

SCOMM

147:35



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,

Anil Mathur.

Anil Mathur
President and CEO





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 | email: 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

FISCAL NOTE

STATE OF ALASKA
2008 LEGISLATIVE SESSION

Fiscal Note Number: _____
 Bill Version: HB 289
 () Publish Date: _____

Identifier (file name): HB289-DOLWD-UI-1-11-08
 Title Employment Tax Exemption: Spill Response

Dept. Affected: Labor and Workforce Development
 RDU Employment Security
 Component Unemployment Insurance

Sponsor Representative Harris
 Requester _____

Component Number 2276

Expenditures/Revenues (Thousands of Dollars)

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

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

CAPITAL EXPENDITURES							
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CHANGE IN REVENUES (33030)	*	*	*	*	*	*	*
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FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts							
1003 GF Match							
1004 GF							
1005 GF/Program Receipts							
1037 GF/Mental Health							
Other Interagency Receipts							
TOTAL		0.0	0.0	0.0	0.0	0.0	0.0

Estimate of any current year (FY2008) cost: None

POSITIONS

Full-time							
Part-time							
Temporary							

ANALYSIS: (Attach a separate page if necessary)

See attached.

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

Phone 465-5933
 Date/Time 1/11/08 2:14 PM
 Date 1/11/08

FISCAL NOTE

**STATE OF ALASKA
2008 LEGISLATIVE SESSION**

BILL NO. HB 289

ANALYSIS CONTINUATION

This bill excludes from the definition of "employment" services performed by crewmembers on any fishing boat, ship, or other craft that responds, prepares to respond or engages in an emergency or practice drill in response to an oil spill.

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

There would be a loss of revenue into the Unemployment Insurance (UI) Trust Fund as boat owners/operators and crewmembers would no longer be required to pay into the UI Trust Fund for services provided by crewmembers for oil spill response activities and their crewmembers would not be able to use oil spill recovery wages to qualify for UI benefits.

*Due to the numerous variables involved we are unable to derive an accurate estimate of the loss of revenue to the UI Trust Fund. It is believed that unless the oil spill was catastrophic in nature, similar to the Exxon Valdez oil spill, the total loss of revenue would be minimal.

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Anchorage Daily News

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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)

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.

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.



Some operators of fishing vessels, such as these training to respond to oil spills near Cordova, are saying they'd rather quit than deal with state unemployment insurance requirements. (Photo by STAN JONES / PWSRCAC)

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.

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."

Find Wesley Loy's commercial fishing blog online at adn.com/highliner or call 257-4590.

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Alaska State Legislature

Speaker John Harris
Room 208
Juneau, AK 99802
Phone: 907-465-4859



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

House District 12 ~ House District 35

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 fisherman 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) vessel owners could opt into the unemployment system and their crew would be covered.

In summary, HB 286 encourages fisherman 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.

25-LS1182/M
Wayne
1/25/08

CS FOR HOUSE BILL NO. 289()

IN THE LEGISLATURE OF THE STATE OF ALASKA
TWENTY-FIFTH LEGISLATURE - SECOND SESSION

BY

Offered:
Referred:

Sponsor(s): REPRESENTATIVES HARRIS AND SEATON, Chenault, LeDoux

A BILL

FOR AN ACT ENTITLED

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

4 **BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:**

5 *** Section 1.** AS 23.20.526(a) is amended to read:

6 (a) In this chapter, unless the context otherwise requires, "employment" does
7 not include

8 (1) domestic service in a private home, except as provided in
9 AS 23.20.525(a)(15);

10 (2) newsboys' services in selling or distributing newspapers on the
11 street or from house to house;

12 (3) service not in the course of the employing unit's trade or business
13 performed in a calendar quarter by an individual, unless the cash remuneration paid
14 for the service is \$50 or more and the service is performed by an individual who is

1 regularly employed by the employing unit to perform the service; an individual is here
2 considered to be regularly employed to perform service not in the course of an
3 employing unit's trade or business during a calendar quarter only if the individual
4 performs the service for some portion of the day on each of some 24 days during the
5 quarter or during the preceding calendar quarter;

6 (4) service performed by an individual in the employ of the
7 individual's

8 (A) son, daughter, or spouse;

9 (B) parent or legal guardian if the individual was under the age
10 of 21 years and a full-time student during eight of the last 12 months and
11 intends to resume full-time student status within the next four months; and

12 (C) mother or father if the service is performed by a child under
13 the age of 18;

14 (5) service with respect to which unemployment insurance is payable
15 under an unemployment insurance program established by an Act of Congress;

16 (6) service performed in the employ of a foreign government including
17 service as a consular or other officer or employee or a nondiplomatic representative;

18 (7) service performed in the employ of an instrumentality wholly
19 owned by a foreign government if

20 (A) the service is of a character similar to that performed in
21 foreign countries by employees of the United States government or its
22 instrumentalities; and

23 (B) the department finds that the United States Secretary of
24 State has certified to the United States Secretary of the Treasury that the
25 foreign government, with respect to whose instrumentality exemption is
26 claimed, grants an equivalent exemption with respect to similar service
27 performed in the foreign country by employees of the United States
28 government and its instrumentalities;

29 (8) service performed by an insurance agent, insurance solicitor, a real
30 estate broker, a real estate salesperson, or a securities salesman to the extent the person
31 is compensated by commission, unless the service is required to be covered under the

1 Federal Unemployment Tax Act as amended;

2 (9) notwithstanding AS 23.20.525(a)(11), service performed by an
3 officer or member of the crew of an American vessel on or in connection with the
4 vessel, if the operating office, from which the operations of the vessel operating on
5 navigable waters inside or inside and outside the United States are ordinarily and
6 regularly supervised, managed, directed, and controlled, is outside this state;

7 (10) service performed on or in connection with a vessel not an
8 American vessel by an individual if the individual performed service on and in
9 connection with the vessel when outside the United States;

10 (11) service performed in the employ of the United States government
11 or an instrumentality of the United States exempt under the Constitution of the United
12 States from the contributions imposed by this chapter, except that to the extent that the
13 Congress of the United States permits states to require an instrumentality of the United
14 States to make payments into an unemployment fund under a state employment
15 security law, all of the provisions of this chapter apply to the instrumentalities, and to
16 service performed for the instrumentalities in the same manner, to the same extent, and
17 on the same terms as to all other employers, employing units, individuals, and service;
18 however, if this state is not certified for any year by the Secretary of Labor under 26
19 U.S.C. 3304(c) (Federal Unemployment Tax Act, Internal Revenue Code), the
20 payments required of the instrumentalities with respect to the year shall be refunded
21 by the department from the fund in the same manner and within the same period as is
22 provided in AS 23.20.225 with respect to contributions erroneously collected;

23 (12) service performed in the employ of another state, or political
24 subdivision of another state, or an instrumentality of another state or political
25 subdivision which is wholly owned by another state or its political subdivision, or a
26 service performed in the employ of an instrumentality of another state or its political
27 subdivisions to the extent that the instrumentality is, with respect to the service,
28 exempt under the Constitution of the United States from the tax imposed by 26 U.S.C.
29 3301 (Federal Unemployment Tax Act, Internal Revenue Code);

30 (13) service performed in the employ of an international organization;

31 (14) service covered by an election approved by the agency charged

1 with the administration of any other state or federal employment security law, in
2 accordance with an arrangement under AS 23.20.090(a) during the effective period of
3 the election;

4 (15) service performed by an individual in agricultural labor, except as
5 provided in AS 23.20.525(a)(16); the term "agricultural labor" means remunerated
6 service

7 (A) on a farm, in the employ of any person in connection with
8 cultivating the soil, or in connection with raising or harvesting any agricultural
9 or horticultural commodity, including the raising, shearing, feeding, caring for,
10 training, and management of livestock, bees, poultry, and fur-bearing animals
11 and wildlife;

12 (B) in the employ of the owner or tenant or other operator of a
13 farm, in connection with the operation, management, conservation,
14 improvement, or maintenance of the farm and its tools and equipment, or in
15 salvaging timber or clearing land of brush and other debris left by a hurricane,
16 if the major part of the service is performed on a farm;

17 (C) in connection with the production or harvesting of any
18 commodity defined as an agricultural commodity in 12 U.S.C. 1141j (Sec.
19 15(g), Agricultural Marketing Act), as amended, or in connection with the
20 operation or maintenance of ditches, canals, reservoirs, or waterways, not
21 owned or operated for profit, used exclusively for supplying and storing water
22 for farming purposes;

23 (D) in the employ of the operator of a farm in handling,
24 planting, drying, packing, packaging, processing, freezing, grading, storing, or
25 delivering to storage or to market or to a carrier for transportation to market, in
26 its unmanufactured state, any agricultural or horticultural commodity; but only
27 if the operator produced more than one-half of the commodity with respect to
28 which the service is performed except as stated in (b) of this section;

29 (E) in the employ of a group of operators of farms, or a
30 cooperative organization of which the operators are members, in the
31 performance of service described in (D) of this paragraph, but only if the

1 operators produced more than one-half of the commodity with respect to which
2 the service is performed;

3 (F) on a farm operated for profit if the service is not in the
4 course of the employer's trade or business;

5 (16) service performed as a student nurse in the employ of a hospital or
6 a nurses' training school by an individual who is enrolled and is regularly attending
7 classes in a nurses' training school chartered or approved in accordance with the laws
8 of this state, and service performed as an intern in the employ of a hospital by an
9 individual who has completed a four-year course in a medical school chartered or
10 approved in accordance with the laws of this state, unless the service is required to be
11 covered under the Federal Unemployment Tax Act;

12 (17) service performed by an individual on a boat engaged in catching
13 fish or other forms of aquatic animal life under an arrangement with the owner or
14 operator of that boat under which

15 (A) that individual does not receive any cash remuneration
16 except as provided in (B) of this paragraph;

17 (B) that individual receives a share of the boat's, or the boats' in
18 the case of a fishing operation involving more than one boat, catch of fish or
19 other forms of aquatic animal life or a share of the proceeds from the sale of
20 that catch; and

21 (C) the amount of that individual's share depends on the
22 amount of the boat's, or the boats' in the case of a fishing operation involving
23 more than one boat, catch of fish or other forms of aquatic animal life; but only
24 if the operating crew of that boat, or each boat from which the individual
25 receives a share in the case of a fishing operation involving more than one
26 boat, is normally made up of fewer than 10 individuals;

27 (18) service performed as a prospective or impaneled juror in a court;

28 (19) service performed for a corporation by an employee of the
29 corporation if

30 (A) the corporation is incorporated under AS 10.06;

31 (B) the corporation is not a government corporation; and

1 (C) the employee is an executive officer of the corporation;

2 (20) service performed by an individual who drives a taxicab whose
3 compensation and written contractual arrangements are as described in
4 AS 23.10.055(a)(13);

5 (21) service of an individual who

6 (A) directly sells or solicits the sale of consumer products, for
7 resale or otherwise, personally to a prospective consumer in the home or
8 otherwise than in a permanent retail establishment; a sale or solicitation by
9 telephone, mail, other telecommunications method, or other nonpersonal
10 method does not satisfy the requirement of this subparagraph;

11 (B) is compensated solely by

12 (i) commissions on sales or other remuneration directly
13 related to sales or sales performance; or

14 (ii) a profit represented by the difference between the
15 wholesale cost of the product to the seller and the final sale price to the
16 consumer; and

17 (C) performs under a written contract with the person for whom
18 the service is performed that provides, notwithstanding AS 23.20.395(a), that
19 the individual is not an employee for purposes of this chapter or for federal or
20 state tax purposes;

21 **(22) temporary services related to emergency oil spill training and**
22 **response activities by an individual described in (17) of this subsection; in this**
23 **paragraph, "temporary" means a period of less than seven continuous days.**

24 * Sec. 2. This Act takes effect immediately under AS 01.10.070(c).

HB 289 – Oil Spill Response

On line:

~~Betty Shore~~, Program Manager for the Oil Spill Response Program
Captain ~~Eli Mathers~~ Captain for Alaska Tanker CO.

Tom Colby

Version. M

Incorporates the amendment the committee adopted that restricts applicability to only fishing vessels that engage in harvesting aquatic life (definition is in Sec. 17, p.5 lines 12-20)

Adds a NEW definition of temporary as “a period of less than seven continuous days.” (P.6 line 23)

AMENDMENT #1 adopted

OFFERED IN THE HOUSE
TO: HB 289

BY REPRESENTATIVE SEATON

- 1 Page 5, lines 16 - 20:
- 2 Delete all material.
- 3 Insert "except as provided in (B) of this paragraph;"
- 4
- 5 Page 6, lines 25 - 28:
- 6 Delete all material and insert:
- 7 "(22) temporary services related to emergency oil spill training and
- 8 response activities by an individual described in (17) of this subsection."

Louie Flora

From: Scavera, Paula D (DOL) [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

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

Bob

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-----

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

1/24/2008

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.

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.

**DEPARTMENT OF LABOR & WORKFORCE DEVELOPMENT
EMPLOYMENT SECURITY DIVISION**

Sarah Palin, GOVERNOR
11312 KENAI SPUR HIGHWAY
SUITE 2
KENAI ALASKA 99611-9106
PHONE: (907) 283-4478
FAX: (907) 283-3152

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

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(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 1-888-448-3527 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 23.20.325 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 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.
- L.L.C.:** 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, trustee, executor, 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 L.L.C. 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	☐ New ☐ Update	Business Name EIN State	Product Code	Federal Tax ID
	Federal Tax ID	State Tax ID	State Tax ID	State Tax ID

COMPLETE BOTH SIDES OF FORM THE ABOVE AREA IS FOR STATE USE ONLY

1) Type of Business: ☐ Sole Proprietor ☐ Partnership: General ☐ Limited ☐ Date Partnership Formed: _____ ☐ Nonprofit Organization Method of Payment: _____ Taxable: _____ Substantially: _____ Other: _____ ☐ Corporation: Date Incorporated: _____ State Incorporated: _____ State Corporation Number: _____ ☐ Limited Liability Company (LLC): Number of Members (or members if no manager): _____ Date Formed: _____ State: _____ 2) Federal Identification Number: _____	3) Have you ever assigned an Agent Number by this Agency? ☐ Yes ☐ No If yes, the 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? Month: _____ Day: _____ Year: _____ (Your account will be opened this date)	6) Do you anticipate using Contract Labor to perform the activities listed in form 13? ☐ Yes ☐ No

7) Legal Business Name: _____ 8) Mailing Address: _____ City: _____ State: _____ Zip: _____ 9) Physical Worksite Address in Alaska (list additional worksites on Page 4): _____	10) Business Phone: _____ 11) Fax Number: _____ 12) Describe (IN DETAIL) the major product sold or service you provide in Alaska: _____ 13) % of Gross Alaska income derived from item 13: _____ 14) 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 ☐ Repossession ☐ Other (Describe in detail on separate paper)
20) What percentage of the Alaska Operating Assets were acquired? _____ 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	Code
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: _____			

DBA Name: _____ Account No: _____

Voluntary Election of Coverage for Excluded Employment

Check the types of non-covered employment you wish to cover:

- ☐ Corporate Officers ☐ Domestic _____
- ☐ Fishing ☐ Other (Specify) _____

Indicate the date you request coverage of excluded employment to be effective: _____

Signature and Title

Business Phone

If you represent a corporation and wish to have corporate officers covered,
all officers must be covered as a group

This agreement, when approved, is binding for the remainder of the calendar year in which it is received and two additional years. Coverage continues in effect on a yearly basis until either you or the Agency terminates the agreement in writing before March 15 of the year for which the termination is requested. In the event your taxes become delinquent, the Agency reserves the right to cancel your Voluntary Coverage election effective the quarter the taxes become delinquent.

Additional Worksites (See instructions on Page 2, Item 11)**Second Worksite**

Name (Doing Business As)

Mailing Address	City	State	Zip	Business Phone
Physical Address	City	State	Zip	FAX Number
Describe (IN DETAIL) the major product sold or service you provide in Alaska			% Gross Alaska income from this activity:	Number of employees in Alaska:

Other Address Usage Information

Name of where Rate Notices should be Mailed to:

Mailing Address	City	State	Zip	Phone Number
				Fax Number

Name of where Quarterly Report Forms should be mailed to:

Mailing Address	City	State	Zip	Phone Number
				Fax Number

TYPES OF EXCLUDED EMPLOYMENT FOR WHICH COVERAGE MAY BE ELECTED

1. Service of corporate officers if the corporation is formed under AS 10.06.
Notes: 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.
Notes: 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 23.20.526 (d) (3)(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

Nov 15 07 08:57p Porter

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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: 1-907-283-4478
Fax: 1-907-283-5152

November 14, 2007

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

Dear Mr. Porter:

Please find enclosed information on contract labor.

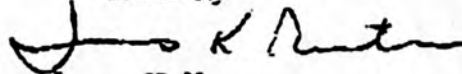
As I understand the procedure, the training is done by Alyeska Pipeline and you as the boat owner are paid by Alyeska and in turn you pay the crew members.

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

Nov 15 07 08:58p Porter

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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.

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FGI:DMC:FINANCE

PAGE 01

Form 940 (2006)

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 6011 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-6406, 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

LICENSE

APPS. ← STATE LIC
EIN (FED)

ESC →

FUTA, 941
MEDICARE
CHILD SUPPORT

ANNUAL FUTA
REPORT
CALC.

→ Calculated
\$56 per \$7000.00

940 FUTA

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

Juneau - Registration

1111 W. 8th 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. 8th 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

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 (Rev. 07)

MEMORANDUM

RECEIVED
Department of Labor

FEB 24 1999

State of Alaska

Department of Law

TO: Honorable Ed Flanagan
Commissioner
Department of Labor

Office of the Commissioner

February 17, 1999

FILE NO: 661-98-0255

TEL. NO: 269-5178

SUBJECT: Test Fishing

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

Comm cc
Dwight cc
cc: Allison
cc: Ladd
cc: [unclear]
cc: [unclear]

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.¹ 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

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

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

REC- FEB 25 1999