

ALASKA LEGISLATURE SPECIAL COMMITTEE/SUBJECT FILE 8672
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involved the treatment of sewage. Annex Five dealt with persistent garbages and plastics. The United States ratified Annexes One, Two and Five.

Commander McQueeney elaborated on the laws applicable prior to MARPOL 73-78 and the Ports and Tankers Safety Act of 1978 (PTSA). These two laws placed a new set of operating parameters on tanker operators. Prior to the early 1970's, tankers would load crude oil in all tanks of the ships to carry as much cargo as possible, in addition to intermixing the contents of tanks. Commander McQueeney indicated that tankers often pumped the remaining liquid after waterwashing the tanks over the side of the vessel.

Commander McQueeney also indicated that prior to MARPOL 73-78 there were very few ballast water treatment systems.

Number 092

With the enactment of MARPOL 73-78, Commander McQueeney explained that tanker operators were required to carry product only in certain tanks. Other tanks, segregated tanks, were reserved for water only.

Commander McQueeney stated that a new system of crude oil washing (COW) also occurred in which crude oil product was washed from the tanks and then discharged ashore at a refinery.

Commander McQueeney advised members that there was sometimes a need to carry ballast in nonsegregated tanks. In these cases, because the price of oil had risen dramatically, it was no longer cost-effective to dump overboard, so the oil was retained and discharged at the refinery.

MARPOL 73-78 also required the use of an oily water separator (OWS) on all tankers over 150 gross tons, according to Commander McQueeney. An oil record book was also required to be kept and was used to document every time an oil transfer procedure occurred.

Commander McQueeney observed that there was a difference in MARPOL 73-78 in what was considered clean water. By international agreement in MARPOL 73-78, clean ballast was described as having less than 15 parts per million oil in the water, that was allowed to be discharged in certain areas offshore.

Commander McQueeney further explained that federal law under the federal water and pollution control act (FWPCA) had a higher standard, which was that there could not be a discharge that would create a sheen, a sludge, or an emulsion in the water.

Number 132

Commander McQueeney clarified that if a tank operator discharged, in U.S. waters, ballast having less than 15 parts per million oil in the water, which created a sheen or emulsion in the water, the tank operator would be in violation of federal law. The higher standard prevailed.

Commander McQueeney stated that the processes described by industry at the last meeting were very accurate and were in agreement with the regulations set forth in MARPOL 73-78.

Number 139

Representative Kay Brown and Vice-Chairman Dave Choquette arrived.

Chairman Hudson asked Commander McQueeney if he would explain what actions the Coast Guard takes on the southern end of a tanker's trip.

Commander McQueeney explained that most all of the tankers were U.S. flag vessels, as the vessels were part of the domestic trade. Requirements exist for U.S. flag vessels to be under certification by the United States Coast Guard (USCG), and the vessels are also required to be examined by a classification society, such as the American Bureau of Shipping.

Commander McQueeney stated that federal law required the Coast Guard to inspect a ship every two years and complete a full examination. This usually occurs between the 24th and 36th month of the ship's life.

Number 175

Commander McQueeney indicated that the USCG frequently tries to arrange for an arrival examination prior to transfer of product, but sometimes this is not possible. The Coast Guard is definitely on scene during the transfer operation to insure that all the connections are made properly and that the containment is correct.

Number 187

Chairman Hudson questioned whether the Coast Guard also checked on log entries to determine if there had been any damages to the ship, and would the Coast Guard withhold the vessel if the damages were severe.

Commander McQueeney responded in the affirmative and elaborated that it was a requirement of federal law for the vessel captain to report any instances of damage.

Representative Choquette requested clarification if all the work performed was done by Coast Guard personnel or contracted out.

Commander McQueeney answered that Coast Guard personnel did all the work.

Number 206

Representative G. Phillips inquired whether or not the stricter law would apply in cases of emulsion or discharge in Alaska.

Commander McQueeney responded that the federal government was enacted by law MARPOL 73-78, but enforcement was based on the more stringent standard.

Number 219

Chairman Hudson wanted to know if the Coast Guard did any northbound, presail, inspections or tracking of the liquids the vessels carry.

Commander McQueeney responded that the Coast Guard did not track the liquids, but if there was any sheen or oil spilled as a result of the lightering operation, the Coast Guard would board both vessels and do a full examination.

Number 250

Chairman Hudson inquired whether or not the Coast Guard took any specific actions in Valdez in relation to observing the transfer of on-loading or off-loading of liquids.

Commander McQueeney answered that the major reason there was a marine safety office (MSO) in Valdez was to respond to the TAPs terminal. There were about 43 to 44 people assigned to the MSO in Valdez, who performed duties ranging from inspections, observing transfer procedures, examinations of ships and inspection for certification.

Number 275

STEVEN TOROK, Chief, State Operations Section for the Environmental Protection Agency (EPA) in Juneau, read and submitted written testimony on behalf of the EPA. (Please refer to Attachment 1).

Number 394

Mr. Torok indicated that although this was not his area of expertise, he would try and answer any questions the

committee had. For those questions he could not answer, Mr. Torok promised he would get an answer for the committee from the Seattle office.

Number 399

Representative Navarre joined the committee.

Chairman Hudson questioned if the EPA had a timeline for the work being done with the ADEC (Alaska Department of Environmental Conservation) to examine the entire process at the BWT facility in Valdez.

Mr. Torok responded that he did not have an estimate for a date that the EPA and the ADEC were shooting for on a resolution of some of the allegations that have been made in the press.

Representative Choquette followed up on Mr. Torok's statement during his testimony that no discharge of transferred waste from tanker to tanker without the express authorization of the ADEC and the EPA was not authorized by Alyeska's permit. He asked if Alyeska had permission to transfer waste.

Mr. Torok answered that he was not aware that Alyeska had requested permission to transfer waste from one tank to another, so he was not aware of any approval.

Number 422

Representative G. Phillips inquired about the allegations from Charles Hammel regarding the illegal dumping of hazardous wastes and asked if these allegations were the same as the ones investigated in 1985 which the EPA found to be untrue. Secondly, Representative Phillips found it hard to believe that the EPA did not know what cleaning agent was being used and what the cleaning agent's composition was when the committee asked for this information on March 15, 1991, from the industry and was promised this information. Lastly, the EPA has stated that it was their intention to minimize the discharge of cleaning agents and to ultimately limit both types of agents used and the amounts. Representative G. Phillips wanted to know why the EPA didn't wait for scientific proof that the cleaning agent being used was toxic before a decision like this was made.

Mr. Torok responded in the affirmative to Representative G. Phillip's first question. He noted that Mr. Charles Hammel raised similar allegations in 1985 which were never substantiated. Since that time, Mr. Hammel has submitted additional information which was what the EPA was following up on.

Regarding the use of cleaning agents, Mr. Torok indicated that the EPA was not in possession of the composition of those cleaning agents nor all of the various cleaning agents that may be used; however, the EPA has requested this information.

Mr. Torok stated that Alyeska's permit only allows for cleaning agents that are petroleum-based to be used and he believed what was meant by the statement about limiting the use of cleaning agents was if cleaning agents, other than petroleum-based, were being used, then the EPA would have to evaluate the use and toxicity of these cleaning agents.

Number 472

Chairman Hudson commented that the committee only heard from a few of the companies involved in the North Slope trade, so the committee didn't know what the other companies were up to.

Representative Carney indicated that it was his understanding that the Valdez harbor had been declared an impaired waterway due to possible pollution and it sounded as though someone hadn't been doing their job.

Representative Carney asked Mr. Torok to comment on whether or not he thought the laws which were needed to monitor the situation were in place, and if so, why hadn't the situation been monitored better.

Mr. Torok answered that the Clean Water Act and the Clean Water Act Amendments provided the mechanism by which the permitting processes were followed. The monitoring aspects were self-monitoring, as were most NPDES permits. The EPA did conduct annual inspections of the larger facilities, but they did not have the staff and resources to conduct more than that.

Mr. Torok indicated that the monitoring was probably not sufficient from independent sources other than the companies themselves and a once a year inspection from the regulatory agency. As indicated in the EPA's written testimony, the EPA felt that the agency had been somewhat remiss with regard to the drafting of the permit and in the review and approval of the best management plan, in that a number of these questions were not asked or felt to be of substance at the time the permit was revised, and this was what the EPA was now working to resolve.

Number 501

Representative Carney asked if, in Mr. Torok's opinion, was once a year monitoring satisfactory.

Mr. Torok stated that the monitoring was not once a year, the inspection was; the monitoring was required under the permit. The EPA felt that once a year inspections were not sufficient.

Number 504

Representative Brown asked if the results of the EPA's investigation on the recent allegations indicated whether or not toxic wastes were present in the ballast water at Valdez.

Mr. Torok responded that he was not at liberty to discuss that at this time; the matter was under investigation.

Representative Brown inquired under what authority was it not public.

Mr. Torok responded that he did not know the answer and, secondly, during an investigation the matter was considered enforcement sensitive until the investigation was completed.

Representative Brown continued with her questions and stated that while the EPA had acknowledged that they did not know whether toxic wastes unrelated to tanker operations were or had been discharged in ballast water, did the EPA know if toxic wastes related to tanker operations were being or had been discharged in ballast water in Valdez.

Mr. Torok indicated he would hand-carry this question back to the Seattle EPA office as he did not know the answer, but he understood the distinction that Representative Brown had made.

Number 011

Representative Navarre wanted to know what type of biological testing the EPA was doing near the outflow, mixing zone of the BWT facility in Valdez.

Mr. Torok indicated that he did not know the answer but he would one.

Representative Navarre followed his previous question by asking, if the EPA was not doing any biological testing, were procedures being drawn up so that testing could occur.

Number 018

Representative G. Phillips recollected that the subject of cleaning agents had been a public issue for several years

and questioned why the subject had never come up during the EPA's annual inspections on the Alyeska BWT facility.

Representative Navarre wanted to know if the EPA kept records of the toxic wastes that were generated, including where the waste was generated and where the waste went.

TAPE 91-17, SIDE B
Number 000

Mr. Torok indicated that generators, transporters, and disposal facilities of regulated hazardous wastes, as defined by the Resource Conservation and Recovery Act, were required to report biannually to the EPA on all waste generated and transported.

Chairman Hudson believed that the EPA's testimony indicated that no transfer of sludge was permitted by the permit. He asked if the permit would allow the backhaul of sludge from Valdez on the tankers back to a sludge disposal site in the Lower 48.

Mr. Torok replied that he did not know, but he would follow up on this question.

Number 017

Representative Brown remarked that she wanted to follow up on Chairman Hudson's earlier question about the time-frame of the investigation and asked if the EPA was talking months or years for completion.

Mr. Torok responded that he had no idea how long the investigation would last, but he suspected it would be in months and not years. The resources to conduct the study came out of the Seattle EPA office.

Representative Brown wanted to know who had the responsibility legally to conduct the investigation.

Mr. Torok indicated that the permit was a federal permit administered by the EPA, thus the EPA had the legal responsibility.

Representative Brown asked what level of resources were being devoted to the investigation.

Mr. Torok indicated that he could not answer Representative Brown's question, but he would research the answer for the committee.

Number 036

Representative Choquette requested clarification on whether

or not a petroleum-based cleaning agent was automatically acceptable.

Mr. Torok responded that he wouldn't necessarily say that because the permit did not address cleaning agents. The EPA was looking at clearly identifying what those cleaning agents were and what the technology was for the removal of any of the constituents prior to the discharge.

Number 056

Representative Zawacki requested a synopsis of the standards that have been in place over the last 13 years.

Mr. Torok apologized that he was not in a position to do what Representative Zawacki requested, but he would provide the requested synopsis to the committee.

Chairman Hudson indicated that the committee would like to have a statement from the EPA addressing the allegations and what actions the EPA was taking to assure the people of Alaska that there are no harmful discharges occurring in the Valdez port.

Number 098

Representative Carney inquired if Mr. Torok could explain the definition of an impaired waterway.

Mr. Torok responded that the ADEC would best be able to answer Representative Carney's question. Under the Clean Water Act, an impaired waterway was a waterway that was suspected or documented to be known to have been contaminated through discharges.

Representative Carney clarified that in Mr. Torok's view, the Valdez port was only suspected of being an impaired waterway.

Mr. Torok responded that he was not in a position to know.

Number 113

ART RONIMUS, Environmental Engineer with the Alaska Department of Environmental Conservation (ADEC), testified that he worked out of the Anchorage office and for the last two years he had been working with Alyeska on construction of the new ballast water treatment facility to meet new permit requirements.

Mr. Ronimus referred to the National Pollutant Discharge Elimination System (NPDES) permit and made a few comments. Mr. Ronimus indicated that effluent limitations and

monitoring were routine functions and the types of monitoring were fairly broad governing the chemical and physical characteristics.

Mr. Ronimus indicated that, in his opinion, the Alyeska facility was well monitored. The NPDES permit for Alyeska was effective December 14, 1990, and would expire in 1994.

Number 201

Mr. Ronimus remarked that recent allegations had prompted the ADEC to draw up a plan which will screen or detect or in some way provide an analytical or scientific basis for determining toxic chemicals.

Mr. Ronimus indicated that under this proposed plan, the ADEC, the EPA, and Alyeska would agree to sample every tanker which comes into port and declares it has contaminants other than crude oil aboard. He indicated that the ADEC would do random sampling of tankers and call upon the services of the technical advisory group and the regional citizen's advisory council. He noted that the ADEC also plans to continue monitoring tankers.

Mr. Ronimus indicated that one of the ADEC's concerns was that the BWT facility at Valdez was both a physical plant and a biological plant. The biological plant reduces the BETX prior to release and was sensitive to upset from biotoxin of some types. It was unknown as to the causes, but the upset occurs eight to ten times a year and there was an upset yesterday due to hydrogen sulfide coming in off a tanker. This was one of the things that the ADEC's investigation would bring to light.

Number 253

Representative Brown wanted to know if the ADEC had received any results yet from the new samplings Mr. Ronimus had mentioned.

Mr. Ronimus indicated in February the ADEC, in conjunction with Alyeska, did sampling of some of the vessels. The analysis was still preliminary, but based on what was available so far, there has been nothing detected that was not characteristic of a tanker washing.

Representative Brown inquired if the ADEC was conducting an investigation separate from the EPA's investigation.

Mr. Ronimus responded in the affirmative. He noted that the ADEC worked with the EPA, however, the ADEC was representing the state's interests in this investigation.

Representative Brown inquired whether or not Mr. Ronimus,

from the work he had done, had seen any toxic wastes being discharged into the ballast water at Valdes.

Mr. Ronimus responded that the question seemed like a loaded question because the ballast water was a waste water stream and it has hundreds of constituents in very small concentrations. Mr. Ronimus felt that the real emphasis was on the toxicity of the waste and how the waste reacted with the ecosystem, and in particular, the types of biotests that were being done.

Mr. Ronimus indicated that his consultations with the other staffs indicated that the waste was a low toxicity waste as the waste left the BWT facility. This waste should not be treated any differently than any other waste, such as the city of Anchorage's waste.

Number 296

Representative Brown asked if there were toxic wastes which were showing up that would be unexpected or of concern to the ADEC from a biological or health perspective.

Mr. Ronimus referred back to his consultation with other ADEC employees and stated that the overall reaction was that the treatment facility had been doing a fairly good job for what the facility's purpose was. The toxicity tests the ADEC received and reviewed indicated a low toxicity waste, which was what was expected.

Number 306

Representative Navarre asked if the ADEC did ongoing biological testing at the outflow of both the water and the sediment.

Mr. Ronimus clarified what Representative Navarre meant by ongoing to mean intermittent and referred to the Alyeska permit explaining the environmental monitoring that goes on.

Mr. Ronimus indicated that while the permit was an EPA permit, the EPA and the ADEC shared the information.

Representative Navarre questioned whether or not the EPA did any independent testing.

Mr. Ronimus clarified that Representative Navarre meant biotoxicity tests and replied that there were none that he was aware of.

Number 329

Chairman Hudson questioned if the ADEC had initiated any

additional tests since the recent allegations of Mr. Charles Hammel.

Mr. Ronimus responded that the ADEC had drafted a plan which had been partially put into effect relating to the ongoing sampling of every tanker declaring a waste other than crude oil.

Number 375

Representative Carney followed up on Mr. Ronimus' statement that the Alyeska permit allowed for self-monitoring and that the ADEC checks once a year.

Mr. Ronimus responded that the ADEC did do some occasional checks with Alyeska but did not have a formal follow-up with Alyeska. Alyeska's lab was checked frequently and the ADEC was confident that Alyeska's lab was doing a good job.

Number 395

Representative Carney questioned Mr. Ronimus on his work with Alyeska over the last two years putting together a biological treatment system and wanted to know why this project was initiated.

Mr. Ronimus indicated that there were several reasons for the new construction: first, to improve the operating efficiency of the plant; and second, the new tanks that were built were designed to better contain the wastes.

Number 421

REPRESENTATIVE GENE KUBINA indicated that during the closing months of the last administration the Valdez office was decimated and Representative Kubina wanted to know if the ADEC felt that this office was now staffed to a full level.

Mr. Ronimus responded that there was adequate staff there if some more training was done. Mr. Ronimus indicated that there were some new people and the ADEC was planning to focus on specialized training.

Representative Kubina brought the letter from Mr. Stan Stephens to the committee's attention.

Number 445

Representative Navarre questioned if Mr. Ronimus felt that any other testing was needed other than what was required under the permit.

Mr. Ronimus responded that he would like to prove or disprove the allegations and the testing would do that.

Chairman Hudson indicated that he wished to bring this subject to a close and promised those people who wished to testify the opportunity to do so when the committee scheduled the next meeting on this subject.

Representative Zawacki questioned how the ADEC told the difference between frivolous accusations and serious accusations.

Mr. Ronimus answered that it depended on physical plausibility

TAPE 91-18, SIDE A
Number 005

Chairman Hudson announced that the informational hearing was concluded and HB 190 was now before the committee.

Representative Zawacki, prime sponsor of HB 190, testified in support of the legislation. Representative Zawacki indicated that the state of Alaska should do everything possible to encourage the production of oil and gas and enhance existing fields.

Representative Zawacki stated that the revenue gained from the oil industry paid for the education, social programs, daycare and so on for Alaskans. Representative Zawacki believed that it was time to go to the people of this country and express to them the importance of easing our dependence on foreign oil.

In addition, Representative Zawacki testified that it was time to tell the people of the United States the truth about the Arctic National Wildlife Refuge (ANWR) instead of the "rhetoric and hypocritical lies that (were) being told by preservationists all over this country."

Number 048

Representative Brown apologized that she had to leave in a few moments and commented that she tended to be supportive of HB 190, depending on what the money would be spent on. Representative Brown wanted to know if there was a statement of what the money would go to if appropriated.

Representative Zawacki responded that a number of groups had expended considerable energy and conducted research and he was confident that, working through the Governor's Office, a plan could be put together meeting Alaska's needs.

Representative Brown expressed her concern about a broadcast effort and her apprehension about a media broadcasting campaign backfiring on the state.

Number 093

MALCOLM ROBERTS, Deputy Chief of Staff for Governor Hickel, testified that the Governor's Office had been wrestling with the issue and had come to a similar conclusion as many in the legislature had. He stated that now was the time to strike. Mr. Roberts indicated that the Governor had felt for several months that a focused effort with members of Congress might be sufficient; however, Governor Hickel has come to feel that the state must enlist America in the fight to open ANWR.

Mr. Roberts said that, due to the Gulf war, there was a sense in America that energy was a life and death issue of national interest. Due to President Bushes' strong stand there was a momentum building that was absent a few months ago, according to Mr. Roberts. President Bush and Senator Bennett Johnston had both made opening ANWR the capstone of the respective national energy policies.

Mr. Roberts indicated that the National Petroleum Institute for the first time had committed resources to telling the tale of ANWR across the nation.

Mr. Roberts indicated that the Governor's Office was currently working with the help of Bruce Posey, a public relations professional out of Anchorage, and hoped to get some more help to prepare a plan in the next 60 days that would lay out how to get the most bang for the buck.

Mr. Roberts envisioned a sophisticated lobbying effort coordinated by John Katz, Director of the Alaska Governor's Washington, D.C., office. Mr. Roberts compared the investment in ANWR as being similar to the money put forward to promote tourism and the seafood industry. The state has never done this with energy related goals and he felt it was time to do so. Mr. Roberts commented that the best way to proceed would be to target specific communities and regions of the nation.

Number 171

Chairman Hudson asked if anyone had any questions for Mr. Roberts.

Representative Navarre offered a couple of comments. He also shared the concerns of others that Alaska currently does not have the credibility nationwide to mount such a campaign. Representative Navarre felt that the campaign

could backfire if it looked like we were spending money to get more money.

With regard to the lobbying effort and whether Alaska had a good environmental record, Representative Navarre stated that everyone agreed that the state of Alaska did not have the personnel to support and maintain contingency plans. Representative Navarre cautioned the Governor's Office not to send mixed messages by reducing funding for environmental oversight.

Representative Navarre noted that Alaska's economy was not due to the oil industry. Granted, the oil industry has done a great deal for Alaska, but in turn, Alaska has done a great deal for the oil industry. Representative Navarre stressed that the oil resource was a common property resource.

Number 221

Representative G. Phillips emphasized that over the years a number of interested groups in Alaska have done considerable research in planning campaigns to open the ANWR and he hoped the administration looked at these other plans and took the best from each.

Mr. Roberts indicated that the administration would definitely work in conjunction with these groups, but the state's message should be the state's message, not the industry's message.

Representative Choquette indicated that he came with reservations on HB 190. He found it difficult to support \$5 million to lobby on behalf of ANWR when he was writing to his constituents explaining about cuts in daycare, schools, public broadcasting, and so on.

Representative Choquette asked if the Governor was going to submit a supplemental for the \$5 million funding.

Mr. Roberts replied that the administration had submitted similar legislation on the Senate side.

Representative Choquette indicated that he supported HB 190 because the Governor supported HB 190, despite his mixed feelings. Representative Choquette was interested in how much of the \$5 million would be going to administrative costs.

Mr. Roberts responded that although details of the plan were not yet available, but should funds be appropriated, the funds wouldn't be burned up in administrative costs.

Number 275

REPRESENTATIVE PAT PARNELL testified in support of HB 190. Representative Parnell felt the state should focus on a realistic assessment by the Alaska Congressional Delegation, including realistic direction and guidance. Representative Parnell also indicated that he would like to see the plan before he wrote the check.

Representative Parnell expressed a possible problem and questioned if the legislature can promote under the constitution or only educate.

Mr. Roberts promised to double-check the matter.

Representative Navarre indicated he would also like to see a plan before appropriating any money.

Number 325

ERNIE POLLEY, testified on behalf of the Alaska State Chamber of Commerce (ASCC) in support of HB 190. He indicated the ASCC supported HB 190 for the reasons stated by Representative Zawacki, the sponsor of the bill.

Number 348

PATRICIA GAROUTTE, President of the Public Awareness Committee for the Environment (PACE), testified from Soldotna against HB 190. Ms. Garoutte submitted written testimony for the record. (Please refer to Attachment 2.)

Number 403

JUNE WEINSTOCK, representing the Northern Alaska Environmental Center and Arctic Audubon, testified from Fairbanks in opposition to HB 190. Ms. Weinstock felt that HB 190 was not an educational campaign, but rather a proposal to spend state money in furtherance of a political agenda. Ms. Weinstock pointed out that a growing number of Alaskans opposed exploration in the ANWR and funding the campaign would cause considerable dissension. Ms. Weinstock felt it was not relevant that conservation groups had outspent the state.

Chairman Hudson commented that the night before he had watched a public television program of 30 to 45 minutes in length sponsored by the Audubon Society promoting the message that the coastal plain of ANWR should never be opened. Chairman Hudson asked Ms. Weinstock if she had any idea what that program must have cost to produce and air.

Mr. Weinstock indicated that she was aware of the campaign

but did not have any idea of the cost, but every penny spent on the campaign came from concerned citizens.

Number 463

LINDA BROWN, representing the Northern Alaska Environmental Center, testified from Fairbanks that she strongly objected to the suggestion that the people of Alaska should pay the oil companies' entrance fees into ANWR. According to Ms. Brown, it was not fair to ask the people who object to exploration in ANWR to pay for a campaign to ensure that ANWR would be opened. Ms. Brown suggested that, should the legislature pass HB 190, a parallel bill be passed requesting \$5 million for a public relations campaign to protect forever the ANWR.

Number 490

GREGORY SPRY, Executive Director for the Alaska Natural Energy Institute, testified from Fairbanks in opposition to HB 190. Mr. Spry said he would like to see more money spent on conservation, efficiency, and real energy development.

Number 507

LARRY LANDRY, representing the Northern Alaska Environmental Center, testified from Fairbanks that the oil industry was extremely wealthy and was the wealthiest industry in America. The oil industry has already generated considerable information and material in support of the opening of ANWR. The state would not have anything to add, nor should it be helping out a wealthy industry. Mr. Landry felt that this effort would backfire.

TAPE 91-18, SIDE B
Number 012

CATHERINE DOSS, testified from Anchorage that HB 190 was not a priority at this time. Ms. Doss felt that a majority of Americans were already in favor of this development, as well as the President and the Alaska Congressional Delegation. Ms. Doss questioned who needed convincing and felt that the proposed \$5 million would be better spent on needs in the state. She testified that more consideration should be given to conservation and the Native Americans who lived in the region which will be immediately impacted by development in the ANWR. Ms. Doss encouraged everyone to think about the future beyond oil development.

Number 032

PAMELA BRODIE, representing the Sierra Club, testified from Anchorage in opposition to HB 190 for the reasons that were

already stated. Ms. Brodie submitted written testimony. (Please refer to Attachment 3.)

KAREN JETTMAR, representing the Wilderness Society, testified from Anchorage in opposition to HB 190. Ms. Jettmar felt that the American people would see this legislation for what it was - acting for money to get more money. Most importantly, Ms. Jettmar felt that Alaska still does not know if there is any oil in the ANWR.

Number 077

MARY IRVINE, representing the Alaska Environmental Lobby, testified from Juneau against HB 190 because spending money on a public relation campaign to open ANWR was the industries responsibility. Secondly, until recently, Governor Hickel had opposed spending money on a public relations campaign because the Governor felt that opening the refuge was a fight the administration should win, if at all, on the merit. Additionally, the dollar figure was arbitrary and HB 190 failed to give any outline of expenditures and justification of need. Ms. Irvine noted, as did Representatives Parnell and Navarre, that HB 190 was premature until a plan was before the legislature on how to spend the money.

Ms. Irvine remarked that she was offended by Representative Zawacki's statements that HB 190 was needed to counter the lies by preservationists. Ms. Irvine indicated that she did not always consider herself a preservationist, but sometimes she did, and she did not appreciate being called a liar by her elected representatives.

Number 108

Chairman Hudson questioned Representative Zawacki if it would be better to specify "the coastal plain" of the ANWR in HB 190, specifically, on page 1, line 7 and page 1, line 3.

Representative Zawacki responded that he considered this a friendly amendment.

Chairman Hudson asked if there was any objection. There being no objection, Chairman Hudson instructed the committee staff to prepare a committee substitute.

Representative G. Phillips moved that CSHB 190 pass out of committee with individual recommendations. Hearing no objections, CSHB 190 was moved.

Chairman Hudson adjourned the meeting at 5:34 p.m.

U.S. Environmental Protection Agency's
Testimony Before the Alaska House Special Committee
On Oil and Gas
(March 18, 1991)

The Environmental Protection Agency, in coordination with the Alaska Department of Environmental Conservation, has been involved in the regulation of discharges from the Alyeska Ballast Water Treatment Plant since December 30, 1974, when the first Wastewater Discharge Permit was issued. The current permit was issued May 8, 1989, and was modified on November 14, 1990.

The permit authorizes the discharge of treated ballast water, bilge water, and storm water. Other wastewaters identified in the Alyeska "Best Management Practices," (BMP) plan, are also authorized for discharge. The BMP plan recognized that cleaning agents may be in the various waste streams, including ballast water. Unfortunately, both the permit and the BMP are silent on the types and amounts of cleaning agents that may be used, and there is little information on the pollutants that may be in bilge water.

The permit contains effluent limitations for aromatic hydrocarbons, naphthalene, total suspended solids, total organic carbon, and total flow. The limits are based on EPA determination of effluent quality that should result from the application of best available treatment technology. The technology-based limits have also been evaluated by ADEC and EPA in relation to the state water quality criteria. Both agencies have concluded that the limits will comply with those criteria.

Monitoring for compliance with all limits except naphthalene is required daily. Monitoring for naphthalene is required quarterly.

The permit also requires biomonitoring of the whole effluent stream to test for both acute and chronic toxicity. Initially, tests are to be conducted four times per year. Biomonitoring is performed by placing living organisms in water containing various concentrations of the effluent and determining the concentration at which the organisms are adversely affected. These tests provide direct toxicity data that indicate the extent, if any, of toxicity that may exist in the vicinity of the outfall.

A "Best Management Practices" plan, prepared by Alyeska and approved by EPA and the Alaska Department of Environmental Conservation, is appended to the permit and is an enforceable part of the permit. The purpose of the plan is to establish procedures to be followed in operating the facility to minimize discharges of pollutants. The goal is to minimize such discharges to the extent practicable, not just to comply with minimum requirements of the permit.

One of the more important provisions of the permit, from the standpoint of recent concerns, is a requirement that Alyeska take certain steps to determine whether incoming ballast water for each tanker is contaminated with pollutants other than crude oil. Specifically, Alyeska must examine the ship's oil record book and obtain a completed copy of a "Ballast Water Survey Form" which contains specific information on the amount and constituents of the ballast and bilge water to be offloaded. The purpose of this provision is to identify unauthorized pollutants before they leave the ship, and to prevent the discharge of such pollutants into the treatment facility.

I know the Committee is concerned over Mr. Charles Hamel's allegations that Exxon is illegally dumping toxic wastes through the ballast water treatment plant, so I will let you know where we are on that issue. We are, in cooperation with the Alaska

Department of Environmental Conservation, actively investigating those allegations. I can't go into much detail on the investigation at this time, but I can let you know what we have learned so far. Also, I want you to know what we are doing at this point to assure strict compliance with the wastewater discharge permit. We have met with Alyeska, Exxon, and representatives of the tanker fleet to better define on-board tanker practices. To date, we have learned the following:

- The tanks are cleaned with seawater and cleaning agents are sometimes used.
- When ships go to dry dock, usually in Portland, Oregon, cleaning wastes are transferred to northbound tankers.
- The oil and water components of the wastes stratify in the tank.
- The water portion is discharged to the ballast water treatment facility.
- The oily wastes are left on the tanker, mixed with crude oil, and sent south to a refinery.

Now to address what we don't know:

- We don't know what cleaning agents are being used to clean cargo tanks.
- We don't know the composition of those agents.
- We don't know what cleaning agents and other materials may be in bilge waters.
- The extent to which bilge waters is transferred to northbound vessels, if at all.
- We don't know whether toxic wastes unrelated to tanker operations are or have been discharged in ballast water at Valdez.

We will be following up with Alyeska and the tanker owners to get answers to these questions and to get detailed documentation of past and current practices. After that, we will decide what enforcement actions, if any, are appropriate. Also, we will decide whether any permit modifications or changes to Alyeska's Best Management Practices plan are necessary. I should mention that certain provisions of the current permit have been appealed, and that some modification of the permit may result from those appeals.

As mentioned earlier, there are still several unanswered questions regarding toxic wastes that may be reaching Valdez. We are not waiting for all the answers before acting, however. We have already advised Alyeska that in our opinion, the permit does not authorize the discharge of any wastes that have been transferred from one tanker to another. We have told Alyeska that the discharge of any such transferred wastes must be approved in advance by ADEC and EPA. Also, we have advised Alyeska that sludges of any kind are not to be accepted at the treatment facility, and that appropriate precautions should be taken to assure that sludges are not off-loaded. For operating purposes, Alyeska has accepted our interpretation of the permit, and have implemented measures to comply. They also understand that, as a condition of approval to discharge transferred wastes that contain anything but crude oil, the wastes must be monitored for priority (toxic) pollutants.

That pretty well summarizes EPA's involvement with this issue, and gives you some idea of where we are going from here. It is apparent to us that we were not as knowledgeable about tanker practices as we should have been, and we are somewhat embarrassed about that. However, we are quickly filling in the gaps in our knowledge. In our view, the most important task is to identify unauthorized toxic wastes that may have been discharged in the past and to stop such discharges in the future.

In addition, it is our intention to minimize the discharge of cleaning agents and to ultimately limit both the types of agents used and the amounts. While we will be imposing monitoring requirements on Alyeska to determine the quality of the effluent, our main focus at this time is to prevent and minimize the discharge of toxics into the Valdez facility.

Attachment 2

PACE (The Public Awareness Committee for the Environment)
Written testimony on Housebill #190
House Special Committee on Oil and Gas

PACE feels it is wrong for the sum of \$5,000,000 to be appropriated from the general fund to the Office of the Governor for a nationwide campaign to promote support for oil and gas leasing, exploration, and development in the Arctic National wildlife Refuge for the following reasons.

1. PACE feels no public funds should be spent for Lobbying purposes. There are more basic needs in the state of Alaska than lobbying for oil, such as: Clean water and sewage systems for native villages of Alaska, funds for day care centers to help single parents keep off welfare, our road system is a disaster area this time of year. Already the state of Alaska has more than it's share of toxic and hazardous waste sites dotting it's pristine beauty, lets not make more in the Arctic National Wildlife Refuge!

2. The Arctic National Wildlife Refuge' should remain just that, a refuge'. Refuge means: "a sanctuary, a place of quietness, a place to rest, a shelter from danger or distress."

3. The Oil and gas companies are publishing a book called "Alaska's Arctic Oil". Their last chapter is called "A WAR" AN WAR, ANWR". All 535 members of Congress will receive copies of this publication! They don't need public money to push their ideas, they do just fine on their own!

4. The oil companies are proposing oil development along the coastal plain where the porcupine caribou calve in the spring. The loss of calving area will reduce the number of caribou by approximately 40%. Loss of the caribou also threaten the subsistence and culture of the Gwitch-in Native peoples in Alaska and Canada who have relied upon the porcupine caribou for thousands of years. Lets not destroy another sustainable resource!!

5. The Arctic Wildlife Refuge is the only stretch of Alaska's Northern Coastline that is now off limits to oil development. It is the only refuge in North America that protects in an undisturbed condition, all of the various Arctic ecosystems.

6. In establishing the Arctic National Wildlife Refuge' Congress set forth four major purposes, for which the refuge' "shall be managed!"

A. "To conserve fish and wildlife populations and habitats in their natural diversity including but not limited to the Porcupine caribou herd."

B. "To fulfill international treaty obligations with respect to fish and wildlife."

C. "To provide the opportunity for continued subsistence uses by local residents."

D. "To ensure water quality."

7. The mere presence of a massive oil development complex in the heart of this Arctic Eden spewing out toxic air and water pollution, blanketing the landscape with roads, tanks, buildings, and waste pits would be an ecological disaster!

8. PACE urges you to ask yourselves; would you oppose to oil development within Denali, Yellowstone, Grand Canyon, or Yosemite National Parks? If so, you should be opposed to oil exploration and development within the Arctic National Wildlife Refuge and vote NO on Housebill #190!

Sierra Club

Alaska Field Office

241 E. Fifth Avenue, Suite 205, Anchorage, Alaska 99501
(907) 276-4048 • FAX (907) 258-6807



Attachment 3

March 19, 1991

Hon. Bill Hudson, Chair
House Special Committee on Oil & Gas
House of Representatives
Juneau, Alaska

Dear Chairman Hudson,

Yesterday, I spoke by teleconference to the House Special Committee on Oil & Gas on House Bill 190, by Rep. Zawacki.

At your request, I limited my testimony to one sentence of opposition.

However, I am submitting my complete testimony in writing. It is a single page.

I would appreciate it if you would distribute it to the members of the committee.

Thank you.

Sincerely,

Pamela Brodie

Pamela Brodie
Assoc. Alaska Representative

Testimony Before the
House Special Committee on Oil and Gas
on House Bill 190, by Rep. Zawacki
by Pamela Brodie
Sierra Club, Associate Alaska Representative
March 18, 1991

Mr. Chairman, Members of the Committee, I am Pamela Brodie, Associate Alaska Representative of the Sierra Club. Thank you for the opportunity to testify.

The Sierra Club opposes HB 190 by Rep. Zawacki. We take this position for several reasons.

First, the question of whether to drill in the Arctic National Wildlife Refuge is a controversial political issue. Many thousands of Alaskans, including the 2000 members of the Alaska Chapter of the Sierra Club, oppose drilling in the Arctic National Wildlife Refuge. We believe that lobbying on one side of a controversial political issue is not an appropriate use of state general funds.

Secondly, this appropriation is unnecessary. The oil companies are already spending large sums for a long term lobbying campaign on this issue. This is an appropriate expenditure for these private companies, but there is no reason for the state to subsidize their campaign.

Thirdly, this appropriation would be a very risky gamble for \$5 million. This expenditure is not likely to make any difference in the fate of the Wildlife Refuge. Years ago, during the D-2 debates, the State of Alaska spent a great deal of money to support elegant Washington DC attorneys and lobbyists to represent its position -- yet this expenditure of state funds had no effect on the debate. Now again, whether or not the Wildlife Refuge is drilled is not likely to be determined by a state-made videotape and public relations campaign.

Finally, there are much better ways to spend five million dollars -- ways in which this money could make a clear, beneficial difference, rather than being a high stakes gamble. The governor is proposing to cut the budget, including cutting valuable public services. The state faces the expensive necessity to reimburse the Mental Health Trust Fund.

This is not the time for a new, highly controversial, and risky way to spend money to subsidize an oil industry public relations campaign.

Thank you.

HC/10000



MAR 22 1991

Reply To
Attn Of: WD-137

Bill Hudson, Chairman
House Special Committee on Oil and Gas
P.O. Box V
State Capital
Juneau, Alaska 99811

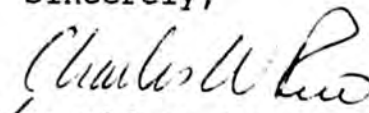
Dear Representative Hudson:

This is to follow-up our testimony presented during the March 18, 1991, Committee meeting regarding tanker ballasting operations and the Alyeska Terminal at Valdez.

There were a number of questions posed by the Committee which were not fully addressed at the time. Steve Torok, of our Juneau office, presented testimony for us and has forwarded these questions to me for response (enclosed).

If we can be of further assistance, please contact me or Steve Torok at (206) 553-8414 or (907) 586-7619, respectively.

Sincerely,

for 
Harold E. Geren, Chief
Water Permits & Compliance Branch

Enclosure

Questions by the Alaska House Special Committee On Oil And
Gas Regarding the March 18, 1991, EPA Testimony

Question: (a) Is there cause for the Legislature to be concerned regarding possible release of toxics from tanker operations? (b) Is there something the Legislature ought to be doing?

Answer: (a) Discharges of toxics through the ballast water treatment plant are properly addressed through establishment of permit conditions, and the enforcement of those conditions. The Alaska Department of Environmental Conservation (ADEC) and the Environmental Protection Agency (EPA) have adequate authority to control such discharges. However, resources of both agencies are limited, which directly affects our ability to track compliance and to enforce. (b) One area where the Alaska legislature could help is through assuring that ADEC is adequately funded for Alyeska oversight purposes.

Question: What is EPA's assessment of the operation of the terminal during the last thirteen years.

Answer: The first National Pollutant Discharge Elimination System (NPDES) permit was issued by EPA to Alyeska on December 30, 1974. The facility became operational in July 1977.

The initial indications of problems became apparent in 1984 when it was discovered that Alyeska had modified the treatment process without consulting EPA and ADEC. Modifications included removal of heat treatment units after the dissolved air floatation (DAF) cells and removal of units to collect sludge from the bottom of the DAF cells.

On November 6, 1985, EPA issued a compliance order to Alyeska concerning methods and timeframes for effectively handling sludges produced by the facility.

In 1986 Alyeska expanded their treatment system to include biological treatment. In order to insure compliance with the stringent BETX limits in their recently reissued NPDES permit, Alyeska has designed and constructed a new biological treatment system, followed by capability to air strip aromatic hydrocarbons when necessary to meet permit limits.

It is EPA's belief that after the compliance order was issued in 1985, Alyeska has been more attentive to permit requirements and cooperative with the regulatory agencies. We are confident the recently constructed biological and air stripping facilities are adequate to comply with the permit requirements.

Question: What is the timeframe for EPA's current investigation? Why isn't EPA releasing information from the investigation?

Answer: No timeframe has been established for completing the investigation. However, we do not expect to take longer than a few months. It is EPA policy to not release investigative data during the course of an investigation due to possible use in an enforcement action.

Question: Didn't Hamel raise the same questions in 1985?

Answer: Hamel raised similar questions in 1985, but at that time he did not cite specific instances of movement of toxic wastes.

Question: Why doesn't EPA know what cleaning wastes are being used?

Answer: We do not have a good answer to that question. The agency focus in writing the permit was on aromatic hydrocarbons. We knew cleaning agents were used on occasion, but did not have a good understanding of the agents used or of the practices employed.

Question: Is monitoring/inspection of the terminal operations adequate?

Answer: EPA conducts at least annual inspections of the Alyeska Ballast Water Treatment Facility; EPA generally inspects major facilities at least once per year. Inspections of the Alyeska facility are generally unannounced. If a significant and persistent problem arises at a facility then additional inspections or investigations may be initiated. Lack of resources inhibits EPA from inspecting more frequently.

The NPDES program is a self-monitoring permitting system. Accordingly, Alyeska is required to submit monthly Discharge Monitoring Reports which include results of effluent monitoring. These reports are carefully reviewed by EPA compliance personnel.

ADEC frequently monitors activities at the terminal which includes observing operation of the ballast water treatment system. ADEC also conducts air inspections to assess compliance with air contamination discharge permits.

Question: How many resources (FTE's) is EPA expending on this current investigation?

Answer: It is difficult to estimate the exact FTE's, because several individuals and offices are involved. Actual commitment is in the range of 1 to 3 FTE's.

Question: (a) Is there testing being done at the outfall/harbor (by EPA)? Has there been testing done? (b) What are the necessary procedures to put testing into place? (Testing referring to water quality/benthic and other biota to measure impact of the terminal on the harbor.)

Answer: (a) Alyeska's NPDES permit has extensive effluent monitoring, toxicity testing, environmental monitoring, and mixing zone compliance study requirements. Under the terms of the permit Alyeska is required to conduct these studies. EPA is not expending resources to conduct duplicate independent studies of Port Valdez.

Alyeska is required to monitor their effluent prior to discharge to Port Valdez for the following effluent characteristics: BETX, naphthalene, total suspended solids, total organic carbon, flow, pH, temperature, density, dissolved inorganic phosphorous, ammonia, total hydrocarbons, dissolved oxygen, zinc, and individual aromatic hydrocarbons. The results of the effluent monitoring are reported in monthly reports to EPA.

In addition Alyeska conducts an annual environmental monitoring program in the Port. The objectives of the environmental monitoring program include: identifying changes in sediment hydrocarbon concentrations and sediment toxicity, monitoring for discharge-related impacts to the infauna of Port Valdez, and providing information for reevaluation of the monitoring program and future permit reissuance. The environmental monitoring program encompasses biological monitoring, sediment monitoring, and tissue hydrocarbon monitoring programs. The testing has been done in previous years and is required annually by the permit.

In addition, acute and chronic toxicity testing of the effluent is required. The whole effluent toxicity testing is included to determine the combined toxicity of all pollutants present in the discharge. Alyeska is doing more extensive toxicity testing than required by their NPDES permit.

The NPDES permit also requires that a mixing zone compliance study be conducted during the fall of 1991 and spring of 1992, unless Alyeska justifies to the satisfaction of the ADEC that the study is not necessary. The purpose of the study will be to determine compliance with the water quality standards.

(b) EPA and ADEC have included the above requirements in the NPDES permit as part of the permit reissuance process. The permit contains provisions which allow EPA, in coordination with ADEC, to adjust the monitoring requirements.

Question: Is sludge permitted to be loaded onto tankers and shipped out of Valdez?

Answer: The NPDES permit does not address materials shipped from Valdez. Any sludges generated at Valdez likely would fall under the Resource Conservation and Recovery Act. Sludge removed during cleaning of the treatment units is required by the permit to be disposed of without reintroduction to the treatment system or discharge to Port Valdez. Alyeska is required to notify ADEC in advance of any sludge disposal, tank cleaning or sludge dewatering. Alyeska must obtain solid waste permits to dispose of solids within the state of Alaska. The above requirements should ensure that sludge is not illegally loaded onto tankers and shipped out of Valdez.

Question: Why is Port Valdez classified as an impaired water?

Answer: Port Valdez was listed by the state of Alaska as having exceedances of water quality criteria from a point source discharger pursuant to Section 304(1) of the Clean Water Act, as amended by the Clean Water Act of 1987. Mixing zone verification studies conducted in Port Valdez in 1985-1986 found occasional violations of the state water quality criteria for total aromatic hydrocarbons. These exceedances occurred when the water column was vertically stratified and vertical mixing was reduced. These documented excursions together with modeled predictions of violations during certain times of the year, formed the basis for the state to list Port Valdez as an impaired water body and for including it on the 304(1) list.

Question: Has Alyeska or any other company operating at Valdez requested approval from EPA to transfer cleaning wastes from one tanker to another? Has EPA granted any requests?

Answer: On February 21, 1991, Alyeska requested approval to receive cleaning wastes that had been transferred from the Exxon Benicia. No cleaning agents had been used. EPA, after consultation with ADEC, granted approval for the discharge of the water fraction of the wastes.

Question: Have toxic wastes related to tanker operations been discharged in ballast water at Valdez?

Answer: Virtually all wastes generated during tanker operations (e.g., crude oil in the ballast, agents used in cleaning tanks or engines, waste oils and grease from the engines, materials filtered by diesel engine filters) are toxic to some extent. As stated in our March 18 testimony, we do not know how much of these materials may have been discharged in ballast water but it has become evident that some discharges have taken place. The chemical distinction between these materials and simple ballast water is still being evaluated.

Question: Why is it EPA's intention to minimize the discharge of cleaning agents if we don't know they are toxic?

Answer: Cleaning agents are designed to put oily materials in solution. Even the most benign agents contain emulsifiers or surfactants to accomplish that purpose. We are concerned that addition of any of these materials will interfere with the treatment process of the Alyeska facility, because the initial treatment units are designed to separate and remove oily materials that are in solution with the ballast water.

STATE OF ALASKA
DEPT. OF ENVIRONMENTAL CONSERVATION

WALTER J. HICKEL, GOVERNOR

March 15, 1991

BALLAST WATER TREATMENT -- SUMMARY

In recent weeks, attention has been drawn to waste materials and treatment of ballast water from tankers at the Valdez Marine Terminal. Allegations have been made that waste materials not normally associated with the shipment of crude oil have been disposed of through the ballast water treatment facility [BWT]. The Environmental Protection Agency [EPA] is planning to hold an evidentiary hearing in June to consider any evidence which may exist in support of these allegations.

Based on current information, it does not appear that the permit for the BWT facility has been violated by the receipt of ballast water containing contaminants other than crude oil. However, the Alaska Department of Environmental Conservation [ADEC] is working with EPA and Alyeska to improve the information available about ballast water received at the BWT.

The facility is operated under a Clean Water Act NPDES permit issued by EPA in consultation with ADEC. Within the existing permit are a number of monitoring conditions, and Alyeska is required to initiate additional monitoring upon request from EPA and ADEC.

Specifically, section I.B.3 sets out criteria for sampling of ballast water which has contaminants other than crude oil. Currently, the determination of whether 'contaminants' are present is based upon Alyeska's "ballast water survey form", which is filled out by each tanker before offloading ballast water. The term 'contaminant' has been left undefined.

COLLECTING INFORMATION

Reporting by the tankers themselves is the most practical primary source of information about any contaminants in ballast water. This is due to the number of transactions which occur at the treatment facility. For example, approximately 1500 tankers have deballasted at the facility since July 1989. Of these, 40

ADEC, with cooperation from Alyeska, will do random samples of ballast water. Analysis will be performed by the ADEC lab, Alyeska lab or Alyeska contract lab.

Existing monitoring data, archived by Alyeska, will be reviewed for baseline data foundations.

This sampling program will be used to evaluate the target contaminants to determine whether they can be handled by the treatment facility without causing a violation of its NPDES permit. They are not currently believed to result in violations.

An investigation of tanker practices has been initiated by ADEC and EPA to determine whether specific practices in handling ballast or in tanker operation may cause unacceptable contamination of ballast water. Because the tankers, and not Alyeska, are the source of any contamination other than crude in ballast water, some of the best information about possible contaminants is likely to come from examination of their practices.

Tanker practices in handling ballast are also regulated by the Coast Guard, and ADEC efforts are being coordinated with that agency and EPA. In addition, ADEC intends to work with other groups concerned about contaminants other than crude oil in ballast water. That effort is being initiated at this time.

CORRECTION

**THIS DOCUMENT
HAS BEEN REPHOTOGRAPHED
TO ASSURE LEGIBILITY**

STATE OF ALASKA

WALTER J. HICKEL, GOVERNOR

DEPT. OF ENVIRONMENTAL CONSERVATION

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Reporting by the tankers themselves is the most practical primary source of information about any contaminants in ballast water. This is due to the number of transactions which occur at the treatment facility. For example, approximately 1500 tankers have deballasted at the facility since July 1989. Of these, 40

declared that unusual substances were or might be present in the ballast. Records are available on these 40, and none list substances not usually found aboard tankers.

Sampling can only be a supplement to other information sources about ballast water due to the time delay and cost of thorough sampling. The possible substances which could be disposed of through the BWT number in the thousands. Analytical techniques are available to detect them, but are expensive and very time consuming when looking at a wide variety of compounds.

A sampling program functions best as a check on voluntary reporting by the tankers. Sampling has been conducted in the past by Alyeska with oversight from ADEC. A stepped up sampling program is an important part of the effort to improve the information available about ballast water treatment.

SAFEGUARDS AND ACTIONS UNDERWAY

Since allegations surfaced, several safeguards have been instituted by ADEC, EPA and Alyeska. Pending the EPA evidentiary hearing, Alyeska is obtaining approval from EPA, with concurrence from ADEC, before allowing any tanker to offload ballast containing contaminants other than crude.

Information about possible contaminants continues to be recorded on ballast water treatment forms. This information is collected from incoming tankers by Alyeska and is available to ADEC and EPA.

Samples are being taken from vessels obtaining approval to offload ballast containing other contaminants. Ballast samples have been taken from two vessels to date. The samples were split for evaluation by both ADEC's lab and a lab designated by Alyeska. Analysis of these samples is still not complete.

LONG TERM RESPONSE

Plans for a more thorough evaluation of contaminants other than crude oil in ballast water are nearly worked out. The basic elements of the plan are as follows:

Tankers will continue to be required to report any contaminants other than crude in their ballast water before deballasting. More detailed information will be required than has been in the past.

Alyeska will sample the ballast of every tanker which reports contaminants other than crude. A broad range of analyses will be conducted based on ADEC or EPA requests. They will cover all priority pollutants and specific pollutants listed on the Ballast Water Survey Form. Either ADEC or EPA may request split samples, duplicate samples, or special analyses as the samples are taken.

ADEC, with cooperation from Alyeska, will do random samples of ballast water. Analysis will be performed by the ADEC lab, Alyeska lab or Alyeska contract lab.

Existing monitoring data, archived by Alyeska, will be reviewed for baseline data foundations.

This sampling program will be used to evaluate the target contaminants to determine whether they can be handled by the treatment facility without causing a violation of its NPDES permit. They are not currently believed to result in violations.

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Tanker practices in handling ballast are also regulated by the Coast Guard, and ADEC efforts are being coordinated with that agency and EPA. In addition, ADEC intends to work with other groups concerned about contaminants other than crude oil in ballast water. That effort is being initiated at this time.

ALASKA DEPARTMENT OF ENVIRONMENTAL CONSERVATION
DIVISION OF ENVIRONMENTAL QUALITY

PORT VALDEZ WATER QUALITY STUDIES

This case history provides background information on Port Valdez and updates the description of regulatory oversight of water quality monitoring associated with the Alyeska Ballast Water Treatment Facility through March 1991.

The ballast water treatment facility processes ballast water pumped from arriving tankers to remove oil from the water, and discharges the processed water into Port Valdez. The average volume processed varies seasonally and averages about 16 million gallons per day. Treatment involves the use of settling tanks, dissolved air flotation, flocculation and biological reduction. In addition, air strippers are used to remove volatile organic compounds when the biological treatment is subject to upset conditions. The treated effluent contains small quantities of oil and grease, aromatic hydrocarbons, phenols and other compounds.

The BWT discharge occurs through a diffuser. The discharge must meet the terms of an NPDES permit, which is issued by EPA and certified by the State of Alaska. The discharge occurs roughly 1,000 feet offshore, at depths greater than 200 feet, through a series of ports in a 200-foot-long pipe. The NPDES permit establishes a mixing zone around the diffuser to allow for dilution and dispersal of the effluent.

Background studies were initiated in 1971-72 by the University of Alaska's Institute of Marine Science in order to facilitate siting of the BWT facility within Port Valdez, and to provide a baseline for monitoring subsequent operation of the facility. The first NPDES permit for the facility was issued in 1975.

The plant began operation in July 1977. In 1980, the first NPDES permit expired, and was renewed for three years. No major changes had been detected in the marine biological community of Port Valdez through that period. However, hydrocarbon concentrations were found to be elevated locally in sediments in the vicinity of the diffuser.

The monitoring program under the second permit was completed in 1982. Highlights of the findings from these monitoring studies include the following:

1. An increase in zinc, and possibly lead, occurred in seawater and sediments near the diffuser.
2. Petroleum hydrocarbons were accumulating in sediments near the diffuser at concentrations near the low end of those reported for chronically polluted coastal environments of North America.
3. Total hydrocarbon and multiple ring aromatic concentrations in blue mussel tissues near the terminal were relatively high in comparison to other species.

4. There were significant differences in abundance and zonation of dominant intertidal invertebrate and algal species. This was attributed to a combination of natural environmental fluctuations, disturbance due to construction projects, and possibly chronic exposure to oil.
5. Reductions in numbers and smaller growth ring heights were found in barnacles at Sawmill Spit and at Berth 4 in 1981, indicating these barnacles were subjected to unfavorable environmental conditions.

Additional studies were conducted by Alyeska in 1985 and 1986 to provide information for developing the new NPDES permit and to evaluate any changes since 1982. Significant findings of the 1985-86 environmental studies include the following:

1. Port Valdez had not undergone environmental deterioration between 1982 and 1985, and water quality parameters were fluctuating within previously observed ranges.
2. Studies confirmed earlier findings that hydrocarbons were accumulating in sediments near the diffuser, and in mussels near the terminal. Major changes in concentration or extent were not noted.
3. Total hydrocarbon concentrations in sediment in 1985 were significantly higher at two of the 11 stations than levels found in 1980-82 in the vicinity of the diffuser.
4. Intertidal monitoring found few significant changes in abundance of dominant species types.
5. There was a marked decrease in 1985 in abundance, biomass, and number of species for bottom-dwelling organisms. Changes were most obvious at deeper water stations in the eastern fjord, and at a single station within the mixing zone. These changes were hypothesized to be attributed to natural environmental causes, and not terminal operation.
6. There was an increase in benthic biomass at one station near the diffuser, possibly due to supplemental carbon sources available there.

In the fall of 1985 and spring of 1986, two additional mixing zone verification studies were conducted by Alyeska and EPA. These studies demonstrated conformance with the aromatic hydrocarbon standard at the boundary of the mixing zone in March, but found occasional violations of water quality criteria at certain depths and stations in September and October, when the water column is vertically stratified and vertical

mixing is reduced. These documented excursions, coupled with modeled predications of violations during certain times of the year, formed the basis for the department's listing of Port Valdez as Impaired and for including it on the 304(l) priority pollutant Short List.

A revised NPDES permit was issued by EPA in 1989. Considerable changes were made to the permit as a result of monitoring studies summarized above. The permit contains new and more stringent effluent limitations for aromatic hydrocarbons (benzene, toluene, xylene and ethylbenzene), for naphthalene, and for total organic carbon. The permit requires adherence to a "Best Management Practices Plan" to prevent accidental release of pollutants during operation of the BWT facility, and to ensure optimal treatment efficiency. The permit also requires reestablishment of a comprehensive marine monitoring program with the following elements:

1. Biological monitoring at fixed stations both near and far from the diffuser.
2. Monitoring of hydrocarbon concentrations in sediments below the mixing zone and beyond and in selected flatfish species.
3. Bioassay studies to determine the toxicity of the effluent.
4. Monitoring of the effluent to determine chemical composition.
5. Verification of compliance with State standards at the boundary of the mixing zone.
6. Establishing a Technical Advisory Group to assist ADEC in recommending and reviewing monitoring plans and results.

In summary, the available evidence suggests that regulation of the BWT facility has been successful in mitigating large scale environmental degradation to date. Localized accumulations of hydrocarbons persist in sediments and blue mussel tissues in the vicinity of the diffuser. Recent studies conducted by the National Marine Fisheries Service also suggest the presence of aromatic hydrocarbons in the tissue (bile) of three species of bottom-dwelling fish in Port Valdez. These accumulations have not been conclusively linked to adverse changes in biological populations or community structure.

DEC 11 1989
DEC 11 1989 3/15/91

**ALASKA DEPARTMENT OF ENVIRONMENTAL CONSERVATION
DIVISION OF ENVIRONMENTAL QUALITY**

PORT VALDEZ IMPAIRMENT LISTING

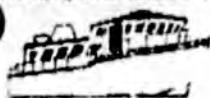
The House Oil and Gas Committee requested information on the inclusion of Port Valdez on the State of Alaska list of impaired waterbodies.

The Department of Environmental Conservation is required, under Section 305(b) of the Clean Water Act, to prepare a report on the quality of Alaska's surface waters and groundwater. The report is required to list water quality-impaired waterbodies. The definition of impairment is:

A waterbody or defined segment of a waterbody is documented to have had one or more criteria of the Water Quality Standards violated due to point or nonpoint pollution sources. Water quality violations must have occurred within the last five years.

The discharge from the ballast water treatment facility is authorized by a federal wastewater discharge permit issued by the Environmental Protection Agency and certified by the department. The permit includes a mixing zone around the discharge diffuser. Compliance with the state's water quality standards is required at the mixing zone boundary and beyond into Port Valdez. Periodic violations of state water quality standards for total aromatic hydrocarbons have been documented at the boundary of the mixing zone during certain times of the year. These violations led to the impaired listing. This information also was used by EPA and the state to require more stringent effluent limits in the renewal of the ballast water discharge permit in 1989.

Impairment due to violation of water quality criteria at the boundary of the permitted mixing zone does not necessarily mean that biological impairment is occurring in Port Valdez. Biological studies conducted in Port Valdez since the early 1970's support the conclusion that biological impairment either does not appear to be occurring or is not detectable using existing study designs.

**STAN
STEPHENS**
CHARTERS & CRUISES


Stanley Stephens
Owner

March 18, 1991

Cruises and Charters
in Prince William
Sound, Alaska

To the Senate and House Oil & Gas Committee Members:

Box 100
Valdez, Alaska 99686

This is a statement from Stan Stephens. It is my own, and does not represent the opinion of R.C.A.C. or of any other organization to which I belong.

Box 100
Valdez, Alaska 99686

Box 100
Valdez, Alaska 99686

In both 1989 and 1990, Port Valdez was declared a toxic, impaired waterway by the State, due to increases in the hydrocarbon pollution load at Alyeska.

Marketing
Prince William Sound
Box 100
Valdez, Alaska 99686

For residents of the State who have spent most of their lives in Prince William Sound and Valdez, this statement hurt.

Box 100
Valdez, Alaska 99686

I could talk about air and water quality, contingency plans, tankers, tugs, navigation systems, and the terminal, but I am a layman, and I want to talk about the failure of the State of Alaska to regulate the oil companies, or to supply the expertise needed to protect it's citizens.

On Friday, I became concerned at the House Hearings on oil and gas, when Representative Hudson said that the oil companies were there to educate. I am sure the canned presentations that were heard were designed to help increase the knowledge of the committee members. It is sad when the only input given on the subject comes from the oil companies themselves. This has always been the case. The only real knowledge that DEC or EPA has on this subject is that which they get from Alyeska or the oil companies, who have all the experts. It is obvious that Alyeska isn't regulated. Self-regulation has never worked. We all know it, yet we choose to ignore it.

Valdez and Prince William Sound are no longer the pristine country I once knew. We have allowed it to become polluted through sheer lack of concern by a nonchalant attitude that still exists today, only two years after the worst oil disaster in our country. Isn't it odd that we talk about restoring PWS when we still continue to pollute it.

I am not an overboard environmentalist. I am a realist. What is real to me is what my eyes can see - yellow, and blue/black dirty air - what my nose can smell - tanker vapors and stack exhaust - and what my ears can hear - the stories from concerned experts. It doesn't take much of an

I.Q. to tell that we have a major pollution problem. I am not an expert who can give you a canned testimony. I expect the regulatory agencies to have their own team of experts to do this for me. We have no regulatory agencies overseeing Alyeska, not federal nor state.

We blame Exxon for the oil spill, but the State of Alaska is the real culprit, as well as the Federal Government, the Coast Guard, the City of Valdez, myself, and of course the oil companies. Private enterprize is expected to make a profit, and rightly so. Every CEO is supposed to do better than the past year. The highest profit possible cannot be realized if money is held back to fully protect the environment. It is the job of our government to install checks and balances to control business when it pertains to upholding the quality of our land, air and water. This is the responsibility of the Federal and the State governments, EPA and DEC.

DEC has never done it's job, when regarding the regulation of the largest industry in our state. We should know the system from Prudoe Bay to Valdez like the back of your hand.

The legislature should be able to ask DEC and EPA and the contracted experts to report on Alyeska, as well as Alyeska itself. This would not only benefit the State but would help Alyeska. Has the terminal facility been reviewed and upgraded every five years, as Congress promised us? Why hasn't it? And why is the State not in control? Alyeska can use every technical excuse in the world because we, the people, do not have the expertise to counteract them.

In the last 13 years of operation, we should have had experts working daily with Alyeska at the terminal to promote the best available technology. We haven't, and we have failed the citizens of Alaska and the USA. To me this is a worse crime than Capt. Hazelwood committed. The State is letting the people it represents down by not protecting our water and air, and land, and our livelihoods. The oil companies and the Federal Government are our biggest polluters, and yet we choose not to regulate them.

DEC's biggest effort should be the pipeline and the Alyeska terminal at Valdez. Valdez should have a district office with experts on hand, free to enter Alyeska to help solve problems. We were promised the best available technology, but we will not have it until the State and Federal governments choose to do their jobs.

We have put DEC's best people out to pasture, or they have left Dec because they tended to raise the hair on the back

of Alyeska's neck. We have had a gutless State bureaucracy which was afraid to ruffle the feathers of a company that supplies all of the dollars. I hope this is not the case now!

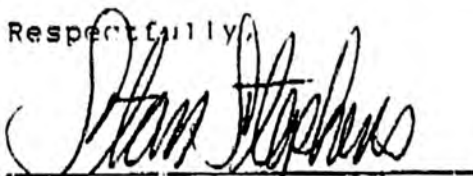
Why don't we have the best experts in the oil industry watching over the industry itself, in our behalf? Why do we listen to the oil companies and no one else? Why doesn't Valdez have a district office of DEC? Why have we put our experts out to pasture? Why are we repeating the mistakes made world-wide?

I tend to be an emotional individual. I also have a little man inside me that has to ask: "Was the beauty of the great State of Alaska created to be polluted by its natural resources? Or did the creator give us heart and soul and brains to use our resources for our good, with the ability to do so by protecting the most beautiful paradise on earth?"

We can have oil and the environment. To do so costs a lot of money. The oil companies are showing tremendous profits, which they need to grow, explore and stabilize their business, and to work for an alternate source of energy. They also need to put more of these profits back into the protection of the environment from their industry. They have to protect what is ours, the air, water and the land.

Please, in the name of our children's future, take this subject seriously!

Respectfully,


Stan Stephens

copies: members Alaska State Legislature

STATUTES

/ REGS



Sella Ness, Graven, Mossbank
Shetland ZE2 9OR

Facsimile: 0800 242251
Telex: 75142

FACSIMILE MESSAGE

To: Ficky Off

FAO: _____

From: Jim Dickson

Our Ref: _____

Date: 4/4/90

No of Pages: 38

Subject: International Maritime Organisation
MARPOL 73/78 Convention

Dear _____

Suggest you lay hands on the IMO publication, "Regulations for the Prevention of Pollution by Oil" re-printed 1990, ISBN 92-801-1198-3.

In the meantime I have FAXED the most important pages. I must state that, in my opinion, EPA & DEC are very generous in their approval of additional dirty ballast washings slops @ Valdez. The MARPOL convention seems quite specific to me, I.E.

① Regulation 12 requires reception facilities at loading ports & ship repair ports.

② Regulation 15 requires suitable equipment to allow controlled discharge of ^{water} from slop tanks.

It appears to me that Alaska is being used as a dumping ground due to failures by Federal Government / Ship Owners & USCG to ensure compliance with MARPOL.

M A R P O L 7 3 / 7 8

is the

International Convention for the Prevention of Pollution by Ships, 1973, as amended by Protocol in 1978

(MARine POLLution)

This international treaty has five annexes each dealing with a different marine pollutant.

- Annex I - Oil
- Annex II - Noxious Liquid Substances (Chemicals) in Bulk
- Annex III - Packaged Hazardous Materials (OPTIONAL)
- Annex IV - Sewage (OPTIONAL)
- Annex V - Garbage (Plastics)

The U. S. has currently ratified Annexes I, II, and V.

COMDTINST M16450.26 of 18 Oct 1983, Entitled "MARPOL 73/78 Boarding and Enforcement Policies and Procedures" details the requirements of MARPOL 73/78 Annex I, how they relate to existing Federal Water Pollution Control Act (FWPCA) requirements and the Coast Guard enforcement policies & procedures.

MARPOL requirements institute significant change from the international practices engaged in by all tankers in the 1970's.

Tanker practices common prior to MARPOL 73/78:

- Load all tanks with crude oil product.
- After product has been discharged at a refinery, take water ballast in any tank to obtain adequate draft for return trip.
- Conduct tank cleaning operations (usually water wash with detergent) and discharge overboard beyond 50 NM of land.
- Few ballast water treatment facilities.

Post MARPOL practices:

- Load only certain tanks with product. (Some tanks are Segregated Ballast Tanks ONLY)
- The number of Segregated Ballast tanks are determined by formula to develop an adequate ballast draft.
- Use Crude Oil Washing (COW) with Inert Gas System (IGS) while discharging product to increase quantity discharged ashore.
- Product that is found in Non-Segregated Ballast is retained on board as it has high value and can be reclaimed.
- Oily Water Separators (OWS).
- Oil Record Books

MARPOL 73/78 allows "clean ballast" discharge beyond 50 NM of land (Clean Ballast is defined as less than 15 ppm oil).

FWPCA has a standard for "harmful quantity" as a quantity that creates a "sheen, sludge or an emulsion" whether or not the discharge is at or below 15 ppm.

ATTACHED:

Selected excerpts from COMDTINST M16450.26 of 18 October 1983
"MARPOL 73/78 Boarding and Enforcement Policies and Procedures"

Selected excerpts from Navigation and Vessel Inspection Circular
No. 1-81 (NVC 1-81) dtd 18 February 1981.

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DEFINITIONS

1. "Administration" means the Government of the state under whose authority the ship is operating. For fixed or floating platforms engaged in exploration and exploitation of the coastal seabed and subsoil, the Administration is the Government of the coastal state exercising sovereign rights for the purpose of exploration and exploitation of their natural resources.
2. "Discharge" means any release, however caused, from a ship and includes any escape, disposal, spilling, leaking, pumping, emitting or emptying. It does not include:
 - a) dumping within the meaning of the Convention on the Prevention of Marine Pollution by Dumping of Wastes and Other Matter, done at London on 13 November 1972 (activities under Environmental Protection Agency or Army Corps of Engineers permits); or,
 - b) release of oil or oily mixtures directly arising from the exploration, exploitation and associated with offshore processing of seabed mineral resources.
3. "Equivalent" means an alternative for a fitting, material, appliance or apparatus allowed by the Administration which at a minimum is as effective as the MARPOL 73/78 requirement. An equivalent shall not include the substitution of an operational method to effect the control of discharge of oil for design and construction features required by MARPOL 73/78.
4. "Existing Ship" means any ship which is not a "new ship."
5. "International Oil Pollution Prevention (IOPP) Certificate" means a Certificate issued to a ship by an Administration party to MARPOL 73/78 after successful completion of a survey to insure compliance with MARPOL 73/78 requirements. An IOPP Certificate is only issued to ships whose flag state is a Party to MARPOL 73/78.
6. "IOPP Certificate Equivalency" means valid documentation showing that a non-Party ship has been surveyed in accordance with and complies with the requirements of MARPOL 73/78. Evidence of compliance may be issued by either the government of a country or a recognized classification society. The evidence of compliance must contain all of the information in and have substantially the same format as the IOPP Certificate, form A or form B as appropriate.
7. "MARPOL 73/78" means the International Convention for Prevention of Pollution from Ships, 1973, as modified by the Protocol of 1978 relating thereto.

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8. "New Ship" means a ship:

- a) for which the building contract is placed after 31 December 1975; or,
- b) in the absence of a building contract, the keel of which is laid or which is at a similar stage of construction after 30 June 1976; or,
- c) the delivery of which is after 31 December 1979; or,
- d) which has undergone a major conversion:
 - (1) for which the contract is placed after 31 December 1975; or,
 - (2) in the absence of a contract, the construction work of which is begun after 30 June 1976; or,
 - (3) which is completed after 31 December 1979.

9. "Oceangoing Ship" means a ship that:

- a) is operated under the authority of the United States and engages in international voyages; or
- b) is operated under the authority of the United States and is certificated for ocean service; or,
- c) is operated under the authority of the United States and is certificated for coastwise service beyond three miles from land; or,
- d) is operated under the authority of the United States and operated at any time seaward of the outermost boundary of the territorial sea of the United States as defined in 33 CFR 2.05; or,
- e) is operated under the authority of a country other than the United States.

A Canadian or U.S. ship that operates exclusively on the Great Lakes of North America or their connecting and tributary waters, or exclusively on the internal waters of the U.S. and Canada is not an "oceangoing" ship.

10. "Oil" means petroleum in any form including crude oil, fuel oil, sludge, oil refuse, and refined products. "Oil" does not include animal or vegetable based oil nor does it include noxious liquid substances designated under Annex II of MARPOL 73/78. See appendix (1) to this enclosure.

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11. "Oily mixture" means an oily mixture with any oil content, including bilge slops, oily wastes, oil residues (sludge), oily ballast water, and washings from cargo oil tanks.
12. "Party" means a ratifying country to Annex I of MARPOL 73/78, and includes as of August 1983 the following countries: Bahamas, Colombia, Denmark, Federal Republic of Germany, France, Gabon, Greece, Italy, Japan, Lebanon, Liberia, Netherlands, Norway, Peoples Republic of China, Peru, Sweden, Tunisia, United Kingdom, United States, Uruguay, and Yugoslavia.
13. "Public vessel" means any warship, naval auxiliary or other ship owned or operated by a country and used, for the time being, only on government non-commercial service.
14. "Ship" means any vessel of any type whatsoever operating in the marine environment and includes hydrofoil boats, air-cushion vehicles, submersibles, floating craft (self propelled or not) and fixed or floating drilling rigs and other platforms.

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- (6) If the monitor is inoperative or indicates a discharge in excess of MARPOL 73/78 limits, check the Oil Record Book to determine whether there have been any problems with the monitor and what action the ship has taken to correct the problems.
 - (7) If an unauthorized discharge is indicated by the monitor continuous records, conduct a more thorough review as described in paragraph 4c. of this enclosure.
4. Alleged Discharge Violation Investigation: Discharge boardings conducted as a result of an oil sighting report by Coast Guard units or other individuals or countries require a thorough review of the ORB, monitor continuous recordings, pollution prevention equipment operation, and ship spaces together with interviewing the ship's personnel to determine whether the suspected ship discharged in violation of MARPOL 73/78.
- a. Discharge Requirements: ALL SHIPS on 2 October 1983 must comply with the discharge limitations as described in the following sections, even though different classes of ships have different schedules for complying with IOPP certification and pollution equipment installation. A summary table of the discharge requirements for MARPOL 73/78 is provided as attachment (A) to this enclosure. All unauthorized discharges shall be reported without delay as stated in 33 CFR 153.203 and 33 CFR 151.15.
- (1) U.S. Territorial Sea: The FWPCA prohibits the discharge of oil in a "quantity which may be harmful" into the navigable waters of the United States, which includes the territorial sea (0 to 3 nautical miles (nm) offshore). Under the FWPCA, the EPA has defined a "quantity which may be harmful" as one which forms a sheen, sludge, film or emulsion (40 CFR 110). Therefore any discharge in the territorial sea which creates a sheen, even if allowed by MARPOL 73/78 is a violation of the FWPCA, and if the discharge is greater than 15 parts per million (ppm), it is also a violation of MARPOL 73/78.
 - (2) U.S. Contiguous Zone: The U.S. contiguous zone is the area between 3 and 12 nautical miles offshore as measured from the baseline from which the territorial sea is measured. In the contiguous zone oil discharges are restricted by the FWPCA and MARPOL 73/78. The FWPCA prohibits any discharge of oil in a quantity which may be harmful as defined in 40 CFR 110 (one which forms a sheen, sludge, film or emulsion), but excludes discharges permitted by MARPOL 73/78. MARPOL 73/78 permits discharges from machinery space bilges and oil fuel tanks in concentrations of less than 15 ppm when the ship has in operation an approved oily-water separator (33 CFR 151.09), and monitor or alarm system (33 CFR 155). Thus, discharges in the contiguous zone in compliance with MARPOL 73/78 restrictions are not a violation of the FWPCA, even if a sheen results. Discharges of 15 ppm should not produce a sheen, under most conditions.

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- (3) Discharges Beyond the Contiguous Zone: Beyond the contiguous zone discharges of oil are presently limited only by MARPOL 73/78 except for discharges associated with Outer Continental Shelf drilling operations which are governed by National Pollution Discharge Elimination System (NPDES) permits issued by the EPA (40 CFR 435).
- (a) Discharges from Machinery Space Bilges and Fuel Tanks: MARPOL 73/78 permits discharges from machinery space bilges and oil fuel tanks in concentrations of less than 100 ppm when the ship is proceeding enroute, not within a special area (see attachment (A) to this enclosure), more than 12 nm from the nearest land, and when the ship has in operation an approved oily-water separator and for ships of 10,000 GT and above an approved bilge monitor or alarm system (33 CFR 151.09 and MARPOL 73/78 Annex I, Regulations 9 and 10).
- (b) Discharges from Tanker Cargo Tanks and Cargo Pump Room Bilges: 33 CFR 157.37 permits discharges of oil from cargo tanks and cargo pump room bilges only when all of the following conditions are met:
- i. the tanker is not within a special area;
 - ii. the tanker is more than 50 nm from the nearest land;
 - iii. the tanker is proceeding enroute;
 - iv. the instantaneous rate of discharge of oil content does not exceed 60 liters per nautical mile;
 - v. the total quantity of oil discharged into the sea does not exceed for existing tankers 1/15,000 of the total quantity of the particular cargo of which the residue formed a part, and for new tankers 1/30,000 of the total quantity of the particular cargo of which the residue formed a part; and
 - vi. the tanker has in operation, except as allowed in 33 CFR 157.08(i), an approved oil discharge monitoring and control system.
- (4) Existing Ship Discharges: Existing ships which are not yet required to have pollution prevention equipment may discharge oil in the concentrations and at the locations allowed by MARPOL 73/78. It is understood that existing ships will have no accurate method of determining the concentrations discharged. Therefore, unless it can be proven that the concentration is in excess of MARPOL 73/78 limitations or that the discharge occurred in an unauthorized location, a violation report should not be filed by the investigating unit.

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Cases where evidence is more easily obtained include:

- (a) in the territorial sea any ship discharge creating a "sheen" is a violation of the FWPCA.
- (b) in the contiguous zone any ship discharge creating a "sheen" is a violation of the FWPCA, unless it can be shown the discharge was through approved 15 ppm oily-water separating equipment and either a bilge alarm or monitor.
- (c) from 12 to 50 nm offshore a tanker discharge from cargo areas is in violation of 33 CFR 157.37, whether or not it has an oily-water separator or a cargo monitor system.

Other suspected unauthorized discharges by existing ships without MARPOL 73/78 equipment installed will be difficult to prove. However, even in these cases the following evidence is sufficient to commence civil penalty proceedings for a discharge violation: sightings of large quantities of oil obviously in excess of 100 ppm or 60 liters per nautical mile; oil samples; no ORB entry when a discharge is sighted; no ORB entry for a tanker having deballasted arriving in port after a ballast voyage; or an ORB entry for a tanker which indicates a discharge within 50 nautical miles of land.

The intent of MARPOL 73/78, when considered as a whole, is to allow existing ships to discharge oily wastes at sea in the concentrations stipulated even though existing ships are not required to have oily-water separating equipment, monitors and alarms installed until 1986. Existing ships do not have to retain all oily waste on board as might be interpreted by reading MARPOL 73/78 Regulation 9(6) concerning residue retention separately. This interpretation for discharges from existing ships represents an extension of the OILPOL 54/69 discharge scheme, which required ships to meet discharge limitations without requiring the installation of pollution discharge equipment.

- (5) Fixed and Floating Drilling Rigs and Other Platforms: There are no additional equipment requirements or discharge limitations on fixed and floating drilling rigs and other platforms which are operating under a valid NPDES permit in accordance with section 402 of the FWPCA, as amended and with 40 CFR Chapter I. When not operating under a permit, the MARPOL 73/78 oil discharge limitations in 33 CFR 151.09 are fully applicable. Compliance with an NPDES permit is a fully satisfactory alternative to compliance with the requirements of MARPOL 73/78.

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CONTROL OF DISCHARGE OF OIL UNDER MARPOL 73/78

TABLE 1
Control of Discharge of Oil from Cargo Tank Areas of Oil Tankers

Sea Areas		Discharge Criteria
Within a SPECIAL AREA*		NO DISCHARGE except clean** or segregated ballast
Outside a SPECIAL AREA	Within 50 nautical miles from land	NO DISCHARGE except clean or segregated ballast
	More than 50 nautical miles, from land	NO DISCHARGE except either (a) clean or segregated ballast; or (b) when: (1) the tanker is enroute; and (2) the instantaneous AREA rate of discharge of oil does not exceed 60 litres per nautical mile; and (3) the total quantity of oil discharged does not exceed 1/15,000 (for existing tankers) or 1/30,000 (for new tankers) of the total quantity of cargo which was carried on the previous voyage; and (4) the tanker has in operation an oil discharge monitoring and control system and slop tank arrangements as required by Regulation 15 of Annex I of MARPOL 73/78.

*Special area requirements take effect in the Mediterranean Sea, Black Sea and Baltic Sea areas October 2, 1983, and for the Red Sea and Gulf areas from the date established by IMO.

**"Clean ballast" is the ballast in a tank which has been so cleaned that the effluent therefrom does not create a visible sheen or the oil content exceed 15 ppm.

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TABLE 2

Control of Discharge of Oil and Oily Waste from all Ships
(Machinery Space/Fuel Oil Tank Ballast Water)

Sea Areas		Ship Type & Size	Discharge Criteria
Within a SPECIAL AREA*	Anywhere	Oil tankers of all sizes and other ships ≥ 400 grt	NO DISCHARGE except when: (1) the ship is proceeding enroute; and (2) the oil content of effluent without dilution does not exceed 15 ppm; and (3) the ship has in operation oil filtering equipment with automatic 15 ppm stopping device; and (4) for oil tankers the bilge water does not originate from cargo pump room bilges or is not mixed with oil cargo residue.
	Within 12 nautical miles from land	Ships < 400 grt other than oil tankers	NO DISCHARGE except when the oil content of effluent without dilution does not exceed 15 ppm
	More than 12 nautical miles from land		NO DISCHARGE except when either: (a) the oil content of effluent without dilution does not exceed 15 ppm; or (b) (1) the ship is proceeding enroute; and (2) the oil content of the effluent is less than 100 ppm.

* For application of Special Area requirements see footnote in Table 1.

TABLE 2 CONTINUED

Sea Areas		Ship Type & Size	Discharge Criteria
Outside a SPECIAL AREA*	Within 12 ** nautical miles from land	Oil Tankers of all sizes and other ships $\geq$ 400 grt	NO DISCHARGE except when the oil content of effluent without dilution does not exceed 15 ppm.
		Other ships < 400 grt	The condition for ships $\geq$ 400 grt apply as far as practicable and reasonable
	More than 12 nautical miles from land	Oil tankers of all sizes and other ships $\geq$ 400 grt	NO DISCHARGE except when either: (a) the oil content of effluent does not exceed 15 ppm; or (b)(1) the ship is proceeding enroute; and (b)(2) the oil content of the effluent is less than 100 ppm; and (b)(3) the ship has in operation an oil discharge monitor- ing and control system, oily-water separating or filtering equipment or other installation required by Regulation 16 of Annex I of MARPOL 73/78; and (b)(4) for oil tankers the bilge water does not originate from cargo pump room bilges or is not mixed with oil cargo residue.
		Other ships < 400 grt	The conditions for ships $\geq$ 400 grt apply as far as practicable and reasonable.

** Discharges of a quantity of oil that may be harmful are prohibited within the territorial seas of the U. S.

The following is a description of the standards:

A. **SEGREGATED BALLAST TANKS** - Segregated ballast tanks (SBT) are ballast tanks that are permanently allocated to the carriage of ballast water and are completely separated from cargo oil and fuel oil systems. The entire SBT system (tanks, piping, pumps, etc.) must be independent of the cargo oil and fuel oil systems. When SBT is required by 33 CFR Part 157 or chosen by the shipowner or operator as an option for compliance with 33 CFR Part 157, the segregated ballast capacity must be sufficient to fully immerse the vessel's propeller and also enable the tank vessel to meet specific minimum draft and trim requirements in any ballast condition at any stage of a ballast voyage. The intent of these requirements is to provide the tank vessel with enough segregated ballast capacity that the vessel may operate safely on ballast voyages without putting ballast water in oil tanks except during unusually severe weather or other specific operational conditions. In this manner, operational oil pollution that results from the ballasting and deballasting of cargo tanks is substantially reduced.

B. **PROTECTIVELY LOCATED SEGREGATED BALLAST TANKS** - Protectively located segregated ballast tanks (PL/SBT) are ballast tanks as described above that are located within the cargo tank length of a tank vessel, outboard of or below the cargo tanks. Protectively located segregated ballast tanks are usually wing tanks (side tanks) or double bottom tanks. Wing tanks reduce accidental oil pollution and the number of explosions that may result from collisions and rammings, while double bottoms provide similar protection from groundings. When PL/SBT is required, they must provide a specific minimum amount of protection for the cargo tanks. There are two separate minimum standards for PL/SBT in 33 CFR Part 157. Tank vessels in Categories B1, B2, or B3 of TABLES ONE, TWO, or THREE that are required to have PL/SBT must meet the PL/SBT standards in 33 CFR 157.09(d). The PL/SBT standard in 33 CFR 157.09(d) was developed by the Coast Guard in 1975 and is required on certain tank vessels of 70,000 DWT and above. Tank vessels in Categories A1, A2, or A3 of the TABLES that are required to have PL/SBT must meet the PL/SBT standards in Appendix C of 33 CFR Part 157. The PL/SBT standard in Appendix C of 33 CFR Part 157 was developed by IMCO at the TSPP Conference and is required on certain crude oil carriers of 20,000 DWT and above, and product carriers of 30,000 DWT and above. This new standard for PL/SBT in Appendix C of 33 CFR Part 157 was established after a more thorough examination of the subject, its effect on tank vessel design, and its anticipated effect on reducing accidental oil pollution.

C. **DEDICATED CLEAN BALLAST TANKS** - Dedicated clean ballast tanks (CBT) are cargo tanks that are dedicated solely to the carriage of clean ballast and which no longer carry cargo. The associated pumps and piping system for CBT are allowed to be common with the cargo piping system and therefore, require flushing each time prior to the handling of clean ballast. The CBT concept is an operational measure, rather than a design feature like SBT, which, if operated correctly, will achieve about the same effect as SBT in reducing operational oil pollution that results from ballasting and deballasting. On a product carrier, where tank cleaning operations often take place after each

Toxicity Data. No data submitted.
Exposure. Confidential.
Environmental Release/Disposal. Confidential.

PMN 84-466

Manufacturer. Spencer Kellogg
 Division of Textron, Inc.
Chemical. (G) Polyurethane resin.
Use/Production. (G) A component of
 an adhesive to be used in an open, non-
 dispersive manner. Prod. range:
 Confidential.

Toxicity Data. No data submitted.
Exposure. Confidential.
Environmental Release/Disposal. No
 data submitted.

PMN 84-467

Importer. Confidential.
Chemical. (G) Hydrogen 2-[alpha-(2-
 hydroxy-3-sulfo-5-
 ethenylsulfonylphenylazo)-
 benzilidenehydrazino]-5= substituted,
 cuprate, sodium salt.

Use/Import. (S) Textile dye. Import
 range: 600-1,200 kg/yr.

Toxicity Data. Acute oral: 5,000 mg/
 kg; Irritation: Skin—Slight, Eye—Non-
 irritant.

Exposure. Import and processing: a
 total of 8-10 workers, up to 30
 manhours/yr.

Environmental Release/Disposal. 120
 kg/yr released. Disposal by POTW.

PMN 84-468

Manufacturer. Confidential.
Chemical. (G) Functionalized
 polyacrylic acid derivative.
Use/Production. G Coatings additive
 in open non-dispersive uses (pertinent to
 both categories of us). Prod. range:
 Confidential.

Toxicity Data. No data on the PMN
 substance submitted.

Exposure. Manufacture: dermal a total
 of 8 workers.

Environmental Release/Disposal.
 Release to water and land. Disposal by
 POTW, biological treatment system and
 landfill.

Dated: March 2, 1984.

Linda A. Travers,
 Acting Director, Information Management
 Division.

[FR Doc. 84-6246 Filed 3-9-84; 8:45 am]
 BILLING CODE 6560-50-M

[SA-FRL 2542-3]

**Science Advisory Board,
 Environmental Effects, Transport and
 Fate Committee; Open Meeting**

Under Pub. L. 92-483, notice is hereby
 given of a two-day meeting of the
 Science Advisory Board's

**Environmental Effects, Transport and
 Fate Committee.** The meeting will be
 held on March 26-27, 1984 in the
 Holiday Inn, 165 Fort Pickens Road,
 Pensacola Beach, Florida in Conference
 Room "Langley" and "Antietam". The
 meeting will begin at 9:00 a.m. and will
 adjourn at approximately 5:00 p.m. on
 March 26, Monday, and from 10:00 a.m.
 to 5:00 p.m. on March 27, Tuesday.

This will be the second meeting of the
 Committee on the assessment of
 environmental impacts involved with
 the incineration of hazardous wastes at
 sea. Agency personnel from the Gulf
 Breeze, Florida, Office of Research and
 Development Laboratory will provide
 the Committee information on their
 extensive experience with the
 distribution and uptake of
 organochlorine compounds under the
 climatic and hydrologic conditions that
 exist in the Gulf of Mexico. These
 briefings will help to enable the
 Committee to determine an appropriate
 course of action to carry out its
 independent scientific review.

The meeting is open to the public. Any
 member of the public wishing to attend
 should contact Dr. Douglas B. Seba,
 Executive Secretary, Environmental
 Effects, Transport and Fate Committee
 or Joanna Foellmer (202) 382-2552 by
 close of business March 19, 1984. Those
 wishing to obtain information or submit
 comments to the Committee should
 contact Dr. Terry F. Yosie, Director,
 Science Advisory Board (202) 382-4126
 or Dr. Douglas B. Seba, by close of
 business March 19, 1984.

Dated: March 5, 1984.

Terry F. Yosie,
 Staff Director, Science Advisory Board.

[FR Doc. 84-6364 Filed 3-9-84; 8:45 am]
 BILLING CODE 6560-50-M

[ER-FRL-2541-1]

**Availability of Environmental Impact
 Statements Filed February 27 Through
 March 2, 1984**

Responsible Agency: Office of Federal
 Activities, General Information (202)
 382-5073 or (202) 382-5075.

EIS No. 840085, Draft, COE, AL, Bulk
 Coal and Grain Handling Facility
 Permit, Theodore Ship Channel,
 Mobile County, Due: April 23, 1984.

EIS No. 840086, Report, COE, MI, Pointe
 Mouillee Maintenance Dredging of
 Sediments, Monroe and Wayne
 Counties.

EIS No. 840087, Report, COE, MI,
 Michigan Maintenance Dredging of
 Unpolluted Sediments, Ludington,
 Muskegon, and St. Joseph Harbors.

EIS No. 840089, Draft, FHWA, GA,
 President/East Broad Streets to
 Islands Expressway/US 80,
 Improvements, Chatham Co. Due: Apr.
 23, 1984.

EIS No. 840090, DSuppl. UMT, FL,
 Jacksonville/River Crossing
 Automated Transit Extension
 Alternative, Duval County, (DS-1)
 Due: Apr. 23, 1984.

EIS No. 840091, Draft, COE, MS, Jackson
 Flood Control Plan, Pearl River,
 Rankin County, Due: Apr. 24, 1984.

EIS No. 840092, Draft, BLM, CO, Mobile/
 Pacific Oil Shale Project,
 Development, Garfield County, Due:
 May 4, 1984.

EIS No. 840093, Draft, FHW, KY, US 27/
 Nicholasville Bypass Construction,
 Jessamine County, Due: Apr. 23, 1984.
 Amended Notices:

EIS No. 840040, Draft, SFW, AK, Kenai
 National Wildlife Refuge,
 Conservation Management Plan,
 Kenai Peninsula Borough Due: Apr. 4,
 1984. Published FR 3-9-84 Review
 Extended.

EIS No. 830568, Draft, OSM, WY Red
 Rim Coal Development Leasing,
 Fremont, Sweetwater and Carbon
 Counties, Due: Apr. 20, 1984.
 Published FR 01-20-84—Notification
 of closing date for comments.

Dated: March 6, 1984.

Allan Hirsch,
 Director, Office of Federal Activities.

[FR Doc. 84-6429 Filed 3-9-84; 8:45 am]
 BILLING CODE 6560-50-M

[OW-FRL-2533-1]

**Development of Water Quality-Based
 Permit Limitations for Toxic Pollutants;
 National Policy**

AGENCY: Environmental Protection
 Agency (EPA).

ACTION: Notice.

SUMMARY: EPA has issued a national
 policy statement entitled "Policy for the
 Development of Water Quality-Based
 Permit Limitations for Toxic Pollutants."
 This policy addresses the technical
 approach for assessing and controlling
 the discharge of toxic substances to the
 Nation's waters through the National
 Pollutant Discharge Elimination System
 (NPDES) permit program.

FOR FURTHER INFORMATION CONTACT:
 Bruce Newton or Rick Brandes, Permits
 Division (EN-338), Office of Water
 Enforcement and Permits, U.S.
 Environmental Protection Agency,
 Washington, D.C. 20460, 426-7010.

SUPPLEMENTARY INFORMATION: As the water pollution control effort in the United States progresses and the "traditional" pollutants (oxygen demanding and eutrophying materials) become sufficiently treated to protect water quality, attention is shifting towards pollutants that impact water quality through toxic effects. Compared with the traditional pollutants, regulation of toxic pollutants is considerably more difficult. The difficulties include (1) the great number of toxic chemicals that may potentially be discharged to receiving waters and the difficulties in their analysis; (2) the changes in the toxic effects of a chemical resulting from reactions with the matrix of constituents in which it exists; and (3) the inability to predict the effects of exposure to combinations of chemicals.

To overcome some of these problems, EPA and the States have begun to use aquatic toxicity tests and various human health assessment techniques to complement chemical analyses of effluents and receiving water samples. Because these techniques or their application to effluent testing are new, EPA and the States have been cautious in their use. Based on EPA's evaluation of these techniques and the experiences of several States, EPA is now recommending the use of biological techniques as a complement to chemical-specific analyses to assess effluent discharges and express permit limitations. EPA has issued these recommendations through a statement of policy and is developing a technical guidance document to help implement the policy.

The complete text of the national policy statement follows:

Policy for the Development of Water Quality-Based Permit Limitations for Toxic Pollutants

Statement of policy

To control pollutants beyond Best Available Technology Economically Achievable (BAT), secondary treatment, and other Clean Water Act technology-based requirements in order to meet water quality standards, the Environmental Protection Agency (EPA) will use an integrated strategy consisting of both biological and chemical methods to address toxic and nonconventional pollutants from industrial and municipal sources. Where State standards contain numerical criteria for toxic pollutants, National Pollutant Discharge Elimination System (NPDES) permits will contain limits as necessary to assure compliance with these standards. In addition to enforcing

specific numerical criteria, EPA and the States will use biological techniques and available data on chemical effects to assess toxicity impacts and human health hazards based on the general standard of "no toxic materials in toxic amounts."

EPA, in its oversight role, will work with States to ensure that these techniques are used wherever appropriate. Under section 308 and section 402 of the Clean Water Act (the Act), EPA or the State may require NPDES permit applicants to provide chemical, toxicity, and instream biological data necessary to assure compliance with standards. Data requirements may be determined on a case-by-case basis in consultation with the State and the discharger.

Where violations of water quality standards are identified or projected, the State will be expected to develop water quality-based effluent limits for inclusion in any issued permit. Where necessary, EPA will develop these limits in consultation with the State. Where there is a significant likelihood of toxic effects to biota in the receiving water, EPA and the States may impose permit limits on effluent toxicity and may require an NPDES permittee to conduct a toxicity reduction evaluation. Where toxic effects are present but there is a significant likelihood that compliance with technology-based requirements will sufficiently mitigate the effects, EPA and the States may require chemical and toxicity testing after installation of treatment and may reopen the permit to incorporate additional limitations if needed to meet water quality standards. (Toxicity data, which are considered "new information" in accordance with 40 CFR 122.62(a)(2), could constitute cause for permit modification where necessary.)

To carry out this policy, EPA Regional Administrators will assure that each Region has the capability to conduct water quality assessments using both biological and chemical methods and provide technical assistance to the States.

Background

The Clean Water Act establishes two principal bases for effluent limitations. First, existing dischargers are required to meet technology-based effluent limitations that reflect the best controls available considering economic impacts. New source dischargers must meet the best demonstrated technology-based controls. Second, where necessary, additional requirements are imposed to assure attainment and maintenance of water quality standards established by the States and approved by EPA. In

establishing or reviewing NPDES permit limits, EPA must ensure that the limits will result in the attainment of water quality standards and protect designated water uses, including an adequate margin of safety.

For toxic and nonconventional pollutants it may be difficult in some situations to determine attainment or nonattainment of water quality standards and set appropriate limits because of complex chemical interactions which affect the fate and ultimate impact of toxic substances in the receiving water. In many cases, all potentially toxic pollutants cannot be identified by chemical methods. In such situations, it is more feasible to examine the whole effluent toxicity and instream impacts using biological methods rather than attempt to identify all toxic pollutants, determine the effects of each pollutant individually, and then attempt to assess their collective effect.

The scientific basis for using biological techniques has advanced significantly in recent years. There is now a general consensus that an evaluation of effluent toxicity, when adequately related to instream conditions, can provide a valid indication of receiving system impacts. This information can be useful in developing regulatory requirements to protect aquatic life, especially when data from toxicity testing are analyzed in conjunction with chemical and ecological data. Generic human health effects methods, such as the Ames mutagenicity test, and structure-activity relationship techniques are showing promise and should be used to identify potential hazards. However, pollutant-specific techniques are the best way to evaluate and control human health hazards at this time.

Biological testing of effluents is an important aspect of the water quality-based approach for controlling toxic pollutants. Effluent toxicity data in conjunction with other data can be used to establish control priorities, assess compliance with State water quality standards, and set permit limitations to achieve those standards. All States have water quality standards which include narrative statements prohibiting the discharge of toxic materials in toxic amounts. A few State standards have criteria more specific than narrative criteria (for example, numerical criteria for specific toxic pollutants or a toxicity criterion to achieve designated uses). In States where numerical criteria are not specified, a judgment by the regulatory authority is required to set quantitative water quality-based limits on chemicals and effluent toxicity to assure

compliance with water quality standards.

Note.—Section 308 of the Act and corresponding State statutes authorize EPA and the States to require of the owner/operator any information reasonably required to determine permit limits and to determine compliance with standards or permit limits. Biological methods are specifically mentioned. Toxicity permit limits are authorized under Section 301 and 402 and supported by Section 101.

Application

This policy applies to EPA and the States. The policy addresses the use of chemical and biological methods for assuring that effluent discharges are regulated in accordance with Federal and State requirements. This policy was prepared, in part, in response to concerns raised by litigants to the Consolidated Permit Regulations (see FR 52079, November 18, 1982). Use of these methods for developing water quality standards and trend monitoring are discussed elsewhere (see 48 FR 51400, November 8, 1983 and *Basic Water Monitoring Program* EPA-440/9-76-025). This policy is part of EPA's water quality-based control program and does not supersede other regulations, policy, and guidance regarding use attainability, site-specific criteria modification, wasteload allocation, and water quality management.

Implementation

State Role

The control of toxic substances to protect water quality must be done in the context of the Federal-State partnership. EPA will work cooperatively with the States in identifying potential water quality standards violations, assembling relevant data, developing appropriate testing requirements, determining whether standards are being violated, and defining appropriate permit limits.

Note.—Under sections 303 and 401 of the Act, States are given primary responsibility for developing water quality standards and limits to meet those standards. EPA's role is to review the State standards and limits and develop revised or additional standards or limits as needed to meet the requirements of the Act.

Integration of Approaches

The type of testing that is most appropriate for assessing water quality impacts depends on the type of effluent and discharge situation. EPA recommends that an integrated approach, including both biological and chemical techniques, be used to assess and control water quality. The principal advantages of chemical-specific

techniques are that (1) chemical analyses are usually less expensive than biological measurements in simple cases; (2) treatment systems are more easily designed to meet chemical requirements than toxicity requirements; and (3) human health hazards and bioaccumulative pollutants can best be addressed at this time by chemical-specific analysis. The principal advantages of biological techniques are that (1) the effects of complex discharges of many known and unknown constituents can be measured only by biological analyses; (2) bioavailability of pollutants after discharge is best measured by toxicity testing; and (3) pollutants for which there are inadequate chemical analytical methods or criteria can be addressed.

Pollutant-specific chemical analysis techniques should be used where discharges contain few, well-quantified pollutants and the interactions and effects of the pollutants are known. In addition, pollutant-specific techniques should be used where health hazards are a concern or bioaccumulation is suspected. Biological techniques should be used where effluents are complex or where the combined effects of multiple discharges are of concern. EPA recognizes that in many cases both types of analysis must be used.

Testing Requirements

Requirements for dischargers to collect information to assess attainment or nonattainment of State water quality standards will be imposed only in selected cases where the potential for nonattainment of water quality standards exists. Where water quality problems are suspected but there is a strong indication that complying with BCT/BAT will sufficiently mitigate the impacts, EPA recommends that applicable permits include testing requirements effective after BCT/BAT compliance and reopener clauses allowing reevaluation of the discharge.

The chemical, physical, and biological testing to be conducted by individual dischargers should be determined on a case-by-case basis. In making this determination, many factors must be considered, including the degree of impact, the complexity and variability of the discharge, the water body type and hydrology, the potential for human health impact, the amount of existing data, the level of certainty desired in the water quality assessment, other sources of pollutants, and the ecology of the receiving water. The specific data needed to measure the effect that a discharger has on the receiving water will vary according to these and other factors.

An assessment of water quality should, to the extent practicable, include other point and nonpoint sources of pollutants if the sources may be contributing to the impacts. Special attention should be focused on Publicly Owned Treatment Works (POTW's) with a significant contribution of industrial waste-water. Recent studies have indicated that such POTW's are often significant sources of toxic materials. When developing monitoring requirements, interpreting data, and determining limitations, permit engineers should work closely with water quality staff at both the State and Federal levels.

A discharger may be required to provide data upon request under section 308 of the Act, or such a requirement may be included in its NPDES permit. The development of a final assessment may require several iterations of data collection. Where potential problems are identified, EPA or the State may require monitoring to determine whether more information is needed concerning water quality effects.

Use of Data

Chemical, physical, and biological data will be used to determine whether, after compliance with BCT/BAT requirements, there will be violations of State water quality standards resulting from the discharge(s). The narrative prohibition of toxic materials in toxic amounts contained in all State standards is the basis for this determination taking into account the designated use for the receiving water. For example, discharges to waters classified for propagation of cold water fish should be evaluated in relation to acute and chronic effects on cold water organisms, potential spawning areas, and effluent dispersion.

Setting Permit Limitations

Where violations of water quality standards exist or are projected, the State and EPA will determine pollution control requirements that will attain the receiving water designated use. Where effluent toxicity is an appropriate control parameter, permit limits on effluent toxicity should be developed. In such cases, EPA may also require a permittee to conduct a toxicity reduction evaluation. A toxicity reduction evaluation is an investigation conducted within a plant or municipal system to isolate the sources of effluent toxicity, specific causative pollutants if possible, and determine the effectiveness of pollution control options in reducing the effluent toxicity. If specific chemicals are identified as the cause of the water

quality standards violation, these individual pollutants should be limited. If a toxicity reduction evaluation demonstrates that limiting an indicator parameter will ensure attainment of the water quality-based effluent toxicity requirement, limits on the indicator parameter should be considered in lieu of limits on effluent toxicity. Such indicator limits are not limits on causative pollutants but limits demonstrated to result in a specific toxicity reduction.

Monitoring

Where pollution control requirements are expressed in terms of a chemical or toxicological parameter, compliance monitoring must include monitoring for that parameter. If an indicator parameter is used based on the results of a toxicity reduction evaluation, periodic toxicity testing may be required to confirm the adequacy of the indicator. Where biological data were used to develop a water quality assessment or where the potential for water quality standards violations exist, biological monitoring (including instream monitoring) may be required to ensure continuing compliance with water quality standards.

EPA believes that the intelligent application of an integrated strategy using both biological and chemical techniques for water quality assessment will facilitate the development of appropriate controls and the attainment of water quality standards. EPA looks forward to working with the States in a spirit of cooperation to further refine these techniques.

Policy signed February 3, 1984 by Jack E. Ravan, Assistant Administrator for Water.

Dated: February 16, 1984.

Jack E. Ravan,

Assistant Administrator for Water.

(FR Doc. 84-0443 Filed 3-7-84; 8:45 am)

BILLING CODE 6560-50-M

(SA-FRL 2542-7)

Science Advisory Board, Subcommittee on Risk Assessment for Radionuclides; Meeting

Under Pub. L. 92-463, notice is hereby given of a two-day meeting of the Science Advisory Board's Subcommittee on Risk Assessment for Radionuclides. The meeting will be held on March 22-23, 1984 in Room 1112, Crystal Mall #2, 1921 Jefferson Davis Highway, Arlington, Virginia. The public phase of the meeting will begin at 1:00 p.m. March 22 and close at 4:30 p.m. of the same day.

The purpose of the meeting is two fold: to enable the Subcommittee to develop an outline of its report to the Agency and make writing assignments to individual Subcommittee members. To effectively carry out this part of the meeting, the Subcommittee plans to hold an executive session the morning of March 22 and 23. The second part of the meeting which will be open to the public during the afternoon of March 22, will consist of additional Office of Radiation Program (ORP) staff briefings and any further presentations from members of the public. The ORP briefings will consist of presentations that define the relationship between the elemental phosphorus industrial source category to the ORP's risk assessment to illustrate the intended use of the risk assessment in the Agency's decision making process.

Any member of the public wishing to obtain information or submit comments to the Subcommittee should write or call by close of business March 15, Dr. Terry F. Yosie, Director, Science Advisory Board (A-101), EPA, 401 M Street SW., Washington, D.C. 20460 (202) 382-4126.

Dated: February 28, 1984.

Terry F. Yosie,

Director, Science Advisory Board.

(FR Doc. 84-0616 Filed 3-8-84; 8:45 am)

BILLING CODE 6560-50-M

FEDERAL DEPOSIT INSURANCE CORPORATION

Penn Square Bank, N.A., Oklahoma City, Oklahoma; Issuance of Powers of Attorney

AGENCY: Federal Deposit Insurance Corporation.

ACTION: Public notice.

SUMMARY: On October 27, 1982, the Federal Deposit Insurance Corporation (hereinafter "FDIC") published notice of its appointment as Receiver of the Penn Square Bank, N.A., Oklahoma City, Oklahoma, and of the issuance by the FDIC of general powers of attorney in favor of Thomas R. Procopio, Liquidator, and six Assistant Liquidators (See 47 FR 47677, October 27, 1982). The notice was published in order to facilitate FDIC's discharge of its responsibilities as Receiver and specifically to comply with the provisions of Title 18, Section 20 of the Oklahoma Statutes (18 O.S. Section 20), which creates an exception, based upon such publication, to the otherwise applicable requirement that powers of attorney be recorded locally in order to effect conveyances of interests in property. Supplemental notices updating that notice were published on January

21, 1983 (see 48 FR 2829), March 23, 1983 (see 48 FR 12434), and June 23, 1983 (see 48 FR 28731). This notice supplements the prior notices.

Notice

On December 5, 1983, the Director of the FDIC's Division of Liquidation appointed Paul G. Heafy Bank Liquidation Specialist (Liquidator-In-Charge) and provided him with power of attorney to act on behalf of the FDIC in this capacity.

On the same date, a power of attorney that had previously been issued to Thomas R. Procopio, as Liquidator-In-Charge, had been revoked.

On December 13, 1983, the Associate Director of the FDIC's Division of Liquidation appointed Robert L. Carman Bank Liquidation Specialist and provided him with power of attorney to act on behalf of the FDIC. On the same date, powers of attorney were revoked that had previously been issued to John M. Schill and Edward L. McManaman, Jr.

Previously, on October 28, 1983, the power of attorney was revoked that had been issued to Donald J. Lubitz.

And on October 11, 1983, the Associate Director of the FDIC's Division of Liquidation appointed Neil C. Steimer Bank Liquidation Specialist and provided him with power of attorney to act on behalf of the FDIC. On the same date, powers of attorney were revoked that had previously been issued to Patrocínio T. Villarreal and Ronald W. Carris.

Accordingly, with respect to Messrs. Heafy, Carman, and Steimer, each have been authorized and empowered to:

(1) Sign, seal and deliver as the act and deed of the FDIC any instrument in writing, and to do every other thing necessary and proper for the collection and recovery of any and all monies and properties of every kind and nature whatsoever for and on behalf of the FDIC and to give proper receipts and acquittances therefore in the name and on behalf of the FDIC;

(2) Release, discharge or assign any and all judgments, mortgages on real estate or personal property (including the release and discharge of the same of record in the office of any Prothonotary or Register of Deeds wherever located where payments on account of the same in redemption or otherwise may have been made by the debtor(s)), and to endorse receipt of such payment upon the records in any appropriate public office;

(3) Receive, collect and give all proper acquittances for any other sums of money owing to the FDIC for any asset

**Agreement and Grant of
Right-of-Way for Trans-Alaska Pipeline
*between***

**The United States of America
*and***

**Amerada Hess Corporation,
ARCO Pipe Line Company,
Exxon Pipeline Company,
Mobil-Alaska Pipeline Company,
Phillips Petroleum Company,
Sohio Pipe Line Company, and
Union Alaska Pipeline Company**

curred any breach, by the Transferor or any predecessor of the Transferor, of this Agreement or of any other agreement, permit, or authorization relating to the Pipeline System that the United States may make with, issue to, or grant to the Transferor, and that was not cured to the satisfaction of the United States before the consummation of the Transfer, or

- (2) With respect to Transfers other than those referred to in subsection H of this Section, the Transferee, or the Transferee together with, if any, its guarantor or guarantors as approved by the Secretary: (a) is not, or are not, capable, in the judgment of the Secretary, of performing all of the liabilities and obligations of the Transferor relating to the right, title or interest to be transferred, or (b) shall refuse to allow an audit and/or inspection as provided for in subsection E of this Section; or
- (3) Applicable laws and regulations in effect at the time of a Transfer shall not have been complied with by the parties to the Transfer.

G. A Permittee seeking to be divested in whole or in part of its right, title, and interest in and to the Right-of-Way and this Agreement in connection with a Transfer shall be released from its liabilities and obligations (accrued, contingent, or otherwise) to the United States under this Agreement to the extent and limit that the Transferee assumes unconditionally the performance and observance of each such liability and obligation, *provided*:

- (1) All of the provisions of this Agreement with respect to the approval or disapproval of the Transfer have been fully complied with to the satisfaction of the Secretary;
- (2) The Secretary has consented in writing to the Transfer; and
- (3) Thereafter the Transfer and the attendant assumption agreement, if any, are in fact duly consummated on the basis of the documents previously presented to the Secretary for his review, and the Secretary is so notified in writing by the parties to the Transfer.

H. The Secretary shall consent to the Transfer of an interest in the Right-of-Way between:

- (1) Any of the Original Permittees, their Affiliates or any of them, or
- (2) One or more of the Original Permittees, their Affiliates or any of them, and a corporate Transferee, all of the outstanding capital stock of which Transferee at the time of the Transfer is owned by one or more of the Original Permittees or their Affiliates, or
- (3) One or more of the Original Permittees, their Affiliates or any of them, and a partnership consisting of two (2) or more of the Original Permittees or their Affiliates;

provided, that the Transferor or Transferee are not in breach of this Agreement; *provided further*, that all applicable laws and regulations in effect at the time of Transfer are complied with; *provided further*, that the application for any such Transfer be filed with the Secretary within eight (8) years of the Effective Date hereof or prior to completion of construction of the Pipeline at its maximum design capacity (i.e. approximately two million (2,000,000) barrels per day) whichever shall first occur; and *provided further*, that no substantial reduction in the financial worth of the Transferee (or its Parent), or of the Transferee (or its Parent) together with its guarantors, if any, has occurred since the date the Transferee (or its Parent) acquired its original interest in the Right-of-Way.

23. Port Valdez Terminal Facility

A. The provisions of this Section shall apply to the construction and operation of the terminal facility of the Pipeline System located at Port Valdez, Alaska.

B. Permittees shall maintain and operate a waste-water treatment facility in conjunction with the terminal facility at Port Valdez. All oily-water (including, but not limited to, discharge from fuel tanks, cargo tanks, ballast tanks, and bilges) discharged from any tanker or other seagoing, bulk Oil carrier (hereinafter referred to as a "Vessel") loading at or from the terminal facility shall be received and treated by said waste-water treatment facility. Water discharged from the waste-water treatment facility shall not con-

tain more than 10 parts of oil per million parts of water, on a weekly (seven (7) day) average.

C. At reasonable intervals, but at least once in every five (5) year period, the Authorized Officer and Permittees, at the request of either, shall meet to review and consider in depth: (1) the operation of the waste-water treatment facility; (2) such advances and improvements in water pollution control and waste-water treatment, technology and equipment, as they relate to the terminal facility, as have taken place; and (3) the feasibility of improving the performance of the facility through installation of new or additional equipment, or modification of existing equipment. Consideration of such feasibility shall include consideration of the degree of technological advances that have occurred, costs and economic feasibility, the types of equipment commercially available, and the benefits that would be derived from the installation of new or additional equipment or the modification of existing equipment.

D. Permittees, and their respective agents, employees, contractors and subcontractors (at any tier) shall not release, or suffer to be released, from the terminal facility any Oil to be loaded on any Vessel unless the provisions of subsections E and F of this Section have, in each case, been fully complied with.

E. Prior to loading Oil on any Vessel, Permittees shall require the master thereof to provide Permittees with a legible copy, certified under oath by the master as being true and correct, of:

- (1) in the case of Vessels of United States registry, that part of the oil record book of such Vessel that pertains to the voyage of the Vessel to the terminal facility from its last Oil discharge port;
- (2) in the case of Vessels of foreign registry that may now or hereafter be required to maintain an oil record book, or similar records, that part of the oil record book, or said records, that pertains to the voyage of the Vessel to the terminal facility from its last Oil discharge port; and
- (3) in the case of any Vessel of foreign registry that is not required to maintain an oil record book, or similar records, Permittees shall require the master thereof to provide Permittees with an affidavit, duly sworn to and signed by the master, stating any and all facts bearing upon

any discharge of Oil or oily water from the Vessel during its voyage to the terminal facility from its last Oil discharge port.

F. If the said record book entries or affidavit, as provided by the master, disclose:

- (1) that the Vessel has discharged any Oil or oily water from its fuel tanks, cargo tanks, bilge, or otherwise, and
- (2) that such discharge was not necessary for the safety of the Vessel or its crew,

Permittees shall promptly notify the Authorized Officer of the pertinent facts and shall not load the Vessel or suffer the Vessel to be loaded, unless at the time of such discharge:

- (a) The United States Coast Guard or other agency of the United States has promulgated and implemented regulations under one or more treaties, conventions, or statutes that are designed to deter Vessels subject to such treaties, conventions or statutes from discharging any Oil or oily water at sea and that apply to, and can be enforced by the United States Coast Guard or such other agency of the United States against, the offending Vessel; or
- (b) In the absence of the aforesaid regulations, or the inapplicability thereof to the offending Vessel, there shall be in effect port rules, approved in writing by the Authorized Officer for the purposes of this subsection F, for the port of Valdez or, as the case may be, the terminal facility, (which rules may provide for a demurrage charge against offending vessels) that are designed to deter any Vessel using the terminal facility from discharging Oil or oily water at sea and that apply to, and can be enforced against, the offending vessel; or
- (c) If neither subsection F(a) or F(b) above in this Section shall be applicable, Permittees may proceed subject to applicable laws and regulations, to load the Vessel at the terminal facility; *provided, however*, that during its next return voyage to the terminal facility, one of either of the following alternatives must be complied with before the Vessel can be loaded:
 - (i) (AA) The Vessel shall, prior to loading, remain for ten



DEPARTMENT OF TRANSPORTATION
UNITED STATES COAST GUARD

MAILING ADDRESS:
U.S. Coast Guard (G-WPE-1)
Washington, DC 20593
(202) 755-7917

COMDTINST M16450.27

02 OCT 1989

* COMMANDANT INSTRUCTION M16450.27

Subj: Guidance and Procedures for Administering and Enforcing the Oily Waste Reception Facility Program

Ref : (a) COMDTINST M16455.6 (MARPOL 73/78)
(b) The Act to Prevent Pollution from Ships (33 USC 1901 et. seq.)
(c) 46 U.S.C. Chapter 37 (formally Section 5, The Port and Tanker Safety Act)
(d) 33 CFR Parts 126, 151, 154, 156, 157 and 158

1. PURPOSE. This instruction provides guidance and procedures for:

- a. administering and enforcing regulations for oily waste reception facilities;
- b. issuing and amending Certificates of Adequacy (COA);
- c. inspecting reception facilities for oily waste; and
- d. reporting reception facility information.

2. DIRECTIVES AFFECTED. None

3. BACKGROUND.

- a. On 2 October 1983 MARPOL 73/78 entered into force and the United States, as a Party, commenced implementation and enforcement of Annex I, Regulations for the Prevention of Pollution by Oil. As the U.S. enforcement agent for MARPOL 73/78, the Coast Guard has actively enforced the provisions of MARPOL. Initial requirements were designed to reduce the amount of oily waste generated from shipboard operations. These requirements call for segregated ballast tanks (SBT), dedicated clean ballast tanks (CBT), and crude oil washing systems (COW) under the Port and Tanker Safety Act of 1978, now recodified in 46 U.S.C. Chapter 37, and the associated regulations in 33 CFR 157.

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3. b. This action was followed by the Act to Prevent Pollution from Ships (hereafter referred to as the Act) and the regulations in 33 CFR 151, 155, and 157 which were enacted to limit the amounts of oily waste discharged into the sea. The regulations require cargo and bilge oily water separators and monitors, a new Oil Record Book to record oil and oily waste transfers, and an International Oil Pollution Prevention (IOPP) Certificate or equivalency to verify the required equipment is on board.
- c. To achieve the intent of Annex I of MARPOL 73/78, which is to reduce operational discharges of oil into the oceans, the Act requires adequate facilities to receive oily waste retained on board ships. Without regulations requiring adequate reception facilities the MARPOL 73/78 plan will not meet the stated goal of reducing oil discharges from normal shipboard operations.
- d. Enclosure (1) provides definitions for MARPOL 73/78 reception facility requirements to assist in better understanding and using this instruction.

4. DISCUSSION.

- a. To fulfill the MARPOL 73/78 scheme, reception facilities for oily waste must be certified in a timely manner with consistent nationwide procedures. These actions are necessary to achieve U.S. compliance with MARPOL 73/78 requirements for adequate oily waste reception facilities. Adequacy of a reception facility for oily waste depends upon its capacity, timeliness in transferring waste, and timeliness in providing reception facility service, so that ships will experience no undue delay.
- b. To facilitate COTP certification of reception facilities, a Certificate of Adequacy (COA), standard COA Application form, and Interim COA letter are provided, along with the guidance in enclosure (2). The purpose of the COA Application form (CG-5401A), attachment (A) to enclosure (2), is to provide the information required by 33 CFR 158.140 so that the COTP can determine whether the terminal's or port's oily waste reception facilities meet the criteria for adequacy. Submission of the COA Application form by industry is optional. COTPs should however, encourage industry to submit the COA Application form since the standardized format will facilitate COTP review and will assist terminals in complying with the regulatory requirements. The purpose of the COA, attachment (D) to enclosure (2), is to provide a permanent record indicating that the reception facilities fully meet the adequacy requirements. The purpose of the Interim COA letter, attachment (C) to enclosure (2), is to allow terminals or ports to continue operating pending inspection of their reception facilities for compliance with 33 CFR 126, 154, and 156.

4. c. Upon receipt of a COA Application, the COTP reviews the information submitted. If, in the COTP's judgment, the information is complete, accurate, and indicates that the adequacy criteria are met, the COTP then consults with the appropriate EPA Regional Office.
 - d. Consultation with EPA is required prior to the issuance of an Interim COA letter or the COA. If EPA's comments on the COA Application are not received within 20 days, COTPs should assume EPA has no objection and continue processing the COA Application. After consulting with EPA, the COTP may either:
 - (1) issue an interim COA letter; or
 - (2) inspect the reception facilities and issue the final COA.
 - e. A standard worksheet, attachment (E) to enclosure (2), is also provided. The purpose of the worksheet is to simplify, standardize and provide a sound analytical approach when calculating the information required by 33 CFR 158. The worksheet is an optional form. The COTP may distribute the worksheet to industry as an aid in determining reception facilities' requirements or may use the worksheet to verify information supplied on the COA Application. COTPs may use the worksheet in whole or in part, or may modify it to best suit local needs. Note: If any form of the supplied worksheet is used it must contain the assigned OMB number of the original worksheet.
 - f. The waiver authority in 33 CFR 158.150 allows COTPs flexibility in issuing COAs to account for situations where it is physically or economically impractical to comply with regulatory requirements. Waivers permit alternatives to equipment and operational requirements which in the judgment of the COTP provide an equivalent level of protection to the marine environment and do not cause undue delay to ships. Operational procedures are not an authorized alternative for equipment requirements.
 - g. The next implementation phase of MARPOL 73/78 is to certify reception facilities for Annex II chemical waste. Program implementation is scheduled for April 1987. The proposed regulations for Annex II waste are expected to parallel the regulations in 33 CFR 158 for oily waste. A separate but similar standard worksheet and application (Form B) will be developed for chemical waste.
5. ACTION. In accordance with the guidance and procedures contained in this instruction:
- a. District commanders shall:
 - (1) coordinate activities for the implementation and management of the oily waste reception facility program through the District (m) office;

5. a. (2) take action on appeals submitted to the district from terminals/ports as set forth in 33 CFR 158.190.
- b. Commanding officers of MSOs and COTPs shall:
- (1) process COA applications from terminals and ports for oily waste reception facilities including consulting with the Environmental Protection Agency, issuing Interim COA letters, issuing waivers, responding to appeals, and amending COAs and applications in accordance with enclosure (2);
 - (2) annually inspect reception facilities for compliance with the pollution prevention regulations in 33 CFR 154 and 156, the waterfront facility regulations in 33 CFR 126 and the reception facility regulations in 33 CFR 158;
 - (3) issue COAs with the COA application and waivers attached;
 - (4) deny entry of ships to terminals and ports not holding Certificates of Adequacy;
 - (5) submit program management information in the PES/MER Quarterly Activities Report (CG-4957) via District (m) in accordance with enclosure (4);
 - (6) review transfers of oily waste to reception facilities and associated records in ships' Oil Record Books in conjunction with vessel examinations and monitors;
 - (7) investigate allegations of terminals, ports, reception facilities, and ships not complying with MARPOL 73/78, the Act or associated regulations, and initiate enforcement actions in accordance with enclosure (3).
6. REPORTS/FORMS REQUIRED. Commanding officers of MSOs and COTPs shall submit information concerning certified oily waste reception facilities on the Reception Facility Information Sheet, per attachment (A) to enclosure (2) to District (m), and also program information concerning the issuance of Certificates of Adequacy on the PES/MER Quarterly Activities Report (QAR), CG-4957, RCS: G-WP-14013, per enclosure (4). Form CG-5401 is available from Commandant (G-WPE-1). Forms CG-4957 and 5401A may be locally reproduced.


J. H. PARENT

Acting Chief, Office of Marine
Environment and Systems

- Enclosures: (1) Definitions
(2) Guidance and Procedures for Issuing Certificates of Adequacy for Oily Waste Reception Facilities
(3) Oily Waste Reception Facility Enforcement Policy
(4) Oily Waste Reception Facility Reporting Requirements

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DEFINITIONS

The following definitions are provided to assist in understanding the terminology associated with the regulatory requirements for issuing Certificates of Adequacy. Where headings are enclosed by quotation marks ("..."), the definitions are quoted directly from applicable statutes, international conventions, or regulations and the appropriate citation is provided in brackets []. Headings without quotation marks do not have a legal citation. The abbreviation CFR stands for Code of Federal Regulations and USC stands for United States Code.

1. "Administration" refers to the Government of the state under whose authority the ship is operating. For fixed or floating platforms engaged in exploration and exploitation of the coastal seabed and subsoil, the Administration is the Government of the coastal state exercising sovereign rights for the purpose of exploration and exploitation of their natural resources. [Art. 2(5) MARPOL 73/78]
2. Black Product refers to crude oil, heavy refined products, and residuals such as Bunker C, Navy Special Fuel Oil, etc. which do not require tank cleaning prior to loading.
3. "Bunker oil" means oil loaded into bunker tanks for use as fuel.
[33 CFR 158.120]
4. "Clean ballast" means ballast which:
 - a. If discharged from a vessel that is stationary into clean, calm water on a clear day, would not:
 - (1) Produce visible traces of oil on the surface of the water or on adjoining shore lines; or
 - (2) Cause a sludge or emulsion to be deposited beneath the surface of the water or upon adjoining shore lines; or
 - b. If verified by an approved cargo monitor and control system, has an oil content that does not exceed 15 ppm. [33 CFR 157.03(e)]
5. "Daily average" means the total number of vessels, or quantity of oil or oily waste, handled over a typical continuous 12 month period, divided by 365. [33 CFR 158.120]
6. "Dedicated clean ballast tank" means a cargo tank that is allocated solely for the carriage of clean ballast. [33 CFR 157.03(dd)]
7. "Harmful substance" means any substance which, if introduced into the sea, is liable to create hazards to human health, to harm living resources and marine life, to damage amenities or to interfere with other legitimate uses of the sea, and includes any substance subject to control by MARPOL 73/78. [33 CFR 158.120].

8. "MARPOL 73/78" means the International Convention for the Prevention of Pollution from Ships, 1973, as modified by the Protocol of 1978 relating thereto. [33 CFR 151.05(g)]

9. "Oceangoing ship" means a ship that:

- a. is operated under the authority of the United States and engages in international voyages;
- b. is operated under the authority of the United States and is certificated for ocean service;
- c. is operated under the authority of the United States and is certificated for coastwise service beyond three miles from land;
- d. is operated under the authority of the United States and operates at any time seaward of the outermost boundary of the territorial sea of the United States; or
- e. is operated under the authority of a country other than the United States.

Note: A Canadian or U.S. ship being operated exclusively on the Great Lakes of North America or their connecting and tributary waters, or exclusively on the internal waters of the United States and Canada; is not an "oceangoing" ship.
[33 CFR 151.05(j)]

10. "Oil" means petroleum in any form including crude oil, fuel oil, sludge, oil refuse and refined products (other than petrochemicals that are subject to the provisions of Annex II of MARPOL 73/78) and, without limiting the generality of the foregoing, includes the substances listed in Appendix I of Annex I of MARPOL 73/78. Note: "Oil" does not include animal or vegetable based oil. [33 CFR 151.05(k)]

11. "Operator" means:

- a. in the case of a ship, a charterer by demise or any other person, except the owner, who is responsible for the operation, manning, victualing, and supplying of the vessel, or
- b. in the case of a terminal, any person, except the owner, responsible for the operation of the terminal by agreement with the owner. [33 USC 1901]

12. "Owner" means any person holding title to, or in the absence of title, any other evidence of ownership of, a ship or terminal, but does not include a person who, without participating in the management or operation of a ship or terminal, holds evidence of ownership primarily to protect a security interest in the ship or terminal. [33 USC 1901]

13. "Person" means an individual, firm, public or private corporation, partnership, association, State, municipality, commission, political subdivision of a State, or any interstate body. [33 CFR 151.05(n)]
14. "Person in charge" means an owner of, an operator of, or a person authorized to act in behalf of a port or terminal. [33 CFR 158.120]

NOTE: The "person in charge" in this part is not necessarily the same person as the "person in charge" referred to in 33 CFR Parts 154, 155, and 156 (as defined in 33 CFR 154.105).

15. "Port" means:
- a. a group of terminals that elect to be considered a port for the purposes of this part; or
 - b. a port authority or other organization that elects to be considered a port for the purposes of this part; or
 - c. a place or facility that has been specifically designated as a port by the COTP. [33 CFR 158.120]
16. "Reception facility" means anything capable of receiving shipboard residues and mixtures containing oil, that includes, but is not limited to:
- a. fixed piping that conveys wastes from the ship to a storage or treatment system;
 - b. tank barges, railroad cars or tank trucks and other mobile facilities; and
 - c. any combination of fixed and mobile facilities. [33 CFR 158.120]
17. "Segregated ballast" means the ballast water introduced into a tank that is completely separated from the cargo oil and fuel oil system and that is permanently allocated to the carriage of ballast or to the carriage of ballast or cargoes other than oil or noxious substances as variously defined in the Annexes of MARPOL 73/78. [33 CFR 151.05(p)]
18. "Ship" means a vessel of any type whatsoever, operating in the marine environment. This includes hydrofoils, air-cushioned vehicles, submersibles, floating craft whether self-propelled or not, and fixed or floating drilling rigs and other platforms. [33 CFR 151.05(q)]
19. Sludge refers to oil residues such as those resulting from the purification of fuel and lubrication oils and oil leakages in the machinery spaces which are generally heavier than water and are in a semisolid state.

20. "Tank barge" means a tank vessel not equipped with a means of self-propulsion. [33 CFR 157.03(u)]
21. "Tanker" means a ship constructed or adapted primarily to carry oil in bulk in the cargo spaces. [33 CFR 158.120]
22. "Terminal" means an onshore facility or an offshore structure located in the navigable waters of the United States or subject to the jurisdiction of the United States and used, or intended to be used, as a port or facility for the transfer or other handling of a harmful substance. [33 USC 1901]

NOTE: A ship repair yard is a terminal by definition. A fixed or floating drilling rig or other platform is not a terminal because it is, by definition, a "ship" under 33 CFR 151.05(q).

23. "The Act" means the Act to Prevent Pollution from Ships (33 U.S.C. 1901 et seq.) [33 CFR 158.120]
24. White Product means those products with high product purity standards which would necessitate tank cleaning for a change in cargo and which can not be loaded on top of decanted slops.

GUIDANCE AND PROCEDURES FOR
ISSUING AND AMENDING CERTIFICATES OF ADEQUACY
FOR OILY WASTE RECEPTION FACILITIES

To fulfill the requirements of MARPOL 73/78 reception facilities for oily waste must be certified in a timely manner with consistent nationwide procedures that provide for a thorough review for adequacy. The Coast Guard's goal is to issue either Interim Letters or final Certificates of Adequacy (COAs) by 10 March 1986. To meet the above objectives this enclosure provides standardized forms together with guidance to minimize the COTP's efforts in issuing COAs. Additionally, policy is given for COTPs to respond to the multitude of unforeseen special circumstances so they can tailor the program to their geographic areas.

For the smooth initiation and operation of the program, a local industry education and assistance effort is necessary. Timely dissemination of reception facility requirements and COTP responsibilities and assistance available through industry meetings, port newsletters, journal articles, personal contacts, speaking engagements, and direct correspondence will allay industry's concerns and facilitate implementation. It is recommended that COTPs contact terminal operators and inform them of their responsibility to apply for a COA and that the COTP will assist them in completing the application and worksheets, as necessary. A spirit of cooperation will foster better working relationships and will considerably aid the issuance of the COAs.

1. Applicability: Terminals and ports under U.S. jurisdiction are required to provide oily waste reception facilities to oceangoing tankers and other oceangoing ships of 400 GT or more. Excluded are terminals which receive only non-oil carrying barges or which only receive oil barges that are oceangoing, non-self propelled and that cannot ballast or wash cargo tanks while proceeding enroute.

The requirements to provide reception facilities for oily waste apply to all types of facilities regardless of the commodities they handle, e.g., grain, coal, fish, containers, ship repair yards, etc. and to Federal facilities. There may be some confusion among terminals because the definition of "terminal" in 33 CFR 158 appears to exclude facilities handling non-harmful substances. However, the key phrase in the definition of terminal is "... used or INTENDED TO BE USED, as a ... facility for the transfer or other handling of a harmful substance." The clear intent of MARPOL 73/78 is that facilities receiving oceangoing ships retaining oily waste on board provide reception facilities. Since oily waste is a harmful substance, facilities engaged in transferring containers, fish, etc. are terminals for reception facility purposes because they are intended to receive oily waste and therefore must comply with 33 CFR 158.

2. COTP Authority: Through delegations in 33 CFR 151 and 158.130 the COTP:

- a. issues and denies Certificates of Adequacy;
- b. inspects reception facilities;
- c. grants and denies waivers from reception facility requirements in 33 CFR 158;
- d. denies entry of oceangoing tankers or any other oceangoing ship of 400 gross tons or more to terminals not having a valid COA;
- e. denies entry of oceangoing tankers or any other oceangoing ship of 400 gross tons or more not in substantial compliance with MARPOL 73/78, to terminals and ports;
- f. investigates alleged violations of reception facility requirements; and
- g. issues subpoenas for investigative purposes.

3. COA APPLICATION GUIDANCE AND PROCEDURES:

a. General Policy:

- (1) The purpose of the COA Application (CG-5401A), in Attachment (A) to this enclosure, is to provide the COTP with the information required in 33 CFR 158.140 in a standard format to assist him in determining whether the reception facilities are adequate. The COA Application form is optional; however, it is a means for industry to apply for a COA and be assured they have met the requirements in 33 CFR 158.140. COTPs should encourage the use of the Application form to reduce processing time for both industry and the COTP.
- (2) Because the application provides information helpful to Coast Guard enforcement personnel, masters and agents, the COA Application shall be attached and become part of the COA. If a terminal or port does not submit a standard COA Application COTPs shall complete the standard Application using the information provided and follow the guidance and procedures herein for review. The COTP shall attach the filled in standard Application to the COA when issued. The COA Application is designated as Form A, since it is only for oily waste reception facilities. COA Application Form B, to be developed, will pertain to MARPOL Annex II chemical wastes.

- 3.a.(3) 33 CFR 158.140 does not require applicants to provide the estimated daily average quantity of oily waste generated by ships visiting the terminal or port. Since this information is absolutely necessary for the COTP to determine whether the capacity requirements are adequate, COTPs shall, under the authority in 33 CFR 158.140(b)(5), require applicants to provide the estimated daily quantity of oily waste generated by vessels visiting their terminal or port, if this information is not voluntarily provided.
- (4) The COTP should request supporting information such as the optional worksheet or calculations for unclear or questionable data submitted on the COA Application.
- (5) Based on local experience and knowledge, the COTP will assess the validity of the information supplied on the COA Application, and if this information appears accurate and states the criteria in enclosure (2) are met, the COTP shall:
- (a) after consultation with EPA issue an Interim Letter COA or
 - (b) after consultation with EPA and inspection of the reception facilities issue a Final COA.
- (6) COTPs should process a COA Application within 30 days of receipt. Within that time the COTP should either approve the application or return it for correction and/or additional information. While an application is pending DO NOT DENY ENTRY to ships using the terminal or port, solely because the terminal or port does not have a COA.
- b. COA Application Form A Review Procedures:
- (1) Review for completeness and accuracy by checking that:
- (a) entries are made for every line item except 1.D., which will not be completed if the applicant is a terminal, or 3.F. through 3.I. which apply if the terminal is a ship repair yard;
 - (b) the number of terminals listed in 1.B. is equal to the number of terminal names and addresses entered in 1.D. or on separate pages;
 - (c) each terminal's person in charge signs 1.D. to indicate the terminal is a member of the port, if the Application is for a port;
 - (d) the person in charge of the terminal or port signs at the end of the Application; and

- 3.b.(1) (e) the entries in section 3 of the Application reflect the calculations from the worksheet or other supporting documentation, if requested.

(2) Review section 3 for reception facility adequacy:

- (a) For terminals, other than ship repair yards or tank cleaning facilities, the reception facilities are adequate if all of the following statements are true:

3.B. is less than 3.A.;
3.C. indicates oil;
3.D. reflects the terminal type for which reception facility capacity demands are calculated;
3.G. is YES;
3.H. is YES;
3.I. is YES; and
3.J. is N/A.

- (b) For ship repair yards the reception facilities are adequate if all of the following statements are true:

3.B. is less than 3.A.;
3.C. indicates oil;
3.D. indicates the terminal is a ship repair yard;
3.G. is N/A;
3.H. is N/A;
3.I. is N/A; and
3.J. is YES.

- (3) Determine reception facility location. Compare the location of the reception facility to the location of the terminal or port taking into account whether the reception facility is a mobile facility. If the location of the reception facility requires ships to travel an unreasonable distance or may endanger ships due to channel restrictions then the reception facilities are inadequate and a COA should not be issued unless there is justification for a waiver. Reasonable distance is a subjective term and relies upon the judgment of the COTP. Having a ship change berths at a terminal to discharge waste or having a ship stop at another terminal enroute to its next port is reasonable. Having the ship travel 100 miles out of its way is unreasonable. Factors which may affect the reasonable distance determination include: tides, vessel traffic, navigational route, pilot requirements, bridge schedules and local port restrictions.

- (4) Review for the concurrent use of the reception facility by other terminals to ensure capacity is sufficient to meet total demand. Total the COA Application waste capacity demands to determine whether they exceed the reception facility's daily average capacity.

- 3.c. COA Application Discrepancy Procedures: For minor discrepancies not affecting the adequacy of the facility phone the applicant and discuss the discrepancy. If agreeable to the applicant the COTP may correct the discrepancy in red, record the conversation in the applicant's files giving the name of the person contacted and the date, and continue processing of the COA Application. If significant errors, omissions, or discrepancies are noted with the COA Application which affect the adequacy determination, the COTP shall inform the applicant of the discrepancy in writing and require resubmission of the Application within 30 days. If the COA Application is not resubmitted within 30 days, then deny entry of ships to the terminal since it does not have a valid COA or a pending Application. DO NOT DENY ENTRY as long as in the judgment of the COTP the terminal is making a good faith effort to apply for a COA.

4. EPA CONSULTATION:

- a. COTPs should contact EPA regional offices to identify points of contact, to discuss the reception facility requirements and procedures, and to resolve discrepancies noted by EPA with individual COA Applications. Close coordination is essential to develop understanding and agreement.
- b. Upon receipt of a complete COA Application, the COTP shall forward a letter with a copy of the COA Application to the appropriate EPA Regional Administrator for review in accordance with 33 USC 1905(c). The letter shall request EPA to submit their comments on the COA Application within 20 working days of the date of the letter and state that negative responses are not required. If a response is not received either verbally or in writing within the 20 day period, assume EPA does not object or have substantive comments on issuance of the COA. While all due consideration should be given to EPA comments, ultimately the COTP decides whether or not to issue a COA. A sample letter to the EPA Regional Administrator is provided as attachment (B) to this enclosure.

5. RECEPTION FACILITY INSPECTIONS:

a. General Policy:

- (1) Inspection of reception facilities is required by 33 USC 158.160 and shall be conducted prior to issuance of the final COA to verify compliance with the requirements of 33 CFR 126, 154, 156 and 158. If multiple reception facilities are designated on the COA Application, all of them must be inspected prior to issuance of the final COA. Conduct inspections of reception facilities annually thereafter, and record the results on the inspection endorsement section of the COA. Additional pages may be attached to the COA to record inspections.

DEC

DOCS.

TESTIMONY OF MICHELE BROWN
BEFORE THE
HOUSE SUBCOMMITTEE ON WATER, POWER,
AND OFFSHORE ENERGY RESOURCES
March 29, 1990

Mr. Chairman and Members of the Committee:

My name is Michele Brown. I am the Regional Administrator for the Division of Environmental Quality for the Alaska Department of Environmental Conservation. Some of the most challenging environmental issues associated with the Trans-Alaska Pipeline are posed by the operation of Alyeska's Valdez Marine Terminal, which is located within my region.

I appreciate the opportunity to appear before this committee today and thank you for your continuing interest in the proper operation of TAPS to balance the nation's energy needs with the preservation of Alaska's environment and cultural lifestyles.

You have asked what environmental problems associated with the operation of the pipeline system are of concern to the State and whether the State's oversight and regulation of TAPS has been adequate. I will address each of these in turn. While the State is, of course, concerned about oil spills and environmental safety over the entire length of the pipeline, I will focus today on air and wastewater pollution issues from the Valdez Terminal.

The issues are significant for today's hearing both for their impact on the quality of the environment and as illustrative of the type of oversight that the State has undertaken of TAPS.

WATER QUALITY

Tankers arrive at the TAPS Valdez Marine Terminal carrying ballast water in their cargo holds to keep the tankers stable during the voyage north. More ballast water is used in the winter because seas are worse. Unsegregated ballast water mixes with residual oil in the holds of the tankers, and therefore becomes contaminated. The ballast water is off-loaded and treated in Alyeska's ballast water treatment system ("BWT").

The BWT is intended to reduce the contamination from the ballast water, particularly of BETX (benzene, ethylbenzene, toluene, and xylene), which are among the most actively toxic components of crude oil. Then the ballast water is discharged into Valdez Bay. The BWT is regulated under a National Pollution Discharge Elimination System ("NPDES") permit. The NPDES permit sets effluent limits and other conditions for operating the BWT. The State's role in NPDES permitting is to impose any conditions necessary to certify "reasonable assurance" that Alaska's water quality standards are met.

Alyeska said it would provide a state-of-the-art BWT when it first installed the system. Alyeska also contracted with the State in the Right-of-Way Lease for TAPS to prevent or abate any environmental damage, including any damage to water quality. But, Alyeska failed to install or use several of the key components to that state-of-the-art system over the years. Instead, Alyeska modified the system in 1986 to add a biological ("bug") treatment component.

These bugs are supposed to eat most of the last remaining vestiges of the toxics and other polyaromatic hydrocarbon compounds in the effluent water before discharge. Alyeska chose to add the bugs as the least expensive method of improving the BWT performance during permit review, not because bugs were necessarily the most effective technology.

After EPA issued a proposed new NPDES permit, Alaska certified the permit only with more stringent limits on the amount of BETX in the effluent. Alaska also imposed some additional conditions to assure compliance with State law. Alyeska aggressively challenged each term of the State's Certificate, as well as EPA's NPDES permit, in a series of administrative proceedings in both the state and federal arenas. Alyeska unsuccessfully sued the State of Alaska to challenge the permit terms, including the reduced BETX limits. Nonetheless, still pending is a petition Alyeska filed to reduce the State's water quality standards to allow for a higher discharge rate of BETX.

After six years, this permit is now finally in place. We are approaching resolution of remaining challenges to it. Alyeska is installing additional treatment to improve its BETX removal rate. Although regulated, the facility is still discharging approximately 18 million gallons of wastewater, containing 152 pounds of BETX, on a daily basis. That is a discharge of 27.7 tons of BETX a year. Accordingly, permit inspection and monitoring is an ongoing intensive task.

AIR QUALITY

The TAPS Lease covenants with Alaska impose a continuing obligation on Alyeska to construct and operate TAPS using state-of-the-art technology to prevent or abate activities that could harm air quality. Alyeska agreed to conduct all activities associated with TAPS in a manner that will avoid or minimize air pollution.

Nonetheless, there are two major sources of air pollution at the terminal and in the past there have been frequent occurrences of a smoky blue haze around the terminal. The first is hydrocarbon emissions from the crude oil storage tanks and other equipment. The second is hydrocarbon and combustion emissions from the tankers docked at the terminal.