security Tax Office**  
675 Seventh Avenue, Station L  
Fairbanks, AK 99701 - 4513  
(907) 451-2876  
Fax (907) 451-2883

**Juneau Employment Security Tax Office**  
1111 W. 8<sup>th</sup> St., Room 203  
PO Box 115509  
Juneau, AK 99811 - 5509  
(907) 465-2757  
Fax (907) 465-2374

**Kenai Employment Security Tax Office**  
11312 Kenai Spur Hwy, Suite 2  
Kenai, AK 99611 - 9106  
(907) 283-4478  
Fax (907) 283-5152

**Wasilla Employment Security Tax Office**  
877 Commercial Drive  
Wasilla, AK 99654-6937  
(907) 352-2535  
Fax (907) 352-2581

# Alaska Employer Registration Form

## Who is required to file this form?

Every employing unit, including any person, firm, corporation, or other type of organization that for some portion of a day within the calendar year has employed one or more persons, is required by law and regulation to file this report. If you are uncertain of your need to register, contact the Registration Unit or your nearest Field Tax Office.

## TO CONTACT US:

- ◆ Toll-free telephone number to connect to your Field Auditor if you are located in Alaska (except Anchorage, Fairbanks, Juneau, Kenai, or Wasilla), out-of-state, and Canada:  
1-888-448-2937
- ◆ Toll-free telephone number to connect to your Employer Account Representative in our Central Office in Juneau for all areas outside Juneau, out-of-state, and Canada:  
1-888-448-3527
- ◆ Toll-free telephone number to connect to Relay Alaska TDD/TTY/TT Services:  
1-800-770-8973
- ◆ E-mail at: [esd\\_tax@labor.state.ak.us](mailto:esd_tax@labor.state.ak.us)

Mail the completed Registration Form to:

Alaska Department of Labor  
and Workforce Development  
Employment Security Tax  
PO Box 115509  
Juneau, AK 99811 - 5509

We are an equal opportunity employer/program. Auxiliary aids and services are available upon request to individuals with disabilities.

Form TREG (1/19/07)

## INSTRUCTIONS FOR NEW EMPLOYERS

Check the box on the top left of Page 3 to indicate if this is a new or update registration. Complete the following if you are a new employer. See below for update instructions.

1. Mark the item that describes your business entity and complete the additional information requested.

If you have selected **NONPROFIT ORGANIZATION** and are exempt under IRC 501(a) and 501(c)(3), you may be able to choose whether you wish to be a regular taxable employer paying at an annual rate, or a reimbursable employer that pays back or reimburses the UI Trust Fund for the actual dollar amount of benefits drawn by former employees. As a reimbursable employer, a minimum \$10,000 bond or deposit is required. Please contact the Employer Account Specialist Unit in Juneau at 907-465-2737 or toll-free at 1-888-441-5277 for information on the deposit and bond requirements. You will be required to present your IRS exemption letter and bond prior to establishing an account.

2. List your Federal Employer Identification Number (FEIN). If you have employees, you must have an FEIN. *Do not use your Social Security Number.*
3. If you were previously assigned an account number by the Employment Security Division in the last three years, indicate that number.
4. Mark the appropriate box if you wish to cover excluded employees. If Yes, complete top of Page 4. See Page 6 for partial listing of excluded employment that may be covered. For a complete explanation of excluded employment see AS 23.20.523 and AS 23.20.526.
5. Indicate the month, day, and year your business first paid or anticipates to first pay wages in Alaska.
6. Indicate if you anticipate hiring contract labor to perform the nature of your business described in item 13.

*If you have questions, or are unsure of the tax liability of contract labor, contact the Field Tax Office nearest your location.*

7. List the legal name of the business. If a corporation, list exactly as registered with the Department of Community and Economic Development.
8. List the "doing business as" (dba) name of the business if different than item 7.
9. List the mailing address of the business.
10. List the phone number of the business.
11. List your physical worksite address in Alaska if different than item 9. If you do not have a physical worksite in Alaska, please explain. If there is more than one worksite, list additional worksites on Page 4.
12. List your FAX number.
13. This item contains information that is necessary for a assignment of your tax rate.

*Failure to complete this section may result in a higher tax rate being assigned to your account.*

Describe in detail the specific product(s) sold or service(s) your business will provide in Alaska. Also indicate if sales are retail or wholesale. For example, general contractor building single-family homes; specialty contractor specializing in commercial or residential ceramic tile installation; insurance agent/broker; or retail sale of clothing; etc.

14. Indicate the percentage of Alaska gross income that is provided by the activity described in item 13. This is usually 100%; however, if you have more than one activity, you will need to divide the income into percentages for each activity. Do not list the dollar amount of gross income. List only the percentage of income.
15. Indicate the number of employees you anticipate hiring to perform the business activities.
16. If you changed or purchased an existing business, list the month, day, and year the acquisition took place.
17. List the month, day, and year you first paid wages for the business. This should be the same date as item 5 above.
18. If the business was acquired from previous owners, mark the type of acquisition change that took place. If needed, explain on a separate piece of paper.
19. Mark how the previous business was acquired. If needed, explain on a separate piece of paper.
20. List the percentage of Alaska operating assets acquired from the previous business.
21. List ALL the prior owner(s) name(s), FEIN, and business (dba) name(s) of the acquired business.
22. List all account number(s) of the acquired business (es).
23. List the number of employees acquired from the predecessor employer.

### OWNERSHIP INFORMATION:

- Sole Proprietor:** List your name, residence address, and Social Security Number.
- Partnership:** List the requested information for each partner.
- Corporation:** List the requested information for each corporate officer.
- LLC:** List the requested information for each manager of the Limited Liability Company, or member if no managers were elected.
- Non-Profit:** List the requested information for directors, trustees, executors, or other principals.
- Other:** List the requested information for owners or other principals.

### Responsibility Codes

1. File contribution reports
2. Pay contributions due
3. Person determines which creditor is paid first
4. Check signing authority
5. Hire Fire authority
6. All of the above

### CERTIFICATION and SIGNATURES:

This Registration form must be signed by the **SOLE PROPRIETOR**, **ALL PARTNERS** of a partnership, **ALL CORPORATE OFFICERS** of a CORPORATION, or the **MANAGER** (or if no manager, the members) of an LLC. If you have a Business Contact Person, provide their Name, Phone Number and e-mail address.

**All new taxable employers or prospective employers must complete items 13 and 14 on Page 3. Failure to complete these items may mean that your account will be assigned a higher tax rate.**

## UPDATE REGISTRATION INSTRUCTIONS

To update registration information, be sure to check the update box at the top left of the form in the Department of Labor address block. Always complete item 7 and item 8, listing the name(s) on your account, along with those items that have changed, or those items that you have been instructed to complete.

Alaska Employer Registration Form

Form TREG (Rev 9/07)

Alaska Department of Labor and Workforce Development Employment Security Tax PO Box 115509, Juneau, AK 99811-5509	<input type="checkbox"/> New <input type="checkbox"/> Update	Federal Employer Identification Number State Identification Number	Business Type Business Code	Business Name Business Address	Business Phone Business Fax	Business Date Business State
	COMPLETE BOTH SIDES OF FORM THE ABOVE AREA IS FOR STATE USE ONLY					

Sole Proprietor     Partnership: General     Limited     Date Partnership Formed \_\_\_\_\_  
 Non-profit Organization    Method of Payment:  Taxable     Refundable     Other \_\_\_\_\_  
 Corporation: Date Incorporated \_\_\_\_\_    State Incorporated \_\_\_\_\_    State Corporation Number \_\_\_\_\_  
 Limited Liability Company (LLC): Number of Members (or members if no number) \_\_\_\_\_    Date Formed \_\_\_\_\_    State \_\_\_\_\_  
 Federal Identification Number \_\_\_\_\_    3) Have you ever assigned an Account Number by this Agency?  Yes     No If yes, see number: \_\_\_\_\_    4) Do you wish to cover excluded employees?  Yes     No If yes, see Page 4  
 5) What is the date your business first paid wages in Alaska, or the anticipated date you will pay wages?    6) Do you anticipate using Contract Labor to perform the activities stated in Item 12?

7) Legal Business Name: \_\_\_\_\_    8) Doing Business As (DBA) Name: \_\_\_\_\_  
 9) Mailing Address: \_\_\_\_\_ City \_\_\_\_\_ State \_\_\_\_\_ Zip \_\_\_\_\_    10) Business Phone: \_\_\_\_\_  
 11) Physical Worksite Address in Alaska (list additional workites on Page 4): \_\_\_\_\_    12) Fax Number: \_\_\_\_\_  
 13) Describe (IN DETAIL) the major product sold or service you provide in Alaska: \_\_\_\_\_  
 14) % of Gross Alaska Income derived from Item 13: \_\_\_\_\_    15) Number of employees in Alaska: \_\_\_\_\_

Complete this section if you have changed your business or have acquired an Alaska business operation.

16) Date changed or acquired: Month \_\_\_\_\_ Day \_\_\_\_\_ Year \_\_\_\_\_    17) Date wages first paid under new ownership: Month \_\_\_\_\_ Day \_\_\_\_\_ Year \_\_\_\_\_  
 18) Type of Change:  Change in Entity (Sole Proprietorship to partnership, Partnership to Corporation, etc.)     Change in Partner  
 Change in Corporation Stock Transfer     Corporate Charter Change     Corporate Officer Change     Other (Explain) \_\_\_\_\_  
 19) Was business acquired through:  Purchase     Lease     Foreclosure    20) What percentage of the Alaska Operating Assets were acquired? \_\_\_\_\_  
 Repossession     Other (Describe in detail on separate paper) \_\_\_\_\_  
 21) Prior Owner(s) Name(s), FEIN, and Business (DBA) Name: \_\_\_\_\_    22) Prior Account Number: \_\_\_\_\_    23) Number of Employees Acquired: \_\_\_\_\_

Information and signature of a sole proprietor, each partner, all corporate officers, and all managers and/or members of an LLC  
**CERTIFICATION: With my signature, I certify that information provided on this form is correct and true**

Printed Name & Social Security Number	Signature	Residence Address & Telephone Number	Title and Effective Date	% Owned	CWE
Name SSN:		Residence Address City State Zip Code Residence Telephone:	Title Effective Date		
Name SSN:		Residence Address City State Zip Code Residence Telephone:	Title Effective Date		
Name SSN:		Residence Address City State Zip Code Residence Telephone:	Title Effective Date		
Name SSN:		Residence Address City State Zip Code Residence Telephone:	Title Effective Date		
Business Contact Person	Phone Number:	E-mail:			



## TYPES OF EXCLUDED EMPLOYMENT FOR WHICH COVERAGE MAY BE ELECTED

1. Service of corporate officers if the corporation is formed under AS 10.06.  
*Note: All corporate officers must be covered as a group.*
2. Service of fishing boat crewmembers if there are fewer than 10 and they are paid by shares.
3. Domestic service in a private home where the wages paid are less than \$1,000 per quarter in the current or the preceding year.
4. Service in selling or distributing newspapers on the street or from house to house.
5. Service by a minister, member of a religious order, or other service performed for a church or association of churches, including elementary and secondary schools, but not including other organizations operated for other than religious purposes.
6. Service performed by an individual in the employ of a son, daughter, or spouse.  
*Note: If the employer is a partnership, a family relationship must exist between the employee and all partners.*
7. Service performed for a parent or legal guardian if the individual was under the age of 21 and a full-time student during eight of the last twelve months and intends to resume full-time student status within the next four months.
8. Service by a child under age 18 for a parent.
9. Service for a school, college, or university by an enrolled student who is regularly attending classes.
10. Elected or appointed public officials under AS 23.20.226 (d) (8) (A).
11. Service in the fields of insurance, real estate, or stock by a salesperson, solicitor, or broker paid by commission and not required to be covered by Federal Unemployment Tax Laws.
12. Service in agricultural labor where the employer either paid less than \$20,000 in wages in current or preceding calendar year or employed fewer than 10 people in at least 20 weeks.
13. Service by a full-time student under the age of 22 in a work-study program taken for credit at a public or nonprofit institution which certified that the service is an integral part of the program.
14. Services performed for a nonprofit or governmental agency by a person receiving work relief or work training where the program is financed in whole or in part by funds from any federal, state, or political subdivision.

**Self-employment is not covered, nor can coverage be elected.  
Examples of self-employment include sole proprietors, partners, and members of an LLC**

Form 940 (2004)

**Privacy Act and Paperwork Reduction Act Notice.** We ask for the information on this form to carry out the Internal Revenue laws of the United States. We need it to figure and collect the right amount of tax. Chapter 23, Federal Unemployment Tax Act, of Subtitle C, Employment Taxes, of the Internal Revenue Code imposes a tax on employers with respect to employees. This form is used to determine the amount of the tax that you owe. Section 8011 requires you to provide the requested information if you are liable for FUTA tax under section 3301. Section 6109 requires you to provide your employer identification number (EIN). If you fail to provide this information in a timely manner, you may be subject to penalties and interest.

You are not required to provide the information requested on a form that is subject to the Paperwork Reduction Act unless the form displays a valid OMB control number. Books and records relating to a form or instructions must be retained as long as their contents may become material in the administration of any Internal Revenue law.

Generally, tax returns and return information are confidential, as required by section 6103. However, section 6103 allows or requires the IRS to disclose or give the information shown on your tax return to others

as described in the Code. For example, we may disclose your tax information to the Department of Justice for civil and criminal litigation, and to cities, states, territories, and the District of Columbia for use in administering their tax laws. We may also disclose this information to other countries under a tax treaty, to federal and state agencies to enforce federal non-tax criminal laws, or to federal law enforcement and intelligence agencies to combat terrorism.

The time needed to complete and file this form will vary depending on individual circumstances. The estimated average time is: Recordkeeping, 24 hr., 39 min.; Learning about the law or the form, 1 hr., 23 min.; Preparing and sending the form to the IRS, 2 hr., 17 min.

If you have comments concerning the accuracy of these time estimates or suggestions for making Form 940 simpler, we would be happy to hear from you. You can write to: Internal Revenue Service, Tax Products Coordinating Committee, SE:W:CAR:MP:T:SP, 1111 Constitution Avenue, NW, IR-6408, Washington, DC 20224. Do not send Form 940 to this address. Instead, see *Where Do You File?* on page 2 of the instructions for Form 940.

WZ's

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 EIN (FED)

ANNUAL FUTA  
 REPORT  
 CALC.

ESC → FUTA, 941  
 MEDICARE  
 CHILD SUPPORT

→ Calculated  
 \$56 per \$7000.00

940 FUTA

Form 941 (Rev. 1-2007)

Privacy Act and Paperwork Reduction Act Notice. We ask for the information on this form to carry out the Internal Revenue laws of the United States. We need it to figure and collect the right amount of tax. Subtitle C, Employment Taxes, of the Internal Revenue Code imposes employment taxes on wages, including income tax withholding. This form is used to determine the amount of the taxes that you owe. Section 6011 requires you to provide the requested information if the tax is applicable to you. Section 6109 requires you to provide your employer identification number (EIN). If you fail to provide this information in a timely manner, you may be subject to penalties and interest.

You are not required to provide the information requested on a form that is subject to the Paperwork Reduction Act unless the form displays a valid OMB control number. Books and records relating to a form or instructions must be retained as long as their contents may become material in the administration of any Internal Revenue law.

Generally, tax returns and return information are confidential, as required by section 6103. However, section 6103 allows or requires the IRS to disclose or give the information shown on your tax return to others as described in the Code. For example, we may disclose your tax information to the Department of

Justice for civil and criminal litigation, and to cities, states, and the District of Columbia for use in administering their tax laws. We may also disclose this information to other countries under a tax treaty, to federal and state agencies to enforce federal nontax criminal laws, or to federal law enforcement and intelligence agencies to combat terrorism.

The time needed to complete and file Form 941 will vary depending on individual circumstances. The estimated average time is:

Recordkeeping . . . . .	12 hr., 39 min.
Learning about the law or the form . . . . .	40 min.
Preparing the form . . . . .	1 hr., 49 min.
Copying, assembling, and sending the form to the IRS . . . . .	16 min.

If you have comments concerning the accuracy of these time estimates or suggestions for making Form 941 simpler, we would be happy to hear from you. You can write to: Internal Revenue Service, Tax Products Coordinating Committee, SE-W:CAR:MP:T:T:SP, 1111 Constitution Ave. NW, IR-8406, Washington, DC 20224. Do not send Form 941 to this address. Instead, see *Where Should You File?* on page 4 of the instructions for Form 941.

941

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Retrlys  
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Cordova District Fishermen United  
PO Box 939 | 509 First Street | Cordova, AK 99574  
phone: (907) 424 3447 | fax: (907) 424 3430  
web: [www.cdfu.org](http://www.cdfu.org) | email: [cdfu@ak.net](mailto:cdfu@ak.net)

Representative John Harris  
State Capitol, Room 208  
Juneau, AK 99801-1182

January 15, 2008

Re: HB 289" Tax Exemption: Spill Response

Dear Representative John Harris,

Cordova District Fishermen United (CDFU) wants to thank you for introducing this important piece of legislation.

We are in full support of House Bill 289.

CDFU is a membership organization that represents over 500 commercial fishers in Prince William Sound. The regional Ship Escort Response Vessel System fleet is comprised of approximately 200 of our individual members who, along with their designated response crew are trained as professional oil spill responders. These individuals are the first line of defense in the event of an oil spill in Alaska's waters.

As your bill recognizes, requiring vessel owners to process and pay Alaska Department of Labor taxes for crew earnings would place a disproportionate burden on vessel owners. On behalf of our members, we truly appreciate your efforts to find a workable solution to this issue.

Yours Sincerely,

Gerald McCune  
President



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

In Anchorage: 3709 Spenard Road / Suite 100 / Anchorage, Alaska 99503 / (907) 277-7222 / FAX (907) 277-4523
In Valdez: P.O. Box 3089 / 130 South Meals / Suite 202 / Valdez, Alaska 99686 / (907) 834-5000 / FAX (907) 835-5926

MEMBERS

February 13, 2008

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

Karluk Village Mayors Association

Oil Spill Region Environmental Coalition

Prince William Sound Aquaculture Corporation

Click Bishop, Commissioner
Alaska Department of Labor
PO Box 111149
Juneau, AK 99811-1149

Re: Resubmission of Feb. 5 comments regarding House Bill 289, exempting fishing crews from employment security tax during oil spill response training

Dear Commissioner:

We are writing to let your know of our support for House Bill 289, which would establish an exemption from unemployment security taxes for fishermen participating in training for emergency oil spill responses. These individuals are exempt from the ESD for their normal fishing activities, and a substantial number of boat owners say they will withdraw from the spill response program if they have to take on a large tax paperwork burden for a few days per year of spill drills.

Fishing vessel responders are a vital part of preparedness for oil spills. The fishing vessels that responded during the Exxon Valdez crisis were critical to saving several areas from damage. We believe it would be a great loss if any of the more than three hundred vessels now signed up as responders were to withdraw from the program due to this new interpretation of law.

HB 289 is a simple fix for this problem. In the previous committee hearing, no one spoke against it, and your department testified that the amount of taxes involved is so small that a new exemption would not impact the program.

Thanks for your help. Please let us know if we can provide any other information.

Handwritten signature: John S. Devens

John S. Devens, Ph.D.
Executive Director



Anil Mathur  
President & Chief Executive Officer

Alaska Tanker Company, LLC  
15400 NW Greenbrier Parkway  
Parkside Building, Suite A400  
Beaverton, OR 97006

503-207-0046  
Fax 503-207-0063  
E-mail: Anil.Mathur@aktanker.com

January 25, 2008

Representative Paul Seaton  
Chair, House Fisheries Committee  
Capital Building  
Juneau AK 99801-1182

Re. House Bill 289

Dear Chairman Seaton

ATC supports passage of HB 289. The fishing vessels are an integral part of an oil spill response should a spill to sea occur. We consider the fishing vessels owners and fishermen our partners in response. This Bill eliminates some paper work burden on the fishermen and the fishing vessel owners, and also provides some financial relief to these entities as they prepare for and assist in incident response.

Our Contingency Plan in case of a spill relies on the cooperation and enrollment of the fishing fleet in our response to a spill. This Bill encourages their participation, so we support it.

We believe using fishing vessels in case of a spill is good for all affected entities, and results in a more robust response.

Very Truly Yours,

A handwritten signature in cursive script that reads "Anil Mathur".

Anil Mathur  
President and CEO





# CITY OF SELDOVIA

▲ P.O. DRAWER B \* SELDOVIA, ALASKA 99663  
Phone: (907) 234-7643 Fax: (907) 234-7430

2/22/2008

Representative Paul Seaton  
State Capitol, Room 102  
Juneau, Alaska 99801-1182

Dear Representative Seaton;

This letter is to let you know that the City of Seldovia fully supports your House Bill 289.

As a coastal community the City of Seldovia is very much aware of the importance of the Alyeska Emergency Response Fishing Vessel Program. The service provided by the vessels and crews in the Alyeska Fishing Vessel Program is a vital and priceless service that cannot be jeopardized in any way, shape, nor manner. It is nothing short of ridiculous to consider any tax (unemployment insurance and its' requirements) that would diminish the emergency response fleet by even one (1) vessel and crew.

Our fisheries and shoreline habitat has yet to recover from the last oil spill disaster and may never fully recover. Should another incident similar to the Exxon Valdez disaster ever again occur this short sighted application of taxation will cost the State far more than the relatively few tax dollars raised during Oil Spill Drill Operations.

Keep up the good work.

Sincerely

Howard R. Davis  
City Manager, City of Seldovia  
citymanager@cityofseldovia.com  
907-234-7643 (v) 907-234-7430 (f)

CC: Representative John L. Harris

This letter is in regards to the recent documents, about paying unemployment taxes for crew members, that were sent to the to the contract holders for the oil spill response industry fishing vessel program. I have included copies of those documents and this letter is a brief summary of the fishermen's response to this and the possible outcome from this.

Many fisherman have been in contact with their accountants or tax persons about this and they don't see any way around this other than the fisherman will have to file and pay this tax. The fisherman are asking why the State of Alaska can't just roll the oil response vessels into the same exemption as commercial fisherman ( AS 23.20.526A17 ).

As you can see from forms 940 and 941 there is a lot of time and paper work involved as well as a lot of cost because time means money in addition to the actual tax itself.

Also the fisherman will be required to file with the Federal Government under FUTA and will now have to file quarterly reports for their taxes which only adds more paper work.

Even though fishermen and their crew will be paying unemployment tax, there is no mechanism for them to ever be able to draw money out even if they are unemployed.

Many fisherman have indicated that if they have to do all this paper work and pay this tax, they will probably drop out of the oil spill vessel response programs.

The State of Alaska needs to step up and go to bat for the States on water volunteer fire department that shows up with their own fire trucks so to speak and not require them to have to pay this unemployment tax.

Thank you,  
Dave Blossom.

**Katie Shows**

---

**From:** Louie Flora  
**Sent:** Wednesday, January 23, 2008 4:10 PM  
**To:** Katie Shows  
**Subject:** FW: Harris bill on Fishing Vessel Program

---

**From:** Scavera, Paula D (DOL) [mailto:paula.scavera@alaska.gov]  
**Sent:** Wednesday, January 23, 2008 1:54 PM  
**To:** Louie Flora  
**Cc:** Kramer, William T (DOL)  
**Subject:** FW: Harris bill on Fishing Vessel Program

Here you are. Thank you. Paula

---

**From:** Johnston, Robert - ETA  
**Sent:** Mon 11/26/2007 9:01 AM  
**To:** 'Richard Berkowitz'  
**Cc:** McGucken, John - ETA; Hildebrand, Gerard - ETA; ONeal, Pat - ETA  
**Subject:** RE: Harris bill on Fishing Vessel Program

Mr. Berkowitz,

I have reviewed the draft legislation that you provided regarding the Alaska UI coverage issue for fishermen participating in oil spill exercises/drills/response. As drafted, it does not appear to create any issues with Federal unemployment compensation law and as such will not endanger the certification of Alaska's UC law under FUTA.

I cannot give you any opinion as to how the Internal Revenue Service will view these payments for purposes of collecting the Federal Unemployment Tax. However, I do refer you to Unemployment Insurance Program Letter (UIPL) 36-96 which explains in brief treatment of fishermen under FUTA. You can find that UIPL at:

[http://wdr.doleta.gov/directives/corr\\_doc.cfm?DOCN=730#attachment](http://wdr.doleta.gov/directives/corr_doc.cfm?DOCN=730#attachment)

Please feel free to contact me if you have any further questions.

Sob

*Robert Johnston, Supervisor*  
State Conformity and Compliance Team  
U.S. DOL Office of Workforce Security  
Division of Legislation  
202-693-3005

Any advice provided in this e-mail represents an informal, staff-level opinion. If you would like a formal opinion, please write Cheryl Atkinson, Administrator, Office of Workforce Security, 200 Constitution Ave. NW, Room S-4231, Washington, DC 20210.

-----Original Message-----

1/31/2008

From: Richard Berkowitz [mailto:tinstitute@qwest.net]  
Sent: Wednesday, November 21, 2007 8:06 PM  
To: Johnston, Robert - ETA  
Subject: FW: Harris bill on Fishing Vessel Program

Mr. Johnston,

Per our conversation regarding the Alaska UI coverage issue for fishermen participating in oil spill exercises/drills/response, I am forwarding the draft legislation to you and would welcome any comments you may share. I am particularly interested in the IRS-FUTA issue and whether the exclusion of fishermen by state statute would pass muster with them.

Once again, thanks for your advise and assistance.

Regards,

Rich

Rich Berkowitz  
Director, Pacific Coast Operations  
Transportation Institute  
2200 Alaskan Way, Ste. 110  
Seattle, WA 98121  
(206) 443-1738 phone  
(206) 443-0917 fax  
www.trans-inst.org  
tinstitute@qwest.net

Subject: Harris bill on Fishing Vessel Program

Attached is a bill drafted by Rep. John Harris on the unemployment issue for participants in the Fishing Vessel Program.

Doug Mertz, meantime, continues to investigate how state law relates to overlying federal law on this issue, and whether federal action as well as state action may be required.

## Oil-spill fishing vessels hit with state unemployment tax

**UNEMPLOYMENT:** Some owners say they'll pull out of the response plans.

By WESLEY LOY  
wloy@adn.com

Published: November 1, 2007

Last Modified: November 1, 2007 at 05:37 AM

A key component of plans to clean up a big oil spill in Prince William Sound -- using a fleet of fishing boats to help corral the oil -- might be in danger of unraveling due a new state labor demand, an oil industry watchdog group says.

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This summer some boat owners got letters from a state Labor Department auditor saying they need to pay unemployment insurance taxes for crewmen working in spill response or drills.

And more letters might be coming. A week ago, labor officials asked Alyeska Pipeline Service Co., the oil company consortium that runs the Valdez tanker port, for the full list of fishing boats with which Alyeska holds contracts for spill response.

Some fishermen have vowed to quit the industry-funded oil spill response program due to the paperwork and costs involved with unemployment insurance.

"Our concern is that it will damage or, in the worst case, wipe out the fishing vessel program," said Stan Jones, spokesman for the Valdez-based Prince William Sound Regional Citizens' Advisory Council.

The council and the fishing boat cleanup program both were created in the wake of the Exxon Valdez tanker disaster in 1989, which released nearly 11 million gallons of oil into the Sound.

If another spill happened, as many as 350 fishing boats from Cordova, Valdez, Whittier and other ports would help deploy boom to contain the oil for recovery with skimming equipment.

The fleet is now part of the oil industry's mandatory plans for how it will respond to a spill.

Boats participate in annual spill training exercises that typically last a day or two.

Alaska law exempts many commercial fishing boat owners from paying for unemployment insurance because crewmen typically are not paid wages. Rather, they earn a share of proceeds from the catch.

But the state letter to boat owners says payments to crewmen employed during spill response drills "are reportable for unemployment insurance purposes."

It means fishing vessel owners likely would have to pay between 3 percent and 4 percent of a deckhand's pay, and the deckhand would have to pay another half a percent, for state unemployment insurance.

### COST AND HASSLE

Some boat owners balk at the cost and quarterly reporting requirements of getting involved with unemployment insurance for the few days a year they're engaged in spill response.

At least three even vowed to quit the fishing vessel spill response program.

"But I don't know really how serious they were about it," said Thane Miller, a Valdez commercial salmon fisherman.

The unemployment insurance issue is "really sort of an oversight on the part of the fishing vessel owners," Miller conceded. "I actually believe it was something we should have been doing all along."

But fishermen hate paperwork and would like to see their spill-response work exempted from the unemployment insurance requirement, he said. Or maybe allow boat owners to simply write the state a check after each spill drill.

### ALYESKA CONTRACT

The oil industry pays boats based on size for their participation. Miller said his boat gets \$1,850 a day for spill response drills, plus a fuel allowance. Of this, \$250 a day goes to each of his two crewmen. Beyond this he's got boat insurance, wear and tear, and risk to worry about.

"The fishing vessel response fleet acts like a paid volunteer fire department," he said. "We are expected to drop our lives at a phone call and a moment's notice and get on a boat and go do what's necessary, whether

for training or otherwise. But it's not an income that anybody relies on."

Anything that raises the cost and hassle of taking part in the spill response program makes an already marginal job even less

attractive, Miller said.

Tom Nelson, director of the state Employment Security Division, said his office has an obligation to seek unemployment insurance taxes from all employers who owe them.

Complying isn't that burdensome, and the state is glad to help any fisherman or other employer get started, Nelson said.

#### TRICKY SOLUTIONS

Jones said the citizens' advisory council is studying possible solutions, such as amending state law to exempt the fishing boats from the tax when engaged in spill response. Another idea is making boat crews temporary employees of Alyeska during spill drills. Alyeska would then take care of the employment insurance.

Anil Mathur, president of Alaska Tanker Co., the oil shipper for major Alyeska owner BP, said he doesn't like the idea of temporary employment. That would blur who is responsible for managing fishing boat crews, he said.

Mathur questioned the value of the state pursuing the fishing boat owners for unemployment insurance. He said such collections likely would total less than \$50,000 a year.

"It's really not something that adds zeros to the Alaska treasury," he said.

He believes the issue could be resolved with a simple amendment to state law saying fishing boats are exempt from unemployment insurance requirements not only when they're fishing, but when engaged in oil spill response drills in Prince William Sound.

"I don't really see it as that big a deal," Mathur said.

Nelson said the amount of potential revenue isn't the point. It's a matter of fairness that all employers contribute to the state trust fund that pays unemployment benefits, he said.

Jones said the advisory council is concerned that seeking exemptions for state unemployment insurance is not as simple as it sounds, in part due to potential conflicts with federal law.

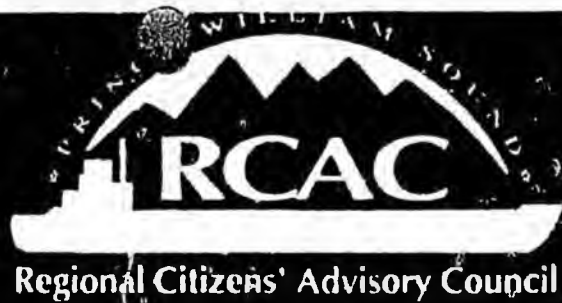
Douglas Mertz, a lawyer for the advisory council, said in a memo last month that "a legislative fix would be very difficult." While some state officials see potential for only a handful of boats leaving the spill response program, Mertz said that "we could see a wider owner rebellion."

Alyeska spokesman Mike Heatwole said Wednesday he knows of no fisherman who has actually quit the program.

Alyeska plans to stay out of the unemployment insurance issue because "it's a tax matter between the state of Alaska and the fishing vessel operators."

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Find Wesley Loy's commercial fishing blog online at [adn.com/highliner](http://adn.com/highliner) or call 257-4590.



# The Observer

VOLUME 18, No. 1/JANUARY 2008

AK Chamber of Commerce - AK Wilderness Recreation & Tourism Assoc. - Chugach Alaska Corp - Cordova District Fishermen United - OSREC - PWS Aquaculture Corp.

## New legislative committee is formed, already faces fishing vessel problem

The council's Legislative Affairs committee for 2008, formed in December, is already focusing on what could become a major council issue: a state requirement that fishing vessel captains pay unemployment taxes for crew members during oil-spill response training.

The six-seat committee, made up of council board members, monitors action in Juneau during the legislative session, advising the full council as needed. This year's members are Patience Andersen of Cordova, Steve Lewis of Kodiak, Blake Johnson of Kenai, John Velsko of Homer, John French of Kodiak, and Walt Parker of Anchorage. French and Johnson are the chair and vice chair. The committee is supported by the council's legislative monitor, Juneau attorney Douglas Mertz.

The issue of unemployment insurance for fishing vessel crews surfaced in July, when the state Department of Labor began notifying vessel captains they were liable for the tax. In the past,

participants in Alyeska's fishing vessel program believed crews were exempt during oil-spill training, as they are when fishing.

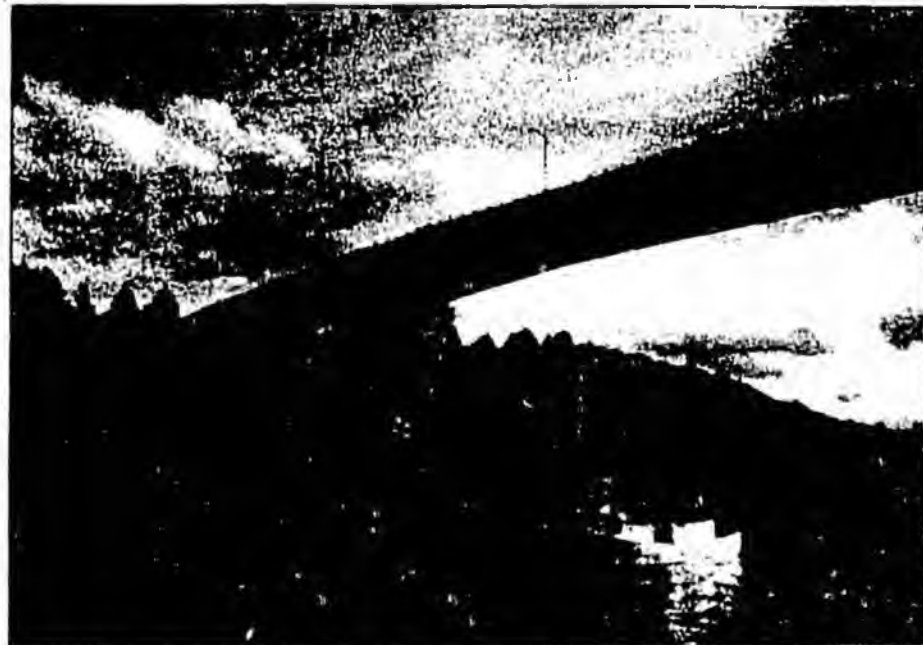
But Erna Sturman, a field auditor for the labor department, wrote in the July 20 letter that "Alaska law does not exempt wages or shares paid to your employees while working in . . . oil spill drill operations."

Alyeska's program involves about 350 fishing vessels that would be available for cleanup operations in the event of a major oil spill. Alyeska pays the captains via contract, and the captains pay the crews. Those vessels are kept under contract and receive regular training so they can respond immediately to spills.

As the state's letter began circulating, the council started hearing concerns that captains might drop out rather than put up with the unemployment insurance paperwork for just a few days a

See page 2, **VESSELS**

## Work continues on tanker spill plans



**FISHING TOWN**—The council's September board meeting took place in Kodiak. Like most of the council's member communities, Kodiak is heavily dependent on commercial fishing. Photo by Tom Kuckertz.

## Stephens leaving board after 18 years

Stan Stephens, who started service on the citizens' council board in 1990, resigned his seat at the start of this year.

He said in a letter announcing his resignation that he plans to continue his



and was elected president several times. His most recent term in the top post ended in May 2007.

Stephens, who was born and raised in Minnesota, has been in Alaska since 1961. He is the owner and

as federal court and in the state courts  
er of Texas and Alaska, as well as the  
ht U.S. District Court in Alaska, the U.S.  
ze Court of Appeals, Ninth Circuit, and  
of the U.S. Supreme Court. In addition,  
al he teaches math at a private school in  
Anchorage.

When Skladal heard after the  
th 1989 Exxon Valdez oil spill that the  
ze citizens' council was forming a com-  
/- mittee to oversee operations at the  
at Valdez tanker terminal, he was one

In 1993, Skladal began taking art  
lessons—first painting, then drawing,  
and now sculpture and hand-thrown  
ceramics. It was a childhood inter-  
est, but one that he never had time to  
develop. His masterpieces can now  
be found on display at UAA, up for  
high bidding at fund raising events,  
or throughout his home.

Another hobby of his includes  
swimming 1,400 miles each year. And  
he plans to stick with that, too.

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rick Duffy

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## VESSELS: Fix may be in works

Continued from Page 1

year of oil-spill training.

The council conducted a survey of fishing vessel captains about the problem. Some said the paperwork was manageable; others were upset and said it could deter participation. "It's a royal pain," one of the captains complained. "It sure adds a lot of extra to a simple drill."

Because of the potential for disrupting the fishing vessel program, the council began looking into possible fixes, such as a change to state law. A bill has been introduced by Reps. John Harris of Valdez and Paul Seaton of Homer to exempt crews from the unemployment tax while in the fishing-vessel program.

But it's not clear that changing state law would be a complete solution. Unemployment

insurance is governed by the Federal Unemployment Tax Act, which may not allow the exemption envisioned in the Harris-Seaton bill.

That's according to Mertz, the legislative monitor. In a legal analysis, he wrote that "none of the exemptions in the federal law would exempt fishing vessels or their crew while acting as spill responders."

The state Department of Law is reportedly reviewing the state-federal jurisdictional issue, but no opinion had been released by Observer press time.

"We'd hate to see the fishing vessel program fall apart because of this problem," said John Devens, the council's executive director. "We'll do everything we can to help fix it, including taking it to the federal level if that turns out to be necessary."