

ALASKA LEGISLATURE SPECIAL COMMITTEE/SUBJECT FILE 8672

2045 SCOMM 78: SENATE SPEC. COMM. ON OIL & GAS, 1991-1992

63

1 Sec. 46.47.020. COMPACT TERMS AND CONDITIONS. The provisions of the Pacific
2 Ocean Resources Compact are:

3 ARTICLE I

4 FINDINGS AND PURPOSE

5 (a) The parties recognize that

6 (1) this state and the states of California, Hawaii, Oregon, and Washington and
7 the Province of British Columbia have a common interest in the protection of marine and coastal
8 resources; this common interest results from

9 (A) the fluid, dynamic ocean currents and atmospheric winds that carry
10 pollutants beyond one party's coastal area to another;

11 (B) the migratory nature of many important living marine resources that
12 depend on the marine habitat of various parties for different parts of their lifecycle;

13 (C) the economic reliance of each party on renewable resources of the
14 ocean;

15 (D) the use of the ocean for transport of oil and other hazardous
16 substances between ports in the various parties and other ports; and

17 (E) a regional interest in providing a stable environment for those
18 communities dependent on ocean resources and ocean trade for a livelihood;

19 (2) some marine resource activities, such as fisheries, are currently highly
20 managed with regard for their regional or transboundary nature through existing state programs,
21 regional fisheries councils, interstate compacts, and international treaties; because there are
22 existing formal mechanisms for interstate cooperation and coordination for these marine resource
23 activities, this compact is not intended to encompass these activities or to grant to the compact
24 authority to regulate resource allocation or management as it may pertain to the use and
25 consumption of marine resources;

26 (3) a formal interstate agreement does not exist to address and resolve issues of
27 mutual concern or to coordinate individual programs of the parties that affect regional interests
28 in the areas of

2 (A) prevention of oil and hazardous substance spills;

3 (B) transportation of oil and other hazardous substances;

3 (C) oil and hazardous substance spill response planning;

*clarifies that
the compact is not
to regulate or
allocate marine
resources*

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*Add this
back in - was in
original bill*

1 (D) environmental monitoring and research; and

2 (E) ocean resource management;

3 (4) each party has jurisdiction over the submerged and submersible land within
4 its territorial sea and responsibility for management of many marine resources and ocean uses;
5 each party has unique natural resource, social, economic, and political conditions for which local
6 management by the individual party is the most appropriate;

7 (5) the parties now do not have an effective means to address mutual concerns
8 related to transport of oil and hazardous substances in waters within and beyond the party's
9 jurisdiction that may jeopardize ocean resources and uses important to one or more coastal
10 parties;

11 (6) the 1983 Presidential Proclamation of the 200-mile United States Exclusive
12 Economic Zone has created the opportunity for all coastal states to more fully exercise and assert
13 their responsibilities pertaining to the protection, conservation, and development of ocean
14 resources under United States jurisdiction;

15 (7) citizens of the Pacific states and the Province of British Columbia are
16 increasingly concerned with the environmental integrity of the ocean and protection of all ocean
17 resources;

18 (8) recent studies conducted in the wake of major accidental releases of oil or
19 hazardous substances have concluded that the existing system of response to spills could be
20 improved in the following ways to provide better protection of ocean resources:

21 (A) enhanced personnel training and qualifications;

22 (B) improved vessel design and integrity;

23 (C) better mechanisms for cost recovery by the states or the province;

24 (D) improved coordination in regulatory oversight;

25 (E) enhanced traffic management; and

26 (F) an improved information base dealing with marine and coastal
27 environments;

28 (9) a spill or discharge of oil or a hazardous substance from an ocean-going vessel
29 has the potential of causing major regional effects.

30 (b) Therefore, the purpose of this compact is to

31 (1) assist in the promotion of interstate commerce by encouraging uniform

*added back
from original
bill
but reworded to soften*

changed from "providing"
CSSB 102()

- 1 regulation of the transportation of oil or hazardous substances within the compact zone;
- 2 (2) provide a legal mechanism to regulate certain ocean activities within the
- 3 United States Exclusive Economic Zone;
- 4 (3) enhance regional coordination of issues of critical importance; *Changed from "sovereignty over"*
- 5 *Changed from "dict"* (4) ~~work~~ with federal agencies to advance *Changed from "action"* the best interest of the region;
- 6 (5) foster regional cooperation and pooling of resources to reduce costs and
- 7 increase effective use of scarce resources;
- 8 *from "enhance the oversight and supervision of"* (6) monitor activities of concern to the parties;
- 9 (7) address issues of mutual concern to the Pacific states and the Province of
- 10 British Columbia and enhance the parties' influence over activities of concern that are not now
- 11 addressed through existing compacts, including
- 12 (A) spill prevention;
- 13 (B) transportation of oil and other hazardous substances;
- 14 (C) spill response planning;
- 15 (D) environmental monitoring and research; and
- 16 (E) ocean resource management; *added back*
- 17 (8) foster cooperation and coordination among the parties in order to increase the
- 18 effectiveness of the individual party's ocean laws and programs;
- 19 (9) provide technical assistance to parties for ocean activities covered by this
- 20 compact;
- 21 (10) provide for formal participation by the Province of British Columbia with
- 22 the compact to more fully address issues of regional concern;
- 23 (11) ensure that the citizens of the region have opportunities to participate in
- 24 discussions and deliberations of regional ocean resources issues;
- 25 (12) establish an innovative system under which the parties can represent their
- 26 shared interests within the compact zone, including
- 27 (A) the maintenance and protection of common ocean resources; and
- 28 (B) vessel transportation of oil and other hazardous substances;
- 29 *changed from establish* (13) ~~recommend~~ uniform safety standards for routes, crews, and equipment for
- 30 vessels transporting oil and hazardous substances within the compact zone and *changed from provide* monitor the
- 31 implementation of these standards and regulations by federal agencies, states or provinces, and

1 private industry;

2 (14) promote more coordinated management of ocean resources that are of mutual
3 concern;

4 (15) provide a forum for the regional coordination of the individual parties' plans
5 for the management and protection of those areas of the Pacific Ocean and adjacent waters over
6 which the compacting parties jointly or separately now have or may acquire jurisdiction.

7 ARTICLE II

8 DEFINITIONS

9 In this compact,

10 (1) "compact" means the representative body created by Article IV of this
11 compact;

12 (2) "compact zone" means the portion of the oceans bordering the parties within
13 the 200-mile exclusive economic zone;

14 (3) "hazardous substance" means an element or compound that, when it enters in
15 or on the water, presents an imminent and substantial danger to the public health or welfare or
16 the environment, including fish, animals, vegetation, or a part of the natural habitat in which they
17 are found; "hazardous substance" includes a substance designated under 33 U.S.C. 1321(b)(2)(A),
18 an element, compound, mixture, solution, or substance designated under 42 U.S.C. 9602, a
19 hazardous waste having characteristics identified under or listed under 42 U.S.C. 6921, a toxic
20 pollutant listed under 33 U.S.C. 1317(a), and an imminently hazardous chemical substance or
21 mixture with respect to which the administrator of the United States Environmental Protection
22 Agency has taken action under 15 U.S.C. 2606;

23 (4) "navigable waters" means the waters of the United States, including the
24 territorial sea;

25 (5) "oil" means crude petroleum oil or any other hydrocarbon, regardless of
26 gravity, that is produced at the well in liquid form by ordinary production methods, and any
27 petroleum products or petrochemicals of any kind and in any form whether crude, refined, or a
28 petroleum byproduct, including petroleum, fuel oil, gasoline, lubricating oils, oily sludge, oily
29 refuse, or mixed with other wastes, liquefied natural gas, or propane;

30 (6) "party" means a state or province that ratifies this compact as provided in
31 Article III of this compact;

(7) "representative" means an individual appointed as provided in Article IV of this compact to represent a party;

(8) "vessel" means a watercraft or other artificial contrivance that is constructed or adapted to carry, or that carries oil or hazardous substance in bulk as cargo or cargo residue, and that

(A) operates on the navigable waters of the compact zone; or

(B) transfers oil or hazardous substance in a place subject to the jurisdiction of the United States.

ARTICLE III

OPERATIVE DATES

(a) Except as provided in (b) of this article, this compact shall become effective when this state and one or more of the states of California, Hawaii, Oregon, or Washington ratify the compact and the consent of the Congress is or has been granted as required by section 10, Article I, of the Constitution of the United States.

(b) This agreement shall become operative as to the Province of British Columbia as a full party upon request of the Province of British Columbia and approval of the Congress.

ARTICLE IV

PACIFIC OCEAN RESOURCES COMPACT

(a) The Pacific Ocean Resources Compact is created and shall have its offices within the territorial limits of one of the parties, shall carry out its duties and functions in accordance with this compact, shall continue in force and effect in accordance with this compact, and, except as specifically provided in this compact, may not be considered an agency or instrumentality of the United States for the purpose of any federal law. Each party participating in this compact shall appoint two persons, subject to the applicable laws of the appointing party, to undertake the functions and duties of representatives of the compact. This compact shall be invested with the powers and duties set out in this compact.

(b) The term of each representative shall be four years. A representative shall hold office until a successor is appointed and qualified but the successor's term shall expire four years from the legal date of expiration of the term of the predecessor. Vacancies occurring in the office of a representative for any reason or cause shall be filled for the unexpired term by the party represented by the vacancy. A party may remove the representative for that party in accordance

1 with the statutes of the party concerned. Each representative may delegate to a deputy the power
2 to be present and participate, including voting as the representative or substitute, at any meeting
3 of or hearing by or other proceeding of the compact.

4 (c) The compact shall invite the Secretary of the United States Department of
5 Transportation, the Administrator of the United States Environmental Protection Agency, and the
6 Administrator of the National Oceanic and Atmospheric Administration or their designees to
7 participate as nonvoting members of the compact.

8 ARTICLE V

9 PACIFIC OCEAN RESOURCES COMPACT AUTHORITY

10 (a) The Pacific Ocean Resources Compact is authorized to

11 (1) facilitate the prevention of oil and hazardous substance spills by

12 (A) serving as a West Coast Spill Prevention Advisory Committee to the
13 United States Coast Guard; as such, the compact shall advise the United States Coast
14 Guard on matters pertaining to spill prevention within the compact zone and also shall
15 advise the United States Coast Guard on other matters within the compact's authority as
16 set forth in this compact;

17 (B) participating as an interested person in any rulemaking proceeding by
18 the United States Coast Guard related to the establishment of safety standards for routes,
19 crews, and equipment for vessels transporting oil and hazardous substances; the United
20 States Coast Guard shall adopt the recommendations of the compact, unless the United
21 States Coast Guard makes a finding, as part of the rulemaking process, that the adoption
22 of a recommendation would not prevent oil and hazardous substance spills;

23 (C) as an interested person, requesting the United States Coast Guard to
24 initiate rulemaking for the establishment or amendment of safety standards for routes,
25 crews, and equipment for vessels transporting oil and hazardous substances; the United
26 States Coast Guard shall initiate rulemaking as requested by the compact, unless the
27 United States Coast Guard makes a finding that the initiation of the rulemaking would not
28 further the prevention of oil and hazardous substance spills;

29 (D) making recommendations to other appropriate state, federal, and
30 regional entities regarding uniform safety standards for routes, crews, and equipment for
31 vessels transporting oil and hazardous substances in the compact zone;

(2) ensure a coordinated network of oil and hazardous substance spill response plans and programs of the parties, federal agencies, and private organizations;

(3) by regulation, establish the requirements for submission of and approval by the compact of a contingency plan by any vessel transporting oil or hazardous substance in the compact zone; the requirements must be ~~consistent~~ ^{changed from "at least as stringent as"} with as the requirements for response plans under sec. 4202 of the Oil Pollution Act of 1990 (P.L. 101-380); a plan developed in accordance with the regulations adopted by the compact and approved by the compact shall satisfy the requirements of sec. 4202 of the Oil Pollution Act and shall ~~supersede~~ ^{replace} any requirements of an individual party for submitting a vessel contingency or spill response plan; however, all plans approved by parties to this compact before the operative date of the compact shall remain in full force and effect until a contingency plan is approved by the compact under this paragraph; in establishing regulations under this paragraph, the compact shall work closely with officials of the parties to assure that the vessel contingency plans required under this compact include all subject areas included by the member parties in the standards for vessel contingency plans of the parties in the aggregate, before the adoption of the compact.

(4) establish and maintain an informational clearinghouse related to spill response, including a directory of personnel, equipment, technical expertise, organizations, and other resources available to assist as part of a regional oil or hazardous substance spill response;

(5) provide a forum for discussion and recommendation to resolve conflicts among member parties or the federal government regarding various ocean resources programs that have been or may be established by each party;

(6) provide opportunities for public participation in compact activities by holding meetings of the compact in various locations within the territorial limits of the parties, providing opportunities for public comment at meetings and developing a public outreach program;

(7) designate state or provincial agency officials to act on behalf of the compact as liaisons with federal agencies;

(8) identify the regional data needs related to ocean resources and recommend a method for compiling the data in a format that can be shared by all parties;

(9) consult with and advise any pertinent party or federal agency with regard to problems connected with ocean resources management and recommend the adoption of any rules or regulations the compact considers advisable that are within the jurisdiction of the agency;

1 (10) establish sanctions and a schedule of civil penalties for violations of the rules
2 or regulations of the compact and impose those sanctions or civil penalties in accordance with
3 5 U.S.C. 551 - 559 and 701 - 706;

4 (11) request the United States Coast Guard to enforce or assist in the enforcement
5 of any regulations adopted by the compact including ^{but not limited to} regulations related to the submission of a
6 contingency plan or financial assurance requirements in the compact zone;

(12) establish a schedule of reasonable fees to be assessed for the review of a
contingency plan submitted under (3) of this subsection; the fees must be sufficient to recover
the costs of reviewing the plans and conducting any related inspections; the fees may be assessed
in increments up to the maximum amount.

(b) In addition to the authority granted under (a) of this article, the compact may

(1) accept grants and gifts;

(2) enter into contracts for whose performance the compact shall be solely
responsible in order to support its operations;

(3) conduct and prepare, independently or in cooperation with others, studies,
investigations, research, and programs relating to the purposes of this compact;

(4) conduct public hearings on matters pertaining to the purposes of this compact;

(5) establish a standardized cost recovery formula for damages to other resources
based on the amount of oil or hazardous substance spilled;

(6) enter into an agreement with the United States Coast Guard under which the
compact will administer compliance with the requirements for demonstrating financial
responsibility under section 1016 of the Oil Pollution Act of 1990 in an amount established by
the compact; proof of financial responsibility, if established by the compact under this paragraph,
shall satisfy and supersede the requirement of any individual party for demonstrating financial
responsibility; however, all financial responsibility requirements established by the parties to this
compact before the compact establishes an amount under the paragraph shall remain in full force
and effect until the compact establishes a requirement and enters into an agreement with the
United States Coast Guard under this paragraph; in establishing the amount of financial
responsibility under this paragraph, the compact shall work with officials of each party to assure
that such requirements are sufficient to satisfy the requirements of the parties, in aggregate;

(7) in accordance with the provisions of 5 U.S.C. 551 - 559 and 701 - 706,

1 enforce the rules and regulations adopted by the compact to carry out the authority of the
2 compact as set out in this article;

3 (8) appoint technical and advisory committees for the purpose of advising the
4 compact on regional ocean resources issues, data needs and format, and other purposes related
5 to the compact's activities; a technical or advisory committee appointed by the compact is not
6 subject to the provisions of the Federal Advisory Committee Act (P.L. 92-463, as amended);

7 (9) allow a variance from the provisions of this compact or rules or regulations
8 adopted by the compact under this article; a variance must be based on a showing by the person
9 or entity seeking the variance that the activity allowed under the variance will have no regional
10 effect and that the variance is economically necessary; under no circumstances may a variance
11 result in the regulation of the transportation of oil or hazardous substance according to standards
12 less stringent than standards imposed under federal law.

13 (c) The compact shall adopt all regulations necessary to carry out its duties and exercise
14 its authority under this article. The compact shall adopt the regulations in accordance with the
15 provisions of 5 U.S.C. 500 - 559.

16 ARTICLE VI

17 PACIFIC OCEAN RESOURCES COMPACT ORGANIZATION

18 The compact shall select a chair and a vice-chair. After the initial chair and vice-chair
19 are selected, the compact shall establish a rotation for the selection of the chair and vice-chair
20 so the office rotates through the parties to the compact. The compact shall appoint and at its
21 pleasure remove or discharge such officers and employees as may be required to carry the
22 provisions of this compact into effect and shall fix and determine their duties, qualifications, and
23 compensation. The compact shall adopt rules and regulations for the conduct of its business.
24 It may establish and maintain one or more offices for the transaction of its business and may
25 meet at any time or place within the territorial limits of the signatory parties but must meet at
26 least once a year.

27 ARTICLE VII

28 VOTING AND QUORUM

29 (a) A majority of the representatives shall constitute a quorum.

30 (b) Each representative shall be entitled to one vote. *voting change*
31 An action or decision of the compact may not be approved unless the action or decision receives a majority of the votes of

the representatives, including at least one affirmative vote from each party.

ARTICLE VIII

SUPPORT AGENCIES

The compact may contract for the staff support necessary to carry out the purposes of this compact or request appropriate agencies of the signatory parties to act as the research agencies of the compact.

ARTICLE IX

PARTIES' POWERS UNDER COMPACT

Except as specifically provided in Article V of this compact, nothing in this compact may be construed to limit the powers of a party or to repeal or prevent the enactment of legislation or the enforcement of a requirement imposing additional conditions and restrictions to conserve ocean resources.

ARTICLE X

ABSENCE

Continued absence of representation or of a compact representative from a party shall be brought to the attention of the appointing authority of the party not represented.

ARTICLE XI

FUNDING

(a) Each party shall contribute to the support of the compact.

(b) The annual contribution of each party shall be figured to the nearest \$100.

(c) The compact shall prepare an annual budget which shall be approved by vote of the compact. After approval, the proposed budget shall be presented to the chief executive and the legislative body of each party.

(d) Each party shall be responsible for the expenses of its own representatives.

ARTICLE XII

WITHDRAWAL FROM COMPACT

This compact shall continue in force and remain binding upon each party until renounced by it. Renunciation of this compact must be preceded by sending six months' notice in writing of intention to withdraw from the compact to the other parties to the compact.

Sec. 46.47.030. REPRESENTATIVES. The two representatives of the state to the Pacific Ocean Resources Compact shall be appointed by the governor, subject to confirmation by the

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1 legislature.

Alaska State Legislature

Senator Sam Cotten Chairman
Senator Drue Pearce, Vice-Chairman
Senator Shirley Craft
Senator Lyman F. Hoffman
Senator Dick Shultz



State Capitol
Juneau, AK 99801-1182
(907) 465-3711

Senate Committee on Oil and Gas

April 25, 1992

Janice Adair, Assistant Commissioner
Alaska Department of Environmental Conservation
410 Willoughby Avenue, Suite 105
Juneau, Alaska 99801-1795

Dear Ms. Adair:

This letter is to address the Department's "concerns and questions" relating to SB 102, "An Act enacting and entering into the Pacific Ocean Resources Compact." While a number of the concerns raised are fairly broad and speculative, we will try to address them as well as clarify some of the Department's apparent misunderstandings of the legislation.

In your April 22 letter to Representative Davidson, you state that: "Some individuals supporting the Compact Legislation do not expect the Compact to develop regulations. If it is not the intent of the Legislature to have the Compact develop regulations, then we question the need for this legislation." While the basis for this statement is unclear, it is fair to say that the primary purpose of the legislation is not the development of regulations. Instead, its primary purpose is to extend states' sovereignty and jurisdiction over the marine waters of the Exclusive Economic Zone (EEZ). The EEZ extends from the states' three-mile limit to the current federal 200-mile limit.

The mechanism for implementing this primary objective is 1) the definition of the Compact zone, Article II (2) and 2) the Compact's establishment of the West Coast Spill Prevention Advisory Committee that has standing as an interested party to initiate or participate in U.S. Coast Guard rule-making to facilitate the prevention of and response to oil and hazardous substance spills, Article V (a) (1) (A-D).

April 25, 1992

Page 2

As you noted, the Compact legislation does have provisions for the development of contingency plan regulations. These provisions were developed and included after lengthy negotiations among the party states over a number of years. Despite the Department's concerns that the "Compact bill provides no guidance and no boundaries for the development of regulations," Article V (a) (3) very succinctly directs the Compact agency to work closely with officials from all of the party states to ensure that contingency plan regulations developed by the Compact satisfy the requirements on each party's contingency planning standards that existed prior to the development of the Compact.

Rather than providing little guidance, the Compact will be required to work within the confines of all party states' statutes and regulations, as well as the federal Oil Pollution Act of 1990 (OPA 90). In addition, all states would have to agree to any proposed regulations, Article VII Voting and Quorum. Given the considerable guidance provided by the Compact language to protect the interest of each party state, the development of regulations will be a considerable accomplishment and, thus, a secondary objective of the Compact. The sponsors of the legislation in the party states do support the development of regulations, however, because a consistent set of comprehensive standards to prevent spills would be in the states' interest and provide uniform standards for the oil and hazardous materials shipping industry.

You mentioned that the federal government and West Coast states have all recently passed laws to strength spill prevention and response and are in the process of implementing regulations. As a result, there has been insufficient time to evaluate the effectiveness of these programs. Evaluation of the implementation of these programs is undoubtedly an ongoing and continual process. Based on the significant passage of laws by the states and federal government, the *Exxon Valdez* oil spill appears to have prompted the citizens and elected officials in this country to judge that our prevention, response, and financial responsibility requirements were inadequate. The laws were passed to establish new standards to protect the public and natural resources from future spills. The standards themselves are less difficult to evaluate than their implementation. In addition, the process of state ratification and Congressional approval of the Compact probably provides at least another five years for the evaluation process to continue in the states.

April 25, 1992

Page 3

The next sections address your specific questions that have not already been answered above:

*The definition of "hazardous substances" is contained in Article II (3). This definition was developed after a thorough legal review of federal and all potential Compact party states' definitions of hazardous materials. Most of the states rely almost exclusively on federal definitions of hazardous materials. As a result, the definition in the Compact legislation encompasses the states' definitions by referring to numerous federal legal citations. This office contacted your department staff regarding this definition in February 1991. We were advised that the department primarily relies on the U.S. Coast Guard CHRIS manual for the definition of hazardous substances subject to marine transportation and is, thus, consistent with the Compact definition.

* The Compact may NOT regulate transportation on Alaska rivers or inland waters. This is clearly established by the definition of "compact zone," Article II (2) which "means the portion of the oceans bordering the parties within the 200-mile exclusive economic zone (emphasis added)." In addition, Article I (4) states that "each party has jurisdiction over the submerged and submersible land within its territorial sea...." The compact is clearly marine oriented. It should also be noted that the Compact would have no effect on Coastal Zone Management for the same reasons.

* Within the compact zone, the U.S. Coast Guard would be responsible for enforcing regulations, and conducting inspections and drills.

* The states would continue to be responsible for shore-based facilities and smaller vessels (primarily non-crude product suppliers). The Compact is intended to address the regional **transportation** of oil and hazardous materials. As a result, it does not seem appropriate for the Compact to address shore-based facilities. The exemption of smaller vessels was amended in the Alaska legislation to protect the interests of rural Alaska that rely heavily on the **intrastate** transportation of fuel products, and is, thus, not a West Coast regional concern.

* While the Compacts headquarters may be located outside of Alaska, the legislation clearly directs that the Compact "ensure that the

April 25, 1992
Page 4

citizens of the region have opportunities to participate in discussions and deliberations," Article I (b) (11). Undoubtedly to meet these concerns, the location of Compact meetings would be rotated. In addition, while it was assumed that the approval of any regulations by Alaska representatives would require public review in Alaska, this Alaska Administrative Procedures Act requirement was specifically added to the legislation.

* There would obviously be no duplication or double counting of sanctions and civil penalties relating to natural resources damages which is prohibited by federal law. Within the Compact zone, the Compact can develop sanctions or civil penalties if the states agree that the regulations developed by the National Oceanic and Atmospheric Association (NOAA) are inadequate. In either case, the sanctions and civil penalties would be enforced by the U.S. Coast Guard under the federal Administrative Procedures Act to ensure due process, Article V (a) (10).

* In your letter of April 22, there are numerous references to Compact "regions." We are uncertain of the origin or meaning of this. Specifically, the legislation develops the compact zone to address the regional transportation of oil and hazardous substances. We are aware of no proposed subregions.

Thank you for your kind attention. I hope this addresses your questions and clarifies your understanding of the legislation.

Sincerely,

A handwritten signature in cursive script, appearing to read "Sam Cotten", written in dark ink.

Senator Sam Cotten

STATE OF ALASKA

WALTER J. HICKEL, GOVERNOR

DEPT. OF ENVIRONMENTAL CONSERVATION

OFFICE OF THE COMMISSIONER
410 Willoughby Avenue, Suite 105
Juneau, AK 99801-1795

Telephone No. (907)465-5050
FAX No. (907)465-5070

April 22, 1982

Representative Cliff Davidson
Alaska State Legislature
P.O. Box V
Juneau, AK 99811

Dear Representative Davidson:

As you have requested, the following are the Department's concerns and questions relating to HB 135, "An Act enacting and entering into the Pacific Ocean Resources Compact." Many are related to the very broad language in the legislation, and our uncertainty as to how the authorities might be implemented.

Some individuals supporting the Compact legislation do not expect the Compact to develop regulations. If it is not the intent of the Legislature to have the Compact develop regulations, then we question the need for this legislation. There is already a mechanism in place along the West Coast for coordination between the states through the States/British Columbia Oil Spill Task Force. The Task Force has coordinated on individual jurisdiction regulations development, striving for consistency where individual state/provincial laws have allowed. To the extent possible, the Task Force has also coordinated comments on the federal rule making projects under OPA '90.

More specifically:

- * The federal government and all of the West Coast states have recently passed laws to strengthen spill prevention and response. Alaska, Washington, Oregon, California and the Coast Guard are all in various stages of implementing their new laws. We believe it is premature to propose another entity with rule-making authority while these other initiatives are underway and before we've had a chance to evaluate their effectiveness.
- * The laws passed by the West Coast states and Congress provide detailed guidance to the agencies in developing regulations for spill prevention and response. In contrast, the Compact bill provides no guidance and no boundaries for the development of regulations. The

* The Compact does not have to follow the Alaska Administrative Procedures in regulatory development. The Department is concerned that the public, particularly smaller coastal communities in Alaska will not be afforded the same level of involvement in the development of regulations under the Compact as they have now when state regulations are developed. We also are uncertain as to the interaction between the Compact's regulations and the coastal zone process which is preserved under Alaska's contingency planning regulations.

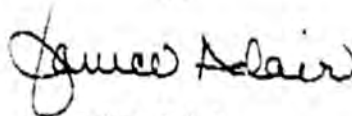
* The Compact headquarters will likely be located outside of Alaska, further limiting public access to this agency.

* The Compact has the authority to establish sanctions and penalties relating the natural resource damage. While any process developed by the Compact does not expressly preempt a states process, OPA '90 prohibits the double counting of natural resource damages. The Department is concerned as to the impact the Compact's action in this area may have on Alaska's ability to assess damages under its own laws. This is further complicated by the fact that NOAA is developing federal rules on this same subject, and again double counting is prohibited.

* In order to prevent a duplication of effort, and potential weakening of individual state's rights, the Compact as a rule making body could be limited to regulating oil and hazardous materials transport outside of state waters and in the Exclusive Economic Zone. This will allow individual states to maintain sovereignty over their jurisdictions but allow the Compact to establish standards for "federal" waters that are consistent along the West Coast. We would encourage the Legislature to further explore this possibility.

Please accept these questions and concerns in the spirit in which they are intended - to lay issues on the table for debate and discussion. Feel free to contact me if you need any additional information.

Sincerely,



Janice Adair
Assistant Commissioner

CORRECTION

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

STATE OF ALASKA

WALTER J. HICKEL, GOVERNOR

DEPT. OF ENVIRONMENTAL CONSERVATION

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410 Willoughby Avenue, Suite 105
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Telephone No. (907) 465-5050
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April 22, 1992

Representative Cliff Davidson
Alaska State Legislature
P.O. Box V
Juneau, AK 99811

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More specifically:

* The federal government and all of the West Coast states have recently passed laws to strengthen spill prevention and response. Alaska, Washington, Oregon, California and the Coast Guard are all in various stages of implementing their new laws. We believe it is premature to propose another entity with rule-making authority while these other initiatives are underway and before we've had a chance to evaluate their effectiveness.

* The laws passed by the West Coast states and Congress provide detailed guidance to the agencies in developing regulations for spill prevention and response. In contrast, the Compact bill provides no guidance and no boundaries for the development of regulations. The

Rep. Cliff Davidson

Page 3

April 22, 1992

* The Compact does not have to follow the Alaska Administrative Procedures in regulatory development. The Department is concerned that the public, particularly smaller coastal communities in Alaska will not be afforded the same level of involvement in the development of regulations under the Compact as they have now when state regulations are developed. We also are uncertain as to the interaction between the Compact's regulations and the coastal zone process which is preserved under Alaska's contingency planning regulations.

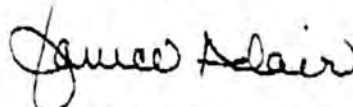
* The Compact headquarters will likely be located outside of Alaska, further limiting public access to this agency.

* The Compact has the authority to establish sanctions and penalties relating the natural resource damages. While any process developed by the Compact does not expressly preempt a states process, OPA '90 prohibits the double counting of natural resource damages. The Department is concerned as to the impact the Compact's action in this area may have on Alaska's ability to assess damages under its own laws. This is further complicated by the fact that NOAA is developing federal rules on this same subject, and again double counting is prohibited.

* In order to prevent a duplication of effort, and potential weakening of individual state's rights, the Compact as a rule making body could be limited to regulating oil and hazardous materials transport outside of state waters and in the Exclusive Economic Zone. This will allow individual states to maintain sovereignty over their jurisdictions but allow the Compact to establish standards for "federal" waters that are consistent along the West Coast. We would encourage the Legislature to further explore this possibility.

Please accept these questions and concerns in the spirit in which they are intended - to lay issues on the table for debate and discussion. Feel free to contact me if you need any additional information.

Sincerely,



Janice Adair
Assistant Commissioner

LK/JA/ars(H:\asdir\dauidson.com)

CORRECTION

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

STATE OF ALASKA

WALTER J. HICKEL, GOVERNOR

DEPT. OF ENVIRONMENTAL CONSERVATION

OFFICE OF THE COMMISSIONER
410 Willoughby Avenue, Suite 105
Juneau, AK 99801-1795

Telephone No. (907)465-5050
FAX No. (907)465-5070

April 22, 1992

Representative Cliff Davidson
Alaska State Legislature
P.O. Box V
Juneau, AK 99811

Dear Representative Davidson:

As you have requested, the following are the Department's concerns and questions relating to HB 135, "An Act enacting and entering into the Pacific Ocean Resources Compact." Many are related to the very broad language in the legislation, and our uncertainty as to how the authorities might be implemented.

Some individuals supporting the Compact legislation do not expect the Compact to develop regulations. If it is not the intent of the Legislature to have the Compact develop regulations, then we question the need for this legislation. There is already a mechanism in place along the West Coast for coordination between the states through the States/British Columbia Oil Spill Task Force. The Task Force has coordinated on individual jurisdiction regulations development, striving for consistency where individual state/provincial laws have allowed. To the extent possible, the Task Force has also coordinated comments on the federal rule making projects under OPA '90.

More specifically:

* The federal government and all of the West Coast states have recently passed laws to strengthen spill prevention and response. Alaska, Washington, Oregon, California and the Coast Guard are all in various stages of implementing their new laws. We believe it is premature to propose another entity with rule-making authority while these other initiatives are underway and before we've had a chance to evaluate their effectiveness.

* The laws passed by the West Coast states and Congress provide detailed guidance to the agencies in developing regulations for spill prevention and response. In contrast, the Compact bill provides no guidance and no boundaries for the development of regulations. The

Rep. Cliff Davidson

Page 2

April 22, 1992

Compact would be authorized to regulate contingency planning requirements for tankers. While some proponents of the Compact argue it would bring consistency in contingency planning, others have stated we should assume the Compact's regulations would follow a regional approach. We see a conflict here, uniformity vs. regional, so are uncertain as to which scenario the Compact might follow. Even if it was a regional planning process, we are uncertain as to the boundaries of those regions. Would all of Alaska be one region, or several?

* The proposed Compact covers transportation of hazardous materials. It does not define which hazardous materials or in what quantities the compact can or should regulate (again, no guidance).

* As written, the Compact may regulate transportation on Alaska rivers.

* Spill response plans must be developed to reflect the area of operation of a vessel. To be effective, a Response Plan must identify potential mishaps; quantity, type, location, and response time of equipment; information about resources at risk and prioritize them for protection, etc. Even if the Compact were to develop uniform regulations for West Coast operators, those operators will still need to develop Response Plans applicable to each region of operation for the vessel. Again, what boundaries might the regions follow?

* Who will be responsible for reviewing the response plans to ensure compliance with the Compact's regulations? Who will be responsible for enforcing the regulations? Who will conduct inspections? Who will conduct and evaluate drills? State staff? Compact staff? Coast Guard staff?

* The States would continue to be responsible for contingency planning for shore based facilities, and some vessels. Is a division in responsibility the best approach for planning?

* The Department is concerned that establishment of a Compact could easily lead to weaken the authorities recently established in Alaska under HB 567 because each issue/area to be regulated by the Compact is likely only be as strict as the weakest provision among the Compact states. Some people have stated that the regional approach to regulation development would nullify this concern, however there is no guidance in the legislation that would necessarily result in regional regulations. Plus, the regional approach as we've already stated eliminates the uniformity in approach some proponents of the Compact have given as its strong point.

Rep. Cliff Davidson

Page 3

April 22, 1992

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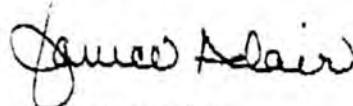
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Please accept these questions and concerns in the spirit in which they are intended - to lay issues on the table for debate and discussion. Feel free to contact me if you need any additional information.

Sincerely,



Janice Adair
Assistant Commissioner

LK/JA/ars(H:\asdir\dauidson.com)

MEMORANDUM

State of Alaska

Department of Law

TO: Deborah Behr
Legislative Attorney
Department of Law -- Juneau

DATE: April 8, 1992

FILE NO:

TEL. NO: 269-5274

SUBJECT: SB 102 - Pacific Ocean
Resources Compact

FROM: Breck C. Tostevin *BCT*
Assistant Attorney General
Environmental Section

This memorandum reviews the legal impact of SB 102 on the State of Alaska's ability to regulate the transportation of oil and hazardous substances on its navigable waters.

SB 102 would approve a Pacific Ocean Resources Compact between California, Hawaii, Oregon, Washington and potentially the Province of British Columbia. The Compact would take effect after one or more of the above states ratify the compact in substantially the same form and the Compact receives the consent of the United States Congress.

The consent of Congress is required by the federal Constitution for such compacts between the States that might alter the political power of the states affected, and thus expand into an area of federal concern, or compacts that involve foreign governments. U.S. Const. Art. I, Sec. 10; Texas v. New Mexico, 462 U.S. 554, 568 (1983); Seattle Master Builders Ass'n v. Pacific Northwest Elec. Power and Conservation Planning Council, 786 F.2d 1359 (9th Cir. 1986). Once approved by Congress, a compact becomes federal law, can be enforced in federal court and supersedes state law. See Cuyler v. Adams, 449 U.S. 433, 439-40 (1981); Vacation &

Deborah Behr
Legislative Attorney
Department of Law -- Juneau

April 8, 1992
Page 2

Holiday Fund v. New York Waterfront Comm'n, 732 F.2d 292 (2d Cir. 1984); State ex rel. Intake Water Co. v. Board of Nat. Res. & Conserv. of the State of Montana, 645 P.2d 383, 387 (Mont. 1982), cert. denied, 459 U.S. 969 (1982).

In general, the Compact established in SB 102 would simply establish a forum for cooperative efforts of the party states and would not limit the internal regulatory powers of the member states. However, three provisions in Article V of the Compact have the potential to significantly alter the State of Alaska's regulation of oil and hazardous substance transportation in state waters. In particular, Article V(a)(2) would create an unified "Compact region" in which the Compact would establish and enforce oil and hazardous substance contingency plans for vessels. Pursuant to this article, the Compact would adopted uniform regulations for the region that are "consistent" with response plan requirements established under the federal Oil Pollution Act of 1990.¹ Once in place, the "compact contingency plans" would supersede individual state plans. Individual state contingency plans approved prior to the adoption of compact plan regulations would remain in effect until their expiration, at which point they would be subject to the compact plan regulations. Article V(a)(10) would allow the compact to establish sanctions for violations of

¹ These federal response plans will not be in place until the U.S. Coast Guard adopts regulations establishing the planning standards applicable to these vessels and barges.

Deborah Behr
Legislative Attorney
Department of Law -- Juneau

April 8, 1992
Page 3

the rules and regulations of the Compact and impose those sanctions pursuant to standards of review established in the federal Administrative Procedures Act.

The Compact provides that the Compact will "work closely with officials of the [member States] to assure that the vessel contingency plans required under this compact include all subject areas included by the member parties." However, there is no assurance that the requirements of Alaska's Oil Spill Contingency Law ² will be fully included in the Compact's contingency plan regulations. It is worth noting that the Oil Pollution Act of 1990 does not preempt state law in the area of vessel contingency planning. See 33 U.S.C. § 2718. However, once adopted, these Compact plans would preempt state individual requirements. See Art. V(3), p. 8 lines 8-9.

Second, Article V(b)(6) would empower the Compact to enter into an agreement with the United States Coast Guard to administer compliance with the federal government's proof of financial responsibility under the Oil Pollution Act of 1990. However, once delegated to the Compact these federal requirements would supersede individual state financial requirements. Again, it should be noted that Congress in the Oil Pollution Act of 1990 specifically granted the States authority to impose their own unique financial responsibility requirements. See 33 U.S.C. §

² AS 46.04.030 and the implementing regulations at 18 AAC 75.

Deborah Behr
Legislative Attorney
Department of Law -- Juneau

April 8, 1992
Page 4

2718. The State would be giving up its right to impose requirements different from the federal provisions and would not necessarily gain a more uniform tougher standard along the Pacific Coast.

Finally, article V(b)(9) would allow the Compact to grant variances from compact rules or regulations. A variance would be based upon a showing that the activity allowed will have no regional affect and that the variance is economically necessary. The variance would not be allowed if the result would be less stringent requirements than those imposed under federal law. However, under the above standard a variance could be granted or denied when the affected state disagrees and when the activity only affected that one member state. Thus, a variance could be granted to a requirement of Alaska law that is more strict than federal law but that would not affect Washington or California. Such a result would clearly present a major departure from existing law under which each coastal state controls its own destiny in the absence of explicit federal reemption. The federal Oil Pollution Act of 1990 confirms that the State of Alaska can maintain its own individual oil pollution liability, contingency planning and financial responsibility requirements. 33 U.S.C. §§ 1321(o), 2718.

BCT:bkn

cc: Craig Tillery

U.S. Department
of Transportation

United States
Coast Guard



Commander
Seventeenth
Coast Guard District

P.O. Box 3-5000
Juneau, AK 99802-1217
Phone: (907) 463-2025
Staff Symbol (d)

16450
March 4, 1991

The Honorable Sam Cotten
Alaska State Senator
Post Office Box V
Juneau, Alaska 99811

Dear Senator Cotten:

Thank you for sending the copy of your proposed Pacific Ocean Resources Compact legislation. Not surprisingly, this proposed legislation is of significant interest, not only to the Seventeenth Coast Guard District, but also to the other Pacific Area Coast Guard Districts, the Commandant of the Coast Guard, and other affected Federal agencies. We are, therefore, studying the proposed legislation very closely.

Among the issues that we are looking at most closely are: the ramifications of delegating broad tank vessel safety and pollution prevention regulatory and enforcement authority to a non-Federal, regional entity; the interplay of Compact regulations with existing Federal statutes and regulations; the authorities and responsibilities of the Coast Guard vis-a-vis the Compact; the role of British Columbia in the Compact; and the desirability of the Compact in view of the authorities already granted to the states by the Oil Pollution Act of 1990. I hope to provide you with further comments on these and other issues in the near future.

Once again, thank you for the information. My staff and I are looking forward to working with you and the State in resolving these issues. Captain Don Bodron (907) 463-2205 is my expert on these matters. Please feel free to contact either him or me.

Sincerely,

D. E. CIANCAGLINI
Rear Admiral, U.S. Coast Guard
Commander
Seventeenth Coast Guard District

from the desk of
Ray Gillespie



4/8/92

Leo asked that this be hand delivered. If you
have any questions, you can call me at 463-3375.

Ray



April 8, 1992

The Honorable Sam Cotten
P. O. Box 770296
Eagle River, AK 99577

RE: SB 102

Dear Senator Cotten:

Last December I wrote you regarding the concerns PMSA had with California's compact legislation (AB 393 - Hauser). Fortunately, the California legislature is no longer considering this legislation, largely because of the problems we noted.

The reasons I cited in my earlier letter (copy attached for your easy reference) are still valid, but I want to emphasize two points:

- Our industry worked very hard in California and other West Coast states when their respective legislation was deliberated. The legislation, which was ultimately enacted, while not perfect, is balanced and workable. We are not prepared to accept, in any fashion, yet a third layer of government regulation and bureaucracy, which we believe SB 102 will create. The West Coast does not need another de facto U.S. Coast Guard.
- The cost to administer this proposed compact will likely be borne in proportion to the state's size. In the case of California, that would effectively mean picking up the lion's share of a cost that would largely benefit other states. California was not prepared to do this, and I do not believe Alaska should be so inclined, either.

PACIFIC MERCHANT SHIPPING ASSOCIATION

One Kaiser Plaza, Suite 420, Oakland, California 94612 Telephone (415) 839-9850 Fax (415) 839-2980

The Honorable Sam Cotten
April 8, 1992
Page Two

In summary, a cooperative arrangement of West Coast states would be beneficial, and we would support such an agreement. We must continue to oppose, however, any arrangement that creates a new layer of government.

Thank you for your consideration.

Sincerely,

A handwritten signature in cursive script, appearing to read "Leo Brien".

Leo R. Brien
President

LRB:si
Enclosure



December 20, 1991

Senator Sam Cotten
P. O. Box 770296
Eagle River, AK 99577

Dear Senator ~~Cotten~~: *Sam*

During the Pacific Conference we had a brief opportunity to discuss the Pacific Compact legislation. While I have not had an opportunity to review the specific legislation you have introduced in Alaska, I thought it would be helpful if I outlined some of the concerns PMSA noted with respect to similar (I believe) legislation (AB393-Hauser) introduced in California.

The Pacific Ocean Resources Compact, as it is entitled in California, goes well beyond traditional compacts by extending the geographic scope of state jurisdiction.

This raises a number of issues:

- * The U.S. Congress, Alaska, California and Washington state enacted comprehensive oil spill prevention legislation in 1990 and 1991. Each provides a high degree of protection for the marine environment. Much of the regulatory proceedings necessary to implement the provisions of this legislation is still being completed. It seems premature to consider additional regulation until we have had an opportunity to evaluate the impact of the legislation so recently enacted.
- * The proposed compact appears to violate the constitutional principals that reserve admiralty and maritime jurisdiction to the federal government.
- * The Alaska legislature enacted, I believe, very comprehensive legislation that dramatically increased the State's authority over the shipping and handling of oil. Is Alaska prepared to

PACIFIC MERCHANT SHIPPING ASSOCIATION

One Kaiser Plaza, Suite 420, Oakland, California 94612 Telephone (415) 839-8650 Fax (415) 839-2980

relinquish some of this new authority to an intermediate bureaucracy not directly accountable to the Alaskan electorate?

- * Industry, and ultimately, the consumer, is already providing significant funding for federal and state oil spill prevention laws. As additional unspecified funding is required for this interstate compact, it is unrealistic and unfair to expect industry and consumers to pay yet another assessment. Will general funds be available for this proposal? Given the deficit situation facing many states, the availability of general funds appears highly doubtful.
- * The power to enact and enforce regulations governing activities off the coasts has inherent foreign policy implications, and there is a constitutional limit on the extent to which Congress may authorize a state to exercise that power. The delineation of that federal limit has been the subject of international debate and that controversy would likely be intensified if authority out to 200 miles were granted to states through the creation of this compact.

PMSA does support the concept of uniformity of maritime law and regulation throughout the United States. The U. S. Coast Guard currently provides that uniformity, as they alone have the authority over such subjects as vessel design, navigation and manning requirements. Our industry is international in scope, and we therefore believe a single agency approach is absolutely critical.

The compact language, as prepared by California (and enacted by Oregon) moves well away from this concept by creating a regulatory body with the authority to impose an unnecessary additional layer of regulations. PMSA cannot support the regulatory provisions encompassed by this legislative language. On the other hand, PMSA does recognize the value of interstate communication and cooperation in addressing oil spill prevention, planning and response. We are supportive of increased coordination among states on such issues.

Senator Cotten
Page 3

Accordingly, we believe Compact legislation should be strictly advisory in nature, emphasizing interstate cooperation and eliminating regulatory authority/requirements which go well beyond the long standing bounds on states' authority to regulate interstate and foreign commerce.

Some of the concerns I have raised may not be applicable to your legislation. I did, however, want you to be aware of our concerns with the California Compact legislation.

I would be happy to discuss this issue with you at your convenience.

Sincerely yours,



Leo Brien
President
Pacific Merchant Shipping Association

Though the attached article may also be of interest.

LRB:rc



December 20, 1991

TO: G. Kraatz
K. Oxley
J. Maslen
A. Stephens
D. McCormack
C. Halen
G. McMahon

FROM: Leo Brien 

SUBJECT: Pacific Compact Legislation - Alaska

During the Pacific Conference, I had an opportunity to meet with Senator Sam Cotten, Alaska (President of the Senate) and discuss the Pacific Compact. As you may be aware, he is carrying this legislation in Alaska. I expressed my concerns with the Compact concept, but could not specifically address his bill as I have never had an opportunity to review it. I assumed, however, that it is similar if not identical to Oregon and California.

He recognized some of my concerns and gave me the impression that he is willing to consider amendments to accomodate these concerns. I also had the impression that this issue is not a "life or death" issue for him and he does not appear to be emotionally attached to the concept.

Since I initiated this dialogue, I thought it would be beneficial to follow up with a letter, a copy of which is attached. You will note that most of the concerns I outlined were taken directly from my March 15, 1991 letter to Assemblyman Hauser. Since we all agreed with the text of that letter, I felt it was appropriate to advise Senator Cotten of those concerns.

Please advise of questions/comments.

cc: W. Lawrence
R. Ray

LRB:rc



December 20, 1991

Senator Sam Cotten
P. O. Box 770296
Eagle River, AK 99577

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Leo Brien
President
Pacific Merchant Shipping Association

*Thoug the attached article may also be of
interest.*

LRB:rc

Voluntary Agreement concerning Liability for Oil Pollution) and CRISTAL (Contract Regarding a Supplement to Tanker Liability for Oil Pollution) — met at the end of October in Norway and agreed to extend these agreements for two years to February 20, 1994. These agreements are voluntary commitments to pay cleanup and compensation costs promptly to spill victims. TOVALOP, whose member companies represent 97% of the world's total tank-vessel tonnage, makes available a maximum of \$70 million for any one incident. CRISTAL, comprised of about 750 oil companies, raises that figure to \$135 million. According to a spokesman for the International Tanker Owners Pollution Federation, members chose to revisit the issue in no more than two years because of these "uncertain times given the new Oil Pollution Act of 1990 (OPA 90) and the debate over the protocols."

The protocols that he referred to are 1984 International Maritime Organization (IMO) protocols to the 1969 Convention on Civil Liability for Oil Pollution Damage and the 1971 International Convention on the Establishment of an International Fund for Compensation of Oil Pollution Damage. At a recent diplomatic conference in London, participants asked the IMO to adopt new protocols in place of the 1984 protocols, which have been ratified by only two of the eight countries needed for enactment (OPA 90 discouraged any hope of the US ratifying these protocols). The International Oil Pollution Compensation Fund Assembly recommended that the

IMO reduce the number of countries required to adopt the protocols to make it easier for the protocols to go into effect. The assembly had earlier rejected a suggestion that the liability limits be raised to \$283 million (currently the limit is \$80 million; the 1984 protocols would have raised the limit to \$191 million).

Five States Discuss the Need for Cooperation in the Gulf of Mexico

Kicking off the Clean Gulf '91 conference in Austin, Texas, on October 29, representatives from the five Gulf states — Texas, Louisiana, Mississippi, Alabama, and Florida — began talks on drawing up a memorandum of understanding (MOU) to "pool their resources" regarding oil spill preparedness and response. They discussed the need for a "good communications network," which would include sharing data and coordinating training, research, contingency planning, and other requirements to avoid unnecessary duplication. In discussing what form this cooperation should take, the representatives ruled out a formal compact, since such an agreement would require congressional approval. And, as was evident on the West Coast, where a similar compact gained little support, it would be faced with too many obstacles (see "Outlook for Western States' Compact Looks Bleak," *OSLR*, June 1991). Representatives instead voiced their support for an MOU and possibly a task force that could meet on a regular basis.

Hotline: On October 29, the US Senate consented to the ratification of two IMO treaties: the International Convention on Oil Pollution Preparedness, Response, and Cooperation, 1990; and the International Convention on Salvage, 1989 (see *OSLR*, August 1991) . . . The US Coast Guard (USCG) has received more than 120 comments on the advance notice of proposed rulemaking concerning vessel response plans, but one USCG officer reviewing the comments said that they were not as specific as the USCG had hoped (see *OSLR*, October 1991) . . . Around the first of October, Washington State Governor Booth Gardner appointed Barbara Herman as the new administrator of the state's Marine Safety Office. Herman was formerly the chief litigator for the state of Alaska in the Exxon Valdez case . . . For more information on any article in this issue, contact the Oil Spill Hotline: (617) 641-5110 or 648-8700; Fax: (617) 648-8707.

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Alaska Environmental Lobby, Inc.

P.O. Box 22151 Juneau, Alaska 99802

907-463-3366

PACIFIC OCEAN RESOURCES COMPACT - SB 102

SB 102 will better **protect our ocean resources** from hazards associated with the transportation of **oil and other hazardous substances**. By forming a compact, Alaska, Washington, Oregon, Hawaii, and California can speak in one voice to prevent oil and other hazardous substance spills from occurring in their waters. The Compact would facilitate regional planning and allow the group to address regional regulatory problems that they could not as individual states.

Legislation similar to SB 102 has been introduced in the other Compact member states. Once ratified by one or more of these states and Congress, the Compact would be federal law.

BENEFITS TO ALASKA

* **Enhanced state sovereignty** over issues of critical importance, such as prevention of oil and hazardous substance spills, spill contingency planning, and environmental monitoring and research;

* **Increased jurisdiction** from 3 up to 200 miles offshore;

* **Augmented voting power.** As a member of the compact, Alaska would have one-fifth of the voting power. In Congress, our current voting power is less than one-half percent; and

* **Increased uniformity and safety** of tanker transportation through input on design, safety equipment, crew size, and training.

The Alaska Environmental Lobby strongly supports SB 102. The Pacific Ocean Resources Compact would allow states most likely damaged by oil and hazardous substance spills to act in a unified manner to prevent and respond to spills.

Prepared by Theresa Svancara, 3/25/91.

CLEAN AIR COALITION • PRINCE WILLIAM SOUND CONSERVATION ALLIANCE • ALASKA CENTER FOR THE ENVIRONMENT
ALASKA CHAPTER SIERRA CLUB • JUNEAU GROUP SIERRA CLUB • KNIK GROUP SIERRA CLUB • DENALI GROUP SIERRA CLUB
ANCHORAGE AUDUBON SOCIETY • ARCTIC AUDUBON SOCIETY • DENALI CITIZENS COUNCIL • ALASKA FRIENDS OF THE EARTH
JUNEAU AUDUBON SOCIETY • KACHEMAK BAY CONSERVATION SOCIETY • KENAI PENINSULA AUDUBON SOCIETY • KODIAK AUDUBON SOCIETY
LYNN CANAL CONSERVATION • SITKA CONSERVATION SOCIETY • NORTHERN ALASKA ENVIRONMENTAL CENTER
SOUTHEAST ALASKA CONSERVATION COUNCIL • KNIK LANDERS AND KAYAKERS

NORTH SLOPE BOROUGH

OFFICE OF THE MAYOR

P.O. Box 69
Barrow, Alaska 99723

Phone: 907-852-2611

Jeslie Kaleak, Sr., Mayor



April 13, 1992

Senator Al Adams
P.O. Box V
Juneau, AK 99811

Re: Pacific Oceans Resources Compact - CS For Senate Bill 102

Dear Senator Adams:

The Borough has had the opportunity to quickly review Senate Bill 102 and its accompanying materials. We strongly support in concept the idea of a Pacific Ocean Resources Compact, and the State of Alaska's active participation in such an organization. We have reservations, however, about the means by which Alaska's two or three representatives will be selected (the Bill specifies 2 in Article IV, while the supporting materials indicate that there will be 3 members from each state).

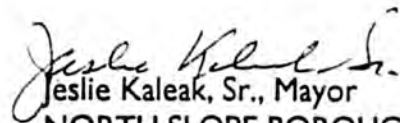
The Borough has long been concerned about the possibility of both American and Canadian oil tanker traffic through the Beaufort and Chukchi Seas, and the devastating impacts which a tanker spill might have on our area's resources and our subsistence activities. We have encouraged and continue to support stronger oil spill contingency planning and more realistic spill response exercises. We would be very pleased to see the influence and jurisdiction of the State of Alaska in these matters extended to the 200-mile limit of federal waters through implementation of the Pacific Compact.

A greater voice is a benefit, however, only if the positions which the Alaskan members will express through the compact are those endorsed by the at-risk coastal regions of the state. We do not believe that representatives

directly appointed by Governor Hickel will be likely to find favor with the coastal regions. The Governor's history of appointments to positions with influence over resource development and spill contingency planning has been less than positive in our view. We urge you, therefore, to seek amendment of proposed Section 46.47.030 of the statute to require that the representatives of the state to the compact must be appointed by the Governor from nominees submitted by the Citizens' Oversight Council on Oil and Other Hazardous Substances, subject to confirmation by the Legislature. As you are aware, the Council was created by the Legislature in 1990 to promote safe production, transport, and storage of oil and other substances. The attached materials on the Council clearly indicate that it would be a natural extension of its duties to select suitable nominees for appointment to the Pacific Compact.

Thank you for bringing this important legislation to the Borough's attention. I hope our comments have been helpful in your review of the proposal.

Sincerely,


Leslie Kaleak, Sr., Mayor
NORTH SLOPE BOROUGH

cc: Rep. Eileen MacLean
Department of Wildlife Management



ALASKA STATE LEGISLATURE LEGISLATIVE COUNCIL

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CITIZEN'S OVERSIGHT COUNCIL

ON

OIL AND OTHER HAZARDOUS SUBSTANCES

REC'D NISB LAW
MAR 1 1991

In 1990 the Legislature created the Citizen's Oversight Council on Oil and Other Hazardous Substances. Creation of the Council was one of the key recommendations of the Alaska Oil Spill Commission. Below are some questions and answers about the Council.

Q. WHAT IS THE CITIZEN'S OVERSIGHT COUNCIL ON OIL AND OTHER HAZARDOUS SUBSTANCES?

>The Citizen's Oversight Council on Oil and Other Hazardous Substances is a legislatively appointed, permanent, five member panel whose sole responsibility is to promote the safe production, transport and storage of oil and other substances.

Q. WHY CREATE A CITIZEN'S OVERSIGHT COUNCIL?

>Currently, no agency of state or federal government has, as its sole responsibility, the safe production, transport and handling of hazardous substances.

>The Alaska Oil Spill Commission felt that only an independent citizen's group can provide the continuing vigilance necessary for proper oversight of state and federal regulatory agencies.

Q. WHO MAY SERVE ON THE CITIZEN'S OVERSIGHT COUNCIL?

>Citizen's who have no direct financial stake in the oil industry but who do have an interest in and a commitment to preventing oil and hazardous substance releases. Council terms are for four years except that the first appointments

will include a one year, a two year, a three year and two four terms.

Q. WHO MAY NOT SERVE ON THE CITIZEN'S OVERSIGHT COUNCIL?

>Elected officials or any federal, state or municipal employees or contractors directly or indirectly involved in the oversight or regulation of the oil industry.

>Oil industry employees or any contractors or subcontractors to the oil industry are prohibited from serving on the Citizen's Oversight Council.

Q. WHO APPOINTS MEMBERS OF THE CITIZEN'S OVERSIGHT COUNCIL?

>Members are appointed by the Legislative Council, a permanent, joint House/Senate Committee of the Alaska State Legislature.

Q. WHAT AUTHORITY DOES THE CITIZEN'S OVERSIGHT COUNCIL HAVE?

>The Council has an advisory role in state government. There are seven specific directives to the Council in the enabling legislation. They all direct the Council to assess the risks of oil and hazardous substance spills in Alaska, to make that information known and to recommend action on the part of the responsible agencies.

>The Council has the power to conduct investigations, subpoena witnesses and require the production of files, books and papers necessary for the proper conduct of investigations.

>The Council is to serve as a coordinating group for other citizen groups in Alaska.

Q. ARE THE CITIZEN'S OVERSIGHT COUNCIL MEMBERS PAID?

>No. The Council budget includes money only for travel and expenses for the members.

Q. HOW MUCH TIME WILL MEMBERS HAVE TO DEVOTE TO THE COUNCIL?

>There is no set amount of time that must be devoted to the Council. However, the Legislative Council is looking for five citizens who regard the prevention of releases of oil and other hazardous substances as a serious and important matter to the future of Alaska. In a oil dependent state such as Alaska, the promotion of prevention will be a complex and time-consuming matter.

The Council will probably meet on a regular basis, either in person or through the teleconference system. Public hearings will probably be held on an irregular basis. The current budget includes money for travel to six meetings.

Council members will have the assistance of staff. The Council budget includes money for two employees, an administrator and a secretary. More than \$100 thousand in contractual money is available for research projects.

NEWS 11 Dec 90

Spill council organized

The Associated Press

JUNEAU — Five Alaskans have been named to a new advisory council that will determine whether government agencies are properly regulating the transportation and handling of oil and other hazardous substances.

The state Citizens' Oversight Council on Oil and Other Hazardous Substances was created by the 1990 legislature in response to the Exxon Valdez oil spill.

The legislature found that "a pervasive contributing factor to the Exxon Valdez disaster was the complacency of the oil industry and the federal and state agencies." It concluded "it is essential to involve local citizens to help ensure compliance with environmental laws and regulations."

The council will file an annual report with the legislature and governor assessing the performance of state and federal agencies and recommending changes in laws and procedures to improve environmental safety.

Its members were recently appointed by the Legislative Council, the panel of lawmakers that handles legislative business between sessions. The members are:

• Leo Hannan, a retired engineering technician with the U.S. Air Force in An-

chorage.

• John H. Lucking Jr., a sergeant with the Unalaska police force.

• Harry R. Bader, an assistant professor of natural resources management at the University of Alaska Fairbanks.

• Gary Kompkoff, a commercial fisherman and village council president in Tatitlek.

• Kathryn L. Kinnear of Kodiak, a national board member of the Women's Fisheries Network.

The council plans to hold its first organizational meeting Wednesday in Anchorage at the Legislative Information Office.

STATEMENT OF
EXXON SHIPPING COMPANY
TO THE
SENATE FINANCE COMMITTEE

ON SB 102
APRIL 9, 1992

Exxon Shipping Company appreciates the opportunity to provide comments on House Bill 135.

The proposed legislation seeks to have Alaska ratify the creation of a multi-state Pacific Ocean Resources Compact. The Compact has various stated purposes. They range from very specific regulatory provisions to broad, undefined regulatory provisions to coordination of mutual interest activities of Compact parties. A key aspect of the Compact would provide for the extension of states' jurisdictional authorities out to 200 miles offshore. The compact would vest comprehensive authority to its appointed administrative body regarding activities, regulatory powers, staffing and funding.

There is some merit associated with an interstate advisory group to work with state and federal governments to improve coordination in oil spill response planning, environmental monitoring, and research activities. However, Exxon Shipping Company opposes the proposed legislation due to the specific marine regulatory provisions and the broadly worded regulatory provisions for undefined ocean activities. The Company also opposes the broad authority which the Compact would have to adopt other regulations. In addition, we have concerns regarding what we believe will be the likely jurisdictional constitutional and regulatory conflicts arising from the proposed Compact territorial expansion.

This statement will address the reasons for our position and concerns.

The Compact specifically provides for uniform regulation of oil and hazardous substance transportation, including the establishment of standards for routes, crews, and equipment for vessels and for vessel contingency plans. Comprehensive oil spill prevention and response legislation was passed in 1990 at the federal level (Oil Pollution Act of 1990) and in Alaska through a package of laws in 1989, 1990, and 1991. Implementation of these legislative efforts is well underway at both the federal and state levels through the development of extensive regulations. Compact provisions for development of an additional layer of regulations for these purposes is both unnecessary and inappropriate. At best, such an effort would be duplicative of Alaska and federal work; at worst, it could result in totally confusing layers of regulations under various authorities. It seems logical to allow the industry and states to operate under the statutes being developed before deciding whether additional or modified regulations are needed.

The Compact also provides for regulation of certain ocean activities within the Exclusive Economic Zone, and for adoption of all regulations necessary to exercise its authority. This broadly worded authority to regulate, without definition or limitation of the activities/areas to be regulated, is inappropriate, especially for an appointed body. Such regulatory authority would likely duplicate or conflict with existing federal and state agencies roles, responsibilities and regulatory powers.

The U.S. Coast Guard has primary authority for marine transportation in U.S. waters and is responsible for establishing vessel safety and design standards, training and manning requirements, routing, and traffic control. Exxon Shipping Company firmly supports the concept of uniformity of maritime law and regulations throughout the United States. Adding other regulatory authority for marine transportation through the proposed Compact could lead to confusion among domestic and international shippers as to which agency has primary jurisdiction over safety standards for vessels transporting oil or hazardous materials.

We understand that over 200 compacts have been adopted by states and approved by Congress. These compacts generally tend to facilitate uniformity of law and regulation associated with interstate commerce and cooperation. The proposed Compact seeks to extend the geographic scope of states' jurisdiction into federal jurisdictional domain. We are concerned that this Compact would not have the intended effect of greater uniformity, but would rather result in significant constitutional disputes over admiralty and maritime jurisdiction with disruptive impacts on national and international shipping.

The proposed Compact would be authorized to conduct hearings, promulgate regulations, negotiate with the federal government, provide technical assistance, conduct environmental monitoring and research, and apply sanctions and penalties for violations. Its liberal wording grants, to an appointed board, extensive authorities equal to or exceeding those generally delegated to elected state and federal legislative bodies. With all this apparent authority, there is no clear indication or direction as to how these powers are to be exercised or implemented, or how the funding to enforce the authority would be developed.

The premise that there are no effective means for adjoining states to address mutual concerns related to the transport of oil and hazardous substances is not accurate. Such concerns can be addressed by state governments and through the federal government agencies (U.S. Departments of Transportation and State) which, in turn can represent appropriate concerns to international bodies such as the International Maritime Organization.

In conclusion, Exxon Shipping Company supports the concept of uniformity of maritime law and regulations throughout the United States. Our industry is multi-state and international in scope, and therefore we believe uniformity of approach to such issues is absolutely critical.

The Compact would move away from this concept by creating a regulatory body with the authority to impose an unnecessary layer of regulations. Exxon Shipping Company cannot support the regulatory provisions encompassed by the legislative language. These regulatory provisions are inappropriate - especially in view of the recent state and federal legislation now being implemented.

Accordingly, Exxon Shipping Company urges this Committee to oppose the passage of SB 102.

Enrolled
Senate Bill 500

Sponsored by Senator BRADBURY; Senators BRENNEMAN, COHEN, GOLD, KITZHABER,
SPRINGER, Representatives JOSI, RIJKEN, SCHROEDER, TAYLOR, WHITTY

CHAPTER

AN ACT

Relating to Pacific Ocean Resources Compact; appropriating money; and declaring an emergency.

Be It Enacted by the People of the State of Oregon:

SECTION 1. (1) The Legislative Assembly of the State of Oregon hereby ratifies the Pacific Ocean Resources Compact as set forth in section 2 of this Act. This compact shall take effect after two or more of the States of Alaska, California, Hawaii or Washington ratify the compact and consent is granted by Congress as required by section 10, Article I of the Constitution of the United States.

(2) In addition to the States of Alaska, California, Hawaii and Washington, the Province of British Columbia may become an associate party to the compact, without voting power. Upon request of the Province of British Columbia and approval of Congress, the Province of British Columbia may become a full party to this compact with the same rights and powers as the party states.

SECTION 2. The provisions of the Pacific Ocean Resources Compact are as follows:

ARTICLE I
Findings and Purpose

A. The parties recognize:

(1) The States of Alaska, California, Hawaii, Oregon and Washington and the Province of British Columbia have a common interest in the protection of marine and coastal resources. This common interest results from:

(a) The fluid, dynamic ocean currents and atmospheric winds that carry pollutants beyond one party's coastal area to another.

(b) The migratory nature of many important living marine resources that depend upon the marine habitat of various parties for different parts of their lifecycle.

(c) The economic reliance of each party upon renewable resources of the ocean.

(d) The use of the ocean for transport of oil and other hazardous substances between ports in the various parties and other nations.

(e) A regional interest in providing a stable environment for those communities dependent upon ocean resources and ocean trade for a livelihood.

(2) Some marine resource activities, such as fisheries, are currently highly managed with regard for their regional or transboundary nature through existing state programs, regional fisheries councils interstate compacts and international treaties. Because there are existing formal mechanisms for interstate cooperation and coordination for these marine resource activities, this compact

is not intended to encompass these activities or to grant to the Pacific Ocean Resources Compact authority to regulate resource allocation or management as it may pertain to the use and consumption of marine resources.

(3) A formal interstate agreement does not exist to address and resolve issues of mutual concern or to coordinate individual programs of the parties that affect regional interests in the areas of:

- (a) Prevention of oil and hazardous substance spills;
- (b) Transportation of oil and other hazardous substances;
- (c) Oil and hazardous substance spill response planning;
- (d) Environmental monitoring and research; and
- (e) Ocean resource management.

(4) Each party has jurisdiction over the submerged and submersible lands within its territorial sea and responsibility for management of many marine resources and ocean uses. Each party has unique natural resource, social, economic and political conditions for which local management by the individual party is the most appropriate.

(5) Parties now do not have an effective means to address mutual concerns related to transport of oil and hazardous substances in waters within and beyond the party's jurisdiction that may jeopardize ocean resources and uses important to one or more coastal parties.

(6) The 1983 Presidential Proclamation of the 200-mile United States Exclusive Economic Zone has created the opportunity for all coastal states to more fully exercise and assert their responsibilities pertaining to the protection, conservation and development of ocean resources under United States jurisdiction.

(7) Citizens of the Pacific states and the Province of British Columbia are increasingly concerned with the environmental integrity of the ocean and protection of all ocean resources.

(8) Recent studies conducted in the wake of major accidental releases of oil or hazardous substances have concluded that the existing system of response to spills could be improved in the following ways to provide better protection of ocean resources:

- (a) Enhanced personnel training and qualifications;
- (b) Improved vessel design and integrity;
- (c) Better mechanisms for cost recovery by the states or the province;
- (d) Improved coordination in regulatory oversight;
- (e) Enhanced traffic management; and
- (f) An improved information base dealing with marine and coastal environments.

(9) A spill or discharge of oil or hazardous substance from an ocean-going vessel has the potential of causing major regional impacts.

B. Therefore, the purposes of this compact shall be:

(1) To assist in the promotion of interstate commerce by encouraging uniform regulation of the transportation of oil or hazardous substance within the compact zone.

(2) To provide a legal mechanism to regulate certain ocean activities within the United States Exclusive Economic Zone.

(3) To enhance regional coordination of issues of critical importance.

(4) To work with federal agencies to advance the best interest of the region.

(5) To foster regional cooperation and pooling of resources to reduce costs and increase effective use of scarce resources.

(6) To monitor activities of concern to the parties.

(7) To address issues of mutual concern to the Pacific states and the Province of British Columbia and enhance the parties' influence over activities of concern that are not now addressed through existing compacts, including:

- (a) Spill prevention;
- (b) Transportation of oil and other hazardous substances;
- (c) Spill response planning;
- (d) Environmental monitoring and research; and
- (e) Ocean resource management.

- (8) To foster cooperation and coordination among the parties in order to increase the effectiveness of the individual party's ocean laws and programs.
- (9) To provide technical assistance to parties for ocean activities covered by this compact.
- (10) To provide for formal participation by the Province of British Columbia with the compact to more fully address issues of regional concern.
- (11) To insure that the citizens of the region have opportunities to participate in discussions and deliberations of regional ocean resources issues.
- (12) To establish an innovative system under which the parties can represent their shared interests within the compact zone, including:
 - (a) The maintenance and protection of common ocean resources; and
 - (b) The vessel transportation of oil and other hazardous substances.
- (13) To recommend uniform safety standards for routes, crews and equipment for vessels transporting oil and hazardous substances within the compact zone and monitor the implementation of these standards and regulations by federal agencies, states or provinces and private industry.
- (14) To promote more coordinated management of ocean resources that are of mutual concern.
- (15) To provide a forum for the regional coordination of the individual parties' plans for the management and protection of those areas of the Pacific Ocean and adjacent waters over which the compacting parties jointly or separately now have or may acquire jurisdiction.

ARTICLE II

Definitions

As used in this compact:

- (1) "Compact" means the representative body created by Article IV of this compact.
- (2) "Compact zone" means the portion of the oceans bordering the parties within the 200-mile exclusive economic zone.
- (3) "Hazardous substance" or "hazardous substances" means any element or compound that, when it enters in or upon the water, presents an imminent and substantial danger to the public health or welfare or the environment, including but not limited to fish, animals, vegetation or any part of the natural habitat in which they are found. "Hazardous substance" includes but is not limited to a substance designated under 33 U.S.C. §1321 (b)(2)(A), any element, compound, mixture, solution or substance designated under 42 U.S.C. §9602, any hazardous waste having characteristics identified under or listed under 42 U.S.C. § 6921, any toxic pollutant listed under 33 U.S.C. §1317 (a) and any imminently hazardous chemical substance or mixture with respect to which the Administrator of the United States Environmental Protection Agency has taken action under 15 U.S.C. § 2606.
- (4) "Navigable waters" means the waters of the United States, including the territorial sea.
- (5) "Oil" means crude petroleum oil and any other hydrocarbons regardless of gravity, which are produced at the well in liquid form by ordinary production methods, and any petroleum products or petrochemicals of any kind and in any form whether crude, refined or a petroleum by-product, including petroleum, fuel oil, gasoline, lubricating oils, oily sludge, oily refuse or mixed with other wastes, liquefied natural gas or propane.
- (6) "Party" means a state or province that ratifies this compact as provided in Article III of this compact.
- (7) "Representative" means an individual appointed as provided in Article IV of this compact to represent a party to the compact.
- (8) "Vessel" means a watercraft or other artificial contrivance that is constructed or adapted to carry, or that carries oil or hazardous substance in bulk as cargo or cargo residue, and that:
 - (a) Operates on the navigable waters of the compact zone; or
 - (b) Transfers oil or hazardous substance in a place subject to the jurisdiction of the United States.

ARTICLE III
Operative Dates

(1) Except as provided in paragraph (2) of this Article, this compact shall become effective when two or more of the States of Alaska, California, Hawaii or Washington ratify the compact and the consent of Congress is or has been granted as required by section 10, Article I of the Constitution of the United States.

(2) This agreement shall become operative as to the Province of British Columbia as a full party upon request of the Province of British Columbia and approval of the Congress.

ARTICLE IV
Pacific Ocean Resources Compact

(1) The Pacific Ocean Resources Compact is created and shall have its offices within the territorial limits of one of the parties, shall carry out its duties and functions in accordance with this compact, shall continue in force and effect in accordance with this compact, and, except as specifically provided in this compact, shall not be considered an agency or instrumentality of the United States for the purpose of any federal law. Each party participating in this compact shall appoint two persons, subject to the applicable laws of the appointing party, to undertake the functions and duties of representatives of the compact. This compact shall be invested with the powers and duties set forth in this compact.

(2) The term of each representative shall be four years. A representative shall hold office until a successor is appointed and qualified but the successor's term shall expire four years from legal date of expiration of the term of the predecessor. Vacancies occurring in the office of a representative for any reason or cause shall be filled for the unexpired term by the party represented by the vacancy. Any party may remove the representative for that party in accordance with the statutes of the party concerned. Each representative may delegate to a deputy the power to be present and participate, including voting as the representative or substitute, at any meeting of or hearing by or other proceeding of the compact.

(3) The compact shall invite the Secretary of Transportation, the Administrator of the United States Environmental Protection Agency and the Administrator of the National Oceanic and Atmospheric Administration or their designees to participate as nonvoting members of the compact.

ARTICLE V
Pacific Ocean Resources Compact Authority

(1) The Pacific Ocean Resources Compact is authorized to:

(a) Facilitate the prevention of oil and hazardous substance spills by:

(A) Serving as a West Coast Spill Prevention Advisory Committee to the United States Coast Guard. As such, the compact shall advise the United States Coast Guard on matters pertaining to spill prevention within the compact zone and also shall advise the United States Coast Guard on other matters within the compact's authority as set forth in this compact.

(B) Participating as an interested person in any rulemaking proceeding by the United States Coast Guard related to the establishment of safety standards for routes, crews and equipment for vessels transporting oil and hazardous substances. The United States Coast Guard shall adopt the recommendations of the compact, unless the United States Coast Guard makes a finding, as part of the rulemaking process, that the adoption of such recommendations would not further the prevention of oil and hazardous substance spills.

(C) As an interested person, requesting the United States Coast Guard to initiate rulemaking for the establishment or amendment of safety standards for routes, crews and equipment for vessels transporting oil and hazardous substances. The United States Coast Guard shall initiate rulemaking

as requested by the compact, unless the United States Coast Guard makes a finding that the initiation of such rulemaking would not further the prevention of oil and hazardous substance spills.

(D) Making recommendations to other appropriate state, federal and regional entities regarding uniform safety standards for routes, crews and equipment for vessels transporting oil and hazardous substances in the compact zone.

(b) Insure a coordinated network of oil and hazardous substance spill response plans and programs of the parties, federal agencies and private organizations.

(c) By regulation, establish the requirements for submission of and approval by the compact of a contingency plan by any vessel transporting oil or hazardous substance in the compact zone. Such requirements shall be consistent with the requirements for response plans under section 4202 of the Oil Pollution Act of 1990 (P.L. 101-380). A plan developed in accordance with the regulations adopted by the compact and approved by the compact shall satisfy the requirements of section 4202 of the Oil Pollution Act and shall supersede any requirements of an individual party for submitting a vessel contingency or spill response plan. However, all plans approved by parties to this compact before the operative date of the compact shall remain in full force and effect until a contingency plan is approved by the compact pursuant to this paragraph. In establishing regulations under this paragraph, the compact shall work closely with officials of the parties to assure that the vessel contingency plans required under this compact include all subject areas included by the member parties, in the standards for vessel contingency plans of the parties, in aggregate, before the adoption of the compact.

(d) Establish and maintain an informational clearinghouse related to spill response, including a directory of personnel, equipment, technical expertise, organizations and other resources available to assist as part of a regional oil or hazardous substance spill response.

(e) Provide a forum for discussion and recommendation to resolve conflicts among member parties or the federal government regarding various ocean resources programs that have been or may be established by each party.

(f) Provide opportunities for public participation in compact activities by holding meetings of the compact in various locations within the territorial limits of the parties, providing opportunities for public comment at meetings and developing a public outreach program.

(g) Designate state or provincial agency officials to act on behalf of the compact as liaisons with federal agencies.

(h) Identify the regional data needs related to ocean resources and recommend a method for compiling the data in a format that can be shared by all parties.

(i) Consult with and advise any pertinent party or federal agency with regard to problems connected with ocean resources management and recommend the adoption of any rules or regulations the compact considers advisable that are within the jurisdiction of the agency.

(j) Establish sanctions and a schedule of civil penalties for violations of the rules or regulations of the compact and impose such sanctions or civil penalties in accordance with 5 U.S.C. §§551 to 559 and §§701 to 706.

(k) Request the United States Coast Guard to enforce or assist in the enforcement of any regulations adopted by the compact including but not limited to regulations related to the submission of a contingency plan or financial assurance requirements in the compact zone.

(L) Establish a schedule of reasonable fees to be assessed for the review of a contingency plan submitted under paragraph (c) of this subsection. The fees shall be sufficient to recover the costs of reviewing the plans and conducting any related inspections. The fees may be assessed in increments up to the maximum amount.

(2) In addition to the authority granted under paragraph (1) of this Article, the compact may:

(a) Accept grants and gifts.

(b) Enter into contracts for whose performance the compact shall be solely responsible in order to support its operations.

(c) Conduct and prepare, independently or in cooperation with others, studies, investigations, research and programs relating to the purposes of this compact.

(d) Conduct public hearings on matters pertaining to the purposes of this compact.

(e) Establish a standardized cost recovery formula for damages to other resources based on the amount of oil or hazardous substance spilled.

(f) Enter into an agreement with the United States Coast Guard under which the compact will administer compliance with the requirements for demonstrating financial responsibility under section 1016 of the Oil Pollution Act of 1990 in an amount established by the compact. Such proof of financial responsibility, if established by the compact, shall satisfy and supersede the requirement of any individual party for demonstrating financial responsibility. However, all financial responsibility requirements established by the parties to this compact before the compact establishes an amount under this paragraph shall remain in full force and effect until the compact establishes a requirement and enters into an agreement with the United States Coast Guard under this paragraph. In establishing the amount of financial responsibility under this paragraph, the compact shall work with officials of each party to assure that such requirements are sufficient to satisfy the requirements of the parties, in aggregate.

(g) In accordance with the provisions of 5 U.S.C. §§551 to 559 and §§701-706, enforce the rules and regulations adopted by the compact to carry out the authority of the compact as set forth in this Article.

(h) Appoint technical and advisory committees for the purpose of advising the compact on regional ocean resources issues, data needs and format and other purposes related to the compact's activities. A technical or advisory committee appointed by the compact shall not be subject to the provisions of the Federal Advisory Committee Act (P.L. 92-463, as amended).

(i) Allow a variance from the provisions of this compact or rules or regulations adopted by the compact pursuant to this Article. A variance shall be based on a showing by the person or entity seeking the variance that the activity allowed under the variance will have no regional impact and that the variance is economically necessary. Under no circumstances may a variance result in the regulation of the transportation of oil or hazardous substance according to standards less stringent than standards imposed under federal law.

(3) The compact shall adopt all regulations necessary to carry out its duties and exercise its authority under this Article. The compact shall adopt such regulations in accordance with the provisions of 5 U.S.C. §§500 to 559.

ARTICLE VI

Pacific Ocean Resources Compact Organization

The compact shall select a chairperson and a vice chairperson. After the initial chairperson and vice chairperson are selected, the compact shall establish a rotation for the selection of the chairperson and vice chairperson so the office rotates through the parties to the compact. The compact shall appoint and at its pleasure remove or discharge such officers and employees as may be required to carry the provisions of this compact into effect and shall fix and determine their duties, qualifications and compensation. The compact shall adopt rules and regulations for the conduct of its business. It may establish and maintain one or more offices for the transaction of its business and may meet at any time or place within the territorial limits of the signatory parties but must meet at least once a year.

ARTICLE VII

Voting and Quorum

(1) A majority of the representatives shall constitute a quorum.

(2) Each representative shall be entitled to one vote. No action or decision of the compact shall be approved unless the action or decision receives a majority of the votes of the representatives, including at least one affirmative vote from each party.

ARTICLE VIII
Support Agencies

The compact may contract for the staff support necessary to carry out the purposes of this compact or request appropriate agencies of the signatory parties to act as the research agencies of the compact.

ARTICLE IX
Parties' Powers Under Compact

Except as specifically provided in Article V of this compact, nothing in this compact shall be construed to limit the powers of any party or to repeal or prevent the enactment of any legislation or the enforcement of any requirement imposing additional conditions and restrictions to conserve ocean resources.

ARTICLE X
Absence

Continued absence of representation or of any compact representative from any party shall be brought to the attention of the appointing authority of the party not represented.

ARTICLE XI
Funding

- (1) Each party shall contribute to the support of the compact.
- (2) The annual contribution of each party shall be figured to the nearest \$100.
- (3) The compact shall prepare an annual budget which shall be approved by vote of the compact. After approval, the proposed budget shall be presented to the chief executive and legislative body of the signatory parties.
- (4) Each party shall be responsible for the expenses of its own representatives.

ARTICLE XII
Withdrawal from Compact

This compact shall continue in force and remain binding upon each party until renounced by it. Renunciation of this compact must be preceded by sending six months' notice in writing of intention to withdraw from the compact to the other parties to the compact.

SECTION 3. One member of the Senate appointed by the President of the Senate and one member of the House of Representatives appointed by the Speaker of the House of Representatives shall act as the representatives of the State of Oregon on the Pacific Ocean Resources Compact in accordance with the powers and duties set forth in the compact.

SECTION 4. (1) In addition to and not in lieu of any other appropriation, there is appropriated to the Emergency Board, for the biennium beginning July 1, 1991, out of the General Fund, the sum of \$25,000 which may be allocated by the Emergency Board only for the purpose of funding the costs of contributing to the support of the Pacific Ocean Resources Compact activities, once the compact becomes operational.

(2) If all of the moneys referred to in subsection (1) of this section are not allocated by the Emergency Board prior to December 1, 1992, such moneys on that date become available for any other purpose for which the Emergency Board lawfully may allocate funds.

SECTION 5. This Act being necessary for the immediate preservation of the public peace, health and safety, an emergency is declared to exist, and this Act takes effect July 1, 1991.

Passed by Senate June 15, 1991

Received by Governor:

Repassed by Senate June 28, 1991

.....M....., 1991

Approved:

.....M....., 1991

.....
Secretary of Senate

.....
President of Senate

.....
Governor

Filed by Office of Secretary of State:

Passed by House June 27, 1991

.....M....., 1991

.....
Speaker of House

.....
Secretary of State

The Pacific Ocean Resources Compact includes one clause which would seem to dictate to the State of Alaska how it may calculate damages for injuries to natural (and possibly other) resources of oil and hazardous substance spills. Article V (a) (12) (B) (5) says the compact may "establish a standardized cost recovery formula for damages to other resources based on the amount of oil or hazardous substance spilled". Although the use of "may" in the compact would seem to lessen the threat that a damage recovery approach inappropriate for Alaska could be forced on the state, in fact use of this approach for calculation of oil spill damages is likely to be forcefully promoted nationally through new natural resource damage assessment regulations currently being drafted by NOAA under authority of the Oil Pollution Act of 1990. The Department of Fish and Game is currently working to keep the NOAA regulations on damage assessment approaches as flexible as possible. It would seem an especially bad time for the state to approve language which could be interpreted to dictate a specific approach to damage assessment.

It should be noted that these comments do not attempt to address damage calculations for hazardous substance spills. Suffice it to say that the state is not as far along in planning for those types of spills as it is for oil spills. Therefore, some portion of the work described below for oil spills would have to be duplicated for hazardous substance spill damage calculations if the suggested Compact language was retained.

Although Alaska has had a compensation formula approach to oil spill civil penalties on the books for years, the more likely model for what the Compact is describing is a new Washington state compensation table. The formula used in this approach weights more heavily than does the Alaska model factors for environmental sensitivity of affected habitats, species and recreational opportunities. The key, therefore, to arriving at valid damage claims is the accuracy of the resource information which informs these "vulnerability scales". The critical question for Alaska is whether or not the state has or would be willing to develop good enough information on coastal resource sensitivity to oil spills so that it could arrive at scales which would not grossly underestimate the value lost in oil damage to resources.

To give a very rough estimate of the cost of developing coastal resource information to the necessary level, I have made the assumption that Alaska would follow the same pattern as the state of Washington to develop that information. To develop their base of information, Washington relied largely on coastal mapping done for them by the Resource Planning Institute (RPI). They supplemented this information with resource information from existing state and federal sources, doing original research only on toxicity of oils likely to be spilled in the state. This combination of information was then evaluated by technical advisory committees set up for each of several geographic "zones" in the state. These committees did the final scaling of seven factors on

"vulnerability score" scales of 1 - 5, i.e. vulnerability of an endangered species to oil could be only five times that of the least vulnerable species.

If Alaska were to replicate this approach, coastal environmental sensitivity mapping would first need to be completed for the state. RPI has also done this type of work in Alaska and Environmental Sensitivity Indexes (ESE's) have been prepared for much of the state coastline. However, according to Department of Environmental Conservation sources, still uncovered by this approach are coastal areas from Kotzebue Sound through Chukchi and Beaufort Seas, some of Southeast Alaska (money appropriated for this work in 1991 was not used and was turned back to the Legislature), and possibly portions of the Gulf of Alaska and the Aleutians Islands. This is an area many times larger than the whole coastline of the state of Washington. Current supplementary data on resource presence or resource vulnerability to oil does not exist for much of the coastline - either that area already covered by ESE's or the area not yet indexed. The cost for this necessary baseline research is very hard to predict, but it would be significant. Oil toxicity research beyond that done in Washington may also be necessary. In addition, the Washington experience suggests that staffing of two or three professional level staff would be necessary for at least two years. Regional technical advisory committees to review this information and accomplish vulnerability scoring could be largely volunteer, but would require substantial support and transportation costs.

Beyond the question of cost of this approach for Alaska is the much more serious question of whether such an approach, without considerable additional data collection, would be adequate to recover fair damage claims. Even where ESE mapping exists it is a fairly crude aerial estimate of ground and habitat types through four seasons accompanied by some ground truthing. Habitat and living resource information to supplement the indexes have been based on existing data from sources such as US Fish and Wildlife and Alaska Department of Fish and Game. Because of the Exxon Valdez spill, the quality of previously existing data has been significantly upgraded by damage assessment work in parts of the oil affected areas. But the results of the EVOS damage assessment experience have also made it even more questionable to assert that the typical ESE level of information would be detailed enough to predict resource injury, especially injury to endangered and/or migratory species, for any spill.

The value of using this approach for small spills where damage claims are likely to be small is clear. But for medium or large spills, the Catch 22 in this situation is that, according to the Washington regulations, the compensation table must be used if damages are likely to be "unquantifiable at reasonable cost", with reasonable cost defined as the case in which studies would cost less than a likely settlement would gain. Thus, if good pre-spill information is lacking, field studies would need to be extensive

and would likely to cost more than a settlement. Therefore, a compensation table would be used. But if good pre-spill information is lacking, any compensation table is likely to be inadequate as well!

In short, at this point in time the risk to Alaska of allowing itself to be tied into a compensation formula would seem great and should be avoided.



Senate Majority Office, S-223 State Capitol, Salem, Oregon 97310

FAX COVERSHEET

Fax # (503) 378-6604 • Phone # 378-8700

DATE: APRIL 18, 91 TIME: 11:40

TO: GINNY FAY
NAME

SENATOR SAM COTTEN
AGENCY

907 / 465-4979
FAX #

FROM: MARA BROWN

TOTAL # OF PAGES INCLUDING FAX COVER SHEET: 9

COMMENTS: I HOPE THIS IS USEFUL FOR
YOUR REVIEW OF THE AMENDMENTS. THEY
WERE ADOPTED BY THE SENATE AGRICULTURE
AND NATURAL RESOURCES COMMITTEE ON WED
AND PASSED TO WAYS AND MEANS.

I'M LOOKING FORWARD TO YOUR COMMENTS!

MARA BROWN

MEMO

DATE: March 15, 1990

RE: Pacific Ocean Resources Compact

TO: Ms. Fay **FAY 465-4979**

FROM: Harry R. Bader **#**

Introduction

The recent amendments proposed in the state of Oregon go a long way in resolving most of the vexing problems associated with the compact and the objections voiced by British Petroleum, ARCO, and the Western States Petroleum Association. However, the concerns I have raised in negotiations concerning an explicit exemption for small operators, as well as the voting formula are still pertinent and I strongly recommend amendment to be sponsored by the state of Alaska.

Summary Review of Compact

The concerns of Senator Jones about the authority of the compact to involve itself in resources allocation and management are unfounded based upon the statement in page 1, lines 20, 31, and 32 and page 2, lines 1, 2, and 3. However, if there is the belief that this is not enough, the legislature may consider an amendment explicitly stating that this compact will have no authority to

proffer regulations addressing resource allocation and management as it may relate to use and consumption (i.e. fish, ice, water, sea mammals, kelp, salt, ocean floor mining & dredging). Line 19 on page 2 does not refer to the compacting states, but rather to all coastal states in general.

Amendments to article I, B. should dispel fears by those concerned with state sovereignty.

Page 3 lines 19 and 20 under Article I, (e) (13) eliminates the need to amend the compact, as discussed in the hearing, about traffic routes and lanes. The Oregon change does not eviscerate the compact because of the procedural forcing mechanism contained in Article V(1) (a)A on page 5, lines 1-34 formalize influence under the APA section 553(e). This provision will be discussed below.

The definition of the compact zone (page 3 lines 31 and 32) need further clarification to explicitly include or exclude the state's territorial sea. What is the "border" referred to? Is it the land or territorial sea within state jurisdiction?

I still strongly urge an amendment to the definition of vessel (page 4 lines 8 and 9) to make clear an exemption for small vessel operators consistent with the 1990 Oil Pollution Control Act. This is essential if we are to succeed in providing both environmental protection and economic stability for remote coastal villages.

The amendments on page 5 concerning the Coast Guard dispels completely all objections on this issue brought up by the Coast Guard at the hearing as well as by the memo from BP. This provision brings the compact into greater conformity with substantive compacts such as the Northwest Power Planning Council. These provisions mirror the APA, and are therefore nothing new in terms of substantive law. However, it is an advance in terms of the states participation in the regulatory process for marine protection.

This provision, like the APA sections 553(e) and 555(b) provides a direct route, narrowly tailored and focused, into agency decision-making and rules promulgation, without unnecessarily treading upon the agency's formal mandates. Thus, once a recommendation is received from the compact, the effected agency must: (1) consider it within a reasonably prompt matter of time, (2) provide notice of consideration, (3) ~~a~~ give a reasoned justification, in a formal written statement, for its decision. The invocation of this systematic approach then provides the basis for subsequent judicial review under the arbitrary and capricious standard.

Finally, I strongly recommend changes in the voting and representational system. First, I would return to the pre-Kona agreement in which each state is given two votes. Secondly, I would re-instill the requirement that any action taken by the compact commission must include at least one vote from each state in the majority. This provision recognizes that state interests

are not always homogenous and increases the representational spectrum, reducing the potential for special interest capture of an entire delegation.

In general, the compact's provisions can be summarized as providing a floor for regulation rather than supplanting state sovereignty.

In addition, I would clarify the term "comprehensive" on line 37 of page 5 (Article V (C) (c) to reflect the idea of scope of regulation rather than stringency. Thus, the area of jurisdiction covered in a contingency plan would be no less than the maximum now contemplated by the most rigorous state prior to compacting. However, this ought not be confused with the level of regulation or standards within a particular subject area. Comprehensive should infer the definition of breadth of regulation, not the intensity of regulation.

My personal opinion is that the BP position paper was very helpful and made some cogent observations and valuable suggestions. The amendments contemplated by Oregon and suggested by me should go far in dispelling their deepest concerns. I am gratified that they did not reject the idea outright. Also, the modifications reflecting the pre-existent provisions of APA should dispel the objections voiced by the Coast Guard.

1991 Regular Legislative Session
FISCAL ANALYSIS OF PROPOSED LEGISLATION
Prepared by the Legislative Fiscal Office

MEASURE NUMBER: SB 500
STATUS: C-Engrossed
SUBJECT: Ratifies Pacific Ocean Resources Compact.
GOVERNMENT UNIT AFFECTED: Department of Land Conservation and
Development, Legislative Assembly
PREPARED BY: Ken Rocco
REVIEWED BY: Ann Glaze, John Lattimer
DATE: 6/26/91

1991-93

1993-95

EFFECT ON EXPENDITURES:

Emergency Board General Fund \$ 25,000

Legislative Assembly Indeterminate

GOVERNOR'S BUDGET: Measure is not included in Governor's budget.

COMMENTS:

The measure, as amended, provides ratification of the Pacific Ocean Resources Compact by the Legislative Assembly. The compact is designed to coordinate protection of marine and coastal resources by the States of Alaska, California, Hawaii, Oregon, and Washington. The amended measure provides for a General Fund appropriation to the Emergency Board of \$25,000 to carry out the provisions of the Pacific Ocean Resources Compact. The appropriation reflects the amount anticipated for the initial costs of maintaining involvement with the compact while the ratification process occurs in other states.

Each ratifying state is to appoint two persons to act as representatives to the compact. As amended, one member of the Senate and one member of the House are to be appointed to represent Oregon. The fiscal impact on the Legislative Assembly depends on several unknowns such as the date of ratification and the number and location of meetings. Funds are allocated to the Legislative Assembly for committees and membership on organizations. The ability of this activity to be funded from these resources depends on the total amount budgeted and on the priorities set by the leadership in allocating the available funds.

Expenditures could increase in subsequent biennia depending on the number of states that ratify the compact and the scope of the compact's activity. Preliminary estimates of the Department of Land Conservation and Development's Ocean Resources Program indicate that a staff of at least three professional level positions would be required for full implementation. Total

Page 1 of 2

compact expenditures for personal services, travel and office expenses, administrative costs, and capital outlay expenditures could range between \$500,000 and \$750,000 per biennium. Assuming all five states ratify the compact and share expenses on some pro rata basis, Oregon's share could range between \$100,000 and \$150,000 per biennium.

State agencies with responsibilities for marine and coastal resources could encounter additional work due to the compact, but the increase is expected to be minimal.

LEGISLATIVE REVENUE OFFICE

REVENUE IMPACT ANALYSIS

BILL # SB500C

DATE 6-26-91

THE LEGISLATIVE REVENUE OFFICE HAS DETERMINED
THIS LEGISLATION HAS NO IMPACT ON STATE OR LOCAL
REVENUES ANALYZED BY THIS OFFICE

2050

SB 500-10
(LC 20)
4/15/91 (JH/se)

**PROPOSED AMENDMENTS TO
SENATE BILL 500**

1 On page 2 of the printed bill, line 3, after "activities" insert "or to grant
2 to the Pacific Ocean Resources Compact authority to regulate resource al-
3 location or management as it may pertain to the use and consumption of
4 marine resources".

5 In line 8, after the semicolon delete "and".

6 In line 9, delete the period and insert "; and"

7 "(e) Ocean resource management."

8 In line 24, after "spills" delete the rest of the line and insert "could be
9 improved in the following ways to provide better protection of ocean re-
10 sources:

11 "(a) Enhanced personnel training and qualifications;

12 "(b) Improved vessel design and integrity;

13 "(c) Better mechanisms for cost recovery by the states or the province;

14 "(d) Improved coordination in regulatory oversight;

15 "(e) Enhanced traffic management; and

16 "(f) An improved information base dealing with marine and coastal envi-
17 ronments."

18 Delete lines 25 through 31.

19 In line 35 delete "providing" and insert "encouraging".

20 In line 38, delete "that the parties cannot now individually regulate".

21 In line 39, delete "sovereignty over" and insert "coordination of".

22 In line 40, delete "direct" and insert "work with" and delete "act in" and
23 insert "advance".

24 In line 43, delete "enhance the oversight and supervision of" and insert

1 "monitor".

2 On page 3, line 5, delete "and".

3 In line 6, delete the period and insert "; and

4 "(e) Ocean resource management."

5 In line 18, delete "establish" and insert "recommend".

6 In line 19, delete "to provide oversight for" and insert "monitor".

7 On page 4, line 28, delete "three" and insert "two".

8 On page 5, line 1, after "spills" delete the rest of the line and insert "by:

9 "(A) Serving as a West Coast Spill Prevention Advisory Committee to the
10 United States Coast Guard. As such, the compact shall advise the United
11 States Coast Guard on matters pertaining to spill prevention within the
12 compact zone and also shall advise the United States Coast Guard on other
13 matters within the compact's authority as set forth in this compact.

14 "(B) Participating as an interested person in any rulemaking proceeding
15 by the United States Coast Guard related to the establishment of safety
16 standards for routes, crews and equipment for vessels transporting oil and
17 hazardous substances. The United States Coast Guard shall adopt the rec-
18 ommendations of the compact, unless the United States Coast Guard makes
19 a finding, as part of the rulemaking process, that the adoption of such rec-
20 ommendation would not prevent oil and hazardous substance spills.

21 "(C) As an interested person, requesting the United States Coast Guard
22 to initiate rulemaking for the establishment or amendment of safety stan-
23 dards for routes, crews and equipment for vessels transporting oil and haz-
24 ardous substances. The United States Coast Guard shall initiate rulemaking
25 as requested by the compact, unless the United States Coast Guard makes a
26 finding that the initiation of such rulemaking would not further the pre-
27 vention of oil and hazardous substance spills.

28 "(D) Making recommendations to other appropriate state, federal and re-
29 gional entities regarding".

30 Delete line 3 and insert "substances in the".

1 In line 9, delete "at least as stringent as" and insert "consistent with"
2 and delete "spill".

3 In line 12, after "and" insert "shall supersede".

4 In line 13, after the period insert "However, all plans approved by parties
5 to this compact before the operative date of the compact shall remain in full
6 force and effect until a contingency plan is approved by the compact pursu-
7 ant to this paragraph."

8 In line 15, after "compact" delete the rest of the line and insert "include
9 all subject areas included by the member parties, in the standards for vessel
10 contingency plans of the parties, in aggregate, before the adoption of the
11 compact."

12 Delete lines 16 and 17.

13 In line 38, after "compact" delete the rest of the line and insert "including
14 but not limited to regulations related to the submission of a contingency
15 plan or financial assurance requirements".

16 In line 39, delete "stance spills".

17 After line 39, insert:

18 "(L) Establish a schedule of reasonable fees to be assessed for the review
19 of a contingency plan submitted under paragraph (c) of this subsection. The
20 fees shall be sufficient to recover the costs of reviewing the plans and con-
21 ducting any related inspections. The fees may be assessed in increments up
22 to the maximum amount."

23 On page 6, delete line 3 and insert:

24 "(e) Establish a standardized cost recovery formula for damages to other
25 resources based on the amount of oil or hazardous substance spilled.

26 "(f) Enter into an agreement with the United States Coast Guard under
27 which the compact will administer compliance with the requirements for
28 demonstrating financial responsibility under section 1016 of the Oil Pollution
29 Act of 1990 in an amount established by the compact. Such proof of financial
30 responsibility, if established by the compact, shall satisfy and supersede the

1 requirement of any individual party for demonstrating financial responsibil-
2 ity. However, all financial responsibility requirements established by the
3 parties to this compact before the compact establishes an amount under this
4 paragraph shall remain in full force and effect until the compact establishes
5 a requirement and enters into an agreement with the United States Coast
6 Guard under this paragraph. In establishing the amount of financial respon-
7 sibility under this paragraph, the compact shall work with officials of each
8 party to assure that such requirements are sufficient to satisfy the require-
9 ments of the parties, in aggregate."

10 In line 4, delete "(f)" and insert "(g)".

11 In line 7, delete "(g)" and insert "(h)".

12 In line 11, delete "(h)" and insert "(i)".

13 In line 34, delete "party" and insert "representative".

14 In line 35, delete "parties" and insert "representatives, including at least
15 one affirmative vote from each party"

16 On page 7, line 9, after "compact" delete the rest of the line and insert
17 a period.

18 Delete lines 10 through 12.

19 In line 25, delete the blank and insert "25,000".

20

PROPOSED AMENDMENTS TO

Senate Bill 500

Sponsored by Senator BRADBURY; Senators BRENNEMAN, COHEN, GOLD, KATZMAYER, SPRINGER, Representatives JOSI, RIJKEN, SCHROEDER, WHITTY

SUMMARY

The following summary is not prepared by the sponsors of the measure and is not a part of the body thereof subject to consideration by the Legislative Assembly. It is an editor's brief statement of the essential features of the measure as introduced.

Ratifies Pacific Ocean Resources Compact. Appropriates money.

A BILL FOR AN ACT

Relating to Pacific Ocean Resources Compact; and appropriating money.

Be It Enacted by the People of the State of Oregon:

SECTION 1. (1) The Legislative Assembly of the State of Oregon hereby ratifies the Pacific Ocean Resources Compact as set forth in section 2 of this Act. This compact shall take effect after one or more of the States of Alaska, California, Hawaii or Washington ratify the compact and consent is granted by Congress as required by section 10, Article I of the Constitution of the United States.

(2) In addition to the States of Alaska, California, Hawaii and Washington, the Province of British Columbia may become an associate party to the compact, without voting power. Upon request of the Province of British Columbia and approval of Congress, the Province of British Columbia may become a full party to this compact with the same rights and powers as the party states.

SECTION 2. The provisions of the Pacific Ocean Resources Compact are as follows:

ARTICLE I**Findings and Purpose**

A. The parties recognize:

(1) The States of Alaska, California, Hawaii, Oregon and Washington and the Province of British Columbia have a common interest in the protection of marine and coastal resources. This common interest results from:

(a) The fluid, dynamic ocean currents and atmospheric winds that carry pollutants beyond one party's coastal area to another.

(b) The migratory nature of many important living marine resources that depend upon the marine habitat of various parties for different parts of their lifecycle.

(c) The economic reliance of each party upon renewable resources of the ocean.

(d) The use of the ocean for transport of oil and other hazardous substances between ports in the various parties and other nations.

(e) A regional interest in providing a stable environment for those communities dependent upon ocean resources and ocean trade for a livelihood.

(2) Some marine resource activities, such as fisheries, are currently highly managed with regard for their regional or transboundary nature through existing state programs, regional fisheries

NOTE: Matter in bold face in an amended section is new; matter (italic and bracketed) is existing law to be omitted.

1 is not intended to encompass these activities or to grant

2 to the Pacific Ocean Resources Compact authority to regulate resource al-
3 location or management as it may pertain to the use and consumption of
4 marine resources".

5 (3) A formal interstate agreement does not exist to address and resolve issues of mutual concern
6 or to coordinate individual programs of the parties that affect regional interests in the areas of:

- 7 (a) Prevention of oil and hazardous substance spills;
- 8 (b) Transportation of oil and other hazardous substances;
- 9 (c) Oil and hazardous substance spill response planning;
- 10 (d) Environmental monitoring and research ; and".
- 11 (e) Ocean resource management."

12 (4) Each party has jurisdiction over the submerged and submersible lands within its territorial
13 sea and responsibility for management of many marine resources and ocean uses. Each party has
14 unique natural resource, social, economic and political conditions for which local management by
15 the individual party is the most appropriate.

16 (5) Parties now do not have an effective means to address mutual concerns related to transport
17 of oil and hazardous substances in waters within and beyond the party's jurisdiction that may
18 jeopardize ocean resources and uses important to one or more coastal parties.

19 (6) The 1983 Presidential Proclamation of the 200-mile United States Exclusive Economic Zone
20 has created the opportunity for all coastal states to more fully exercise and assert their responsi-
21 bilities pertaining to the protection, conservation and development of ocean resources under United
22 States jurisdiction.

23 (7) Citizens of the Pacific states and the Province of British Columbia are increasingly con-
24 cerned with the environmental integrity of the ocean and protection of all ocean resources.

25 (8) Recent studies conducted in the wake of major accidental releases of oil or hazardous sub-
26 stances have concluded that the existing system of response to spills could be
27 improved in the following ways to provide better protection of ocean re-
28 sources:

- 29 (a) Enhanced personnel training and qualifications;
- 30 (b) Improved vessel design and integrity;
- 31 (c) Better mechanisms for cost recovery by the states or the province;
- 32 (d) Improved coordination in regulatory oversight;
- 33 (e) Enhanced traffic management; and
- 34 (f) An improved information base dealing with marine and coastal

35 environments.

36 (9) A spill or discharge of oil or hazardous substance from an ocean-going vessel has the po-
37 tential of causing major regional impacts.

38 B. Therefore, the purposes of this compact shall be:

39 (1) To assist in the promotion of interstate commerce by encouraging uniform regulation of the
40 transportation of oil or hazardous substance within the compact zone.

41 (2) To provide a legal mechanism to regulate certain ocean activities within the United States
42 Exclusive Economic Zone.

43 (3) To enhance regional coordination of issues of critical importance.

44 (4) To work with federal agencies to advance the best interest of the region.

(5) To foster regional cooperation and pooling of resources to reduce costs and increase effective
use of scarce resources.

(6) To monitor activities of concern to the parties.

(7) To address issues of mutual concern to the Pacific states and the Province of British

1 Columbia and enhance the parties' influence over activities of concern that are not now addressed
2 through existing compacts, including:

- 3 (a) Spill prevention;
- 4 (b) Transportation of oil and other hazardous substances;
- 5 (c) Spill response planning;
- 6 (d) Environmental monitoring and research; and
- 7 (e) Ocean resource management.

8 (8) To foster cooperation and coordination among the parties in order to increase the effective-
9 ness of the individual party's ocean laws and programs.

10 (9) To provide technical assistance to parties for ocean activities covered by this compact.

11 (10) To provide for formal participation by the Province of British Columbia with the compact
12 to more fully address issues of regional concern.

13 (11) To insure that the citizens of the region have opportunities to participate in discussions and
14 deliberations of regional ocean resources issues.

15 (12) To establish an innovative system under which the parties can represent their shared in-
16 terests within the compact zone, including:

- 17 (a) The maintenance and protection of common ocean resources; and
- 18 (b) The vessel transportation of oil and other hazardous substances.

19 (13) To recommend uniform safety standards for routes, crews and equipment for vessels trans-
20 porting oil and hazardous substances within the compact zone and to monitor the im-
21 plementation of these standards and regulations by federal agencies, states or provinces and private
22 industry.

23 (14) To promote more coordinated management of ocean resources that are of mutual concern.

24 (15) To provide a forum for the regional coordination of the individual parties' plans for the
25 management and protection of those areas of the Pacific Ocean and adjacent waters over which the
26 compacting parties jointly or separately now have or may acquire jurisdiction.

27 ARTICLE II

28 Definitions

29 As used in this compact:

30 (1) "Compact" means the representative body created by Article IV of this compact.

31 (2) "Compact zone" means the portion of the oceans bordering the parties within the 200-mile
32 exclusive economic zone.

33 (3) "Hazardous substance" or "hazardous substances" means any element or compound that,
34 when it enters in or upon the water, presents an imminent and substantial danger to the public
35 health or welfare or the environment, including but not limited to fish, animals, vegetation or any
36 part of the natural habitat in which they are found. "Hazardous substance" includes but is not lim-
37 ited to a substance designated under 33 U.S.C. §1321 (b)(2)(A), any element, compound, mixture,
38 solution or substance designated under 42 U.S.C. §9602, any hazardous waste having characteristics
39 identified under or listed under 42 U.S.C. § 6921, any toxic pollutant listed under 33 U.S.C. §1317
40 (a) and any imminently hazardous chemical substance or mixture with respect to which the Admin-
41 istrators of the United States Environmental Protection Agency has taken action under 15 U.S.C. §
42 2606.

43 (4) "Navigable waters" means the waters of the United States, including the territorial sea.

44 (5) "Oil" means crude petroleum oil and any other hydrocarbons regardless of gravity, which
are produced at the well in liquid form by ordinary production methods, and any petroleum products

1 or petrochemicals of any kind, and in any form whether crude, refined or a petroleum by-product,
 2 including petroleum, fuel oil, gasoline, lubricating oils, oily sludge, oily refuse or mixed with other
 3 wastes, liquefied natural gas or propane.

4 (6) "Party" means a state or province that ratifies this compact as provided in Article III of this
 5 compact.

6 (7) "Representative" means an individual appointed as provided in Article IV of this compact to
 7 represent a party to the compact.

8 (8) "Vessel" means a watercraft or other artificial contrivance that is constructed or adapted
 9 to carry, or that carries oil or hazardous substance in bulk as cargo or cargo residue, and that:

10 (a) Operates on the navigable waters of the compact zone; or

11 (b) Transfers oil or hazardous substance in a place subject to the jurisdiction of the United
 12 States.

13 ARTICLE III

14 Operative Dates

15 (1) Except as provided in paragraph (2) of this Article, this compact shall become effective when
 16 one or more of the States of Alaska, California, Hawaii or Washington ratify the compact and the
 17 consent of Congress is or has been granted as required by section 10, Article I of the Constitution
 18 of the United States.

19 (2) This agreement shall become operative as to the Province of British Columbia as a full party
 20 upon request of the Province of British Columbia and approval of the Congress.

21 ARTICLE IV

22 Pacific Ocean Resources Compact

23 (1) The Pacific Ocean Resources Compact is created and shall have its offices within the terri-
 24 torial limits of one of the parties, shall carry out its duties and functions in accordance with this
 25 compact, shall continue in force and effect in accordance with this compact, and, except as specif-
 26 ically provided in this compact, shall not be considered an agency or instrumentality of the United
 27 States for the purpose of any federal law. Each party participating in this compact shall appoint
 28 two persons, subject to the applicable laws of the appointing party, to undertake the functions and
 29 duties of representatives of the compact. This compact shall be invested with the powers and duties
 30 set forth in this compact.

31 (2) The term of each representative shall be four years. A representative shall hold office until
 32 a successor is appointed and qualified but the successor's term shall expire four years from legal
 33 date of expiration of the term of the predecessor. Vacancies occurring in the office of a represen-
 34 tative for any reason or cause shall be filled for the unexpired term by the party represented by the
 35 vacancy. Any party may remove the representative for that party in accordance with the statutes
 36 of the party concerned. Each representative may delegate to a deputy the power to be present and
 37 participate, including voting as the representative or substitute, at any meeting of or hearing by or
 38 other proceeding of the compact.

39 (3) The compact shall invite the Secretary of Transportation, the Administrator of the United
 40 States Environmental Protection Agency and the Administrator of the National Oceanic and Atmo-
 41 spheric Administration or their designees to participate as nonvoting members of the compact.

42 ARTICLE V

43 Pacific Ocean Resources Compact Authority

44 (1) The Pacific Ocean Resources Compact is authorized to:

1 (e) Provide a forum for discussion and recommendation to resolve conflicts among member parties or the federal government regarding various ocean resources programs that have been or may be established by each party.

2
3
4 (f) Provide opportunities for public participation in compact activities by holding meetings of the compact in various locations within the territorial limits of the parties, providing opportunities for public comment at meetings and developing a public outreach program.

5
6
7 (g) Designate state or provincial agency officials to act on behalf of the compact as liaisons with federal agencies.

8
9 (h) Identify the regional data needs related to ocean resources and recommend a method for compiling the data in a format that can be shared by all parties.

10
11 (i) Consult with and advise any pertinent party or federal agency with regard to problems connected with ocean resources management and recommend the adoption of any rules or regulations the compact considers advisable that are within the jurisdiction of the agency.

12
13 (j) Establish sanctions and a schedule of civil penalties for violations of the rules or regulations of the compact and impose such sanctions or civil penalties in accordance with 5 U.S.C. §§551 to 559 and §§701 to 706.

14
15
16 (k) Request the United States Coast Guard to enforce or assist in the enforcement of any regulations adopted by the compact including but not limited to regulations related to the submission of a contingency plan or financial assurance requirements in the compact zone.

17
18 (L) Establish a schedule of reasonable fees to be assessed for the review of a contingency plan submitted under paragraph (c) of this subsection. The fees shall be sufficient to recover the costs of reviewing the plans and conducting any related inspections. The fees may be assessed in increments up to the maximum amount."

19
20 (2) In addition to the authority granted under paragraph (1) of this Article, the compact may:

21 (a) Accept grants and gifts.

22 (b) Enter into contracts for whose performance the compact shall be solely responsible in order to support its operations.

23 (c) Conduct and prepare, independently or in cooperation with others, studies, investigations, research and programs relating to the purposes of this compact.

24 (d) Conduct public hearings on matters pertaining to the purposes of this compact.

25
26 (e) Establish a standardized cost recovery formula for damages to other resources based on the amount of oil or hazardous substance spilled.

27
28 (f) Enter into an agreement with the United States Coast Guard under which the compact will administer compliance with the requirements for demonstrating financial responsibility under section 1016 of the Oil Pollution Act of 1990 in an amount established by the compact. Such proof of financial responsibility, if established by the compact, shall satisfy and supersede the

1 requirement of any individual party for demonstrating financial responsibil-
2 ity. However, all financial responsibility requirements established by the
3 parties to this compact before the compact establishes an amount under this
4 paragraph shall remain in full force and effect until the compact establishes
5 a requirement and enters into an agreement with the United States Coast
6 Guard under this paragraph. In establishing the amount of financial respon-
7 sibility under this paragraph, the compact shall work with officials of each
8 party to assure that such requirements are sufficient to satisfy the require-
9 ments of the parties, in aggregate."

10 (g) In accordance with the provisions of 5 U.S.C. §§551 to 559 and §§701-706, enforce the rules
11 and regulations adopted by the compact to carry out the authority of the compact as set forth in
12 this Article.

13 (h) Appoint technical and advisory committees for the purpose of advising the compact on re-
14 gional ocean resources issues, data needs and format and other purposes related to the compact's
15 activities. A technical or advisory committee appointed by the compact shall not be subject to the
16 provisions of the Federal Advisory Committee Act (P.L. 92-463, as amended).

17 (i) Allow a variance from the provisions of this compact or rules or regulations adopted by the
18 compact pursuant to this Article. A variance shall be based on a showing by the person or entity
19 seeking the variance that the activity allowed under the variance will have no regional impact and
20 that the variance is economically necessary. Under no circumstances may a variance result in the
21 regulation of the transportation of oil or hazardous substance according to standards less stringent
22 than standards imposed under federal law.

23 (3) The compact shall adopt all regulations necessary to carry out its duties and exercise its
24 authority under this Article. The compact shall adopt such regulations in accordance with the pro-
25 visions of 5 U.S.C. §§500 to 559.

26 ARTICLE VI

27 Pacific Ocean Resources Compact Organization

28 The compact shall select a chairperson and a vice chairperson. After the initial chairperson and
29 vice chairperson are selected, the compact shall establish a rotation for the selection of the chair-
30 person and vice chairperson so the office rotates through the parties to the compact. The compact
shall appoint and at its pleasure remove or discharge such officers and employees as may be re-
quired to carry the provisions of this compact into effect and shall fix and determine their duties,
qualifications and compensation. The compact shall adopt rules and regulations for the conduct of
its business. It may establish and maintain one or more offices for the transaction of its business
and may meet at any time or place within the territorial limits of the signatory parties but must
meet at least once a year.

ARTICLE VII
Voting and Quorum

(1) A majority of the representatives shall constitute a quorum.

(2) Each representative shall be entitled to one vote. No action or decision of the compact shall be approved unless the action or decision receives a majority of the votes of the representatives, including at least one affirmative vote from each party

ARTICLE VIII
Support Agencies

The compact may contract for the staff support necessary to carry out the purposes of this compact or request appropriate agencies of the signatory parties to act as the research agencies of the compact.

ARTICLE IX
Parties' Powers Under Compact

Except as specifically provided in Article V of this compact, nothing in this compact shall be construed to limit the powers of any party or to repeal or prevent the enactment of any legislation or the enforcement of any requirement imposing additional conditions and restrictions to conserve ocean resources.

ARTICLE X
Absence

Continued absence of representation or of any compact representative from any party shall be brought to the attention of the appointing authority of the party not represented.

ARTICLE XI
Funding

(1) Each party shall contribute to the support of the compact

(2) The annual contribution of each party shall be figured to the nearest \$100.

(3) The compact shall prepare an annual budget which shall be approved by vote of the compact. After approval, the proposed budget shall be presented to the chief executive and legislative body of the signatory parties.

(4) Each party shall be responsible for the expenses of its own representatives.

ARTICLE XII
Withdrawal from Compact

This compact shall continue in force and remain binding upon each party until renounced by it. Renunciation of this compact must be preceded by sending six months' notice in writing of intention to withdraw from the compact to the other parties to the compact.

SECTION 3. There is appropriated to the Pacific Ocean Resources Compact, for the biennium beginning July 1, 1991, out of the General Fund, the sum of \$ 25,000 for the purpose of carrying out the provisions of the Pacific Ocean Resources Compact.

DRAFTSB 500-7
(LC 20)
3/13/91 (JH/dv/rc)**PROPOSED AMENDMENTS TO
SENATE BILL 500**

1 On page 2 of the printed bill, line 8, after the semicolon delete "and".

2 In line 9, delete the period and insert "; and"

3 "(e) Ocean resource management."

4 In line 24, after "spills" delete the rest of the line and insert "could be
5 improved in the following ways to provide better protection of ocean re-
6 sources:

7 "(a) Enhanced personnel training and qualifications;

8 "(b) Improved vessel design and integrity;

9 "(c) Better mechanisms for cost recovery by the states or the province;

10 "(d) Improved coordination in regulatory oversight;

11 "(e) Enhanced traffic management; and

12 "(f) An improved information base dealing with marine and coastal envi-
13 ronments."

14 Delete lines 25 through 31.

15 In line 35 delete "providing" and insert "encouraging".

16 In line 38, delete "that the parties cannot now individually regulate".

17 In line 39, delete "sovereignty over" and insert "coordination of".

18 In line 40, delete "direct" and insert "work with" and delete "act in" and
19 insert "advance".

20 In line 43, delete "enhance the oversight and supervision of" and insert
21 "monitor".

22 On page 3, line 5, delete "and".

23 In line 6, delete the period and insert "; and"

24 "(e) Ocean resource management."

1 In line 18, delete "establish" and insert "recommend".

2 In line 19, delete "to provide oversight for" and insert "monitor".

3 On page 5, line 1, after "spills" delete the rest of the line and insert "by:

4 "(A) Participating as an interested person in any rulemaking proceeding
5 by the United States Coast Guard related to the establishment of safety
6 standards for routes, crews and equipment for vessels transporting oil and
7 hazardous substances. If the United States Coast Guard does not adopt the
8 recommendations of the compact, the United States Coast Guard shall ex-
9 plain in writing, as part of the rulemaking process, the basis for its finding
10 that the adoption of such recommendation would be inconsistent with the
11 prevention of oil and hazardous substance spills.

12 "(B) As an interested person, requesting the United States Coast Guard
13 to initiate rulemaking for the establishment or amendment of safety stan-
14 dards for routes, crews and equipment for vessels transporting oil and haz-
15 ardous substances. If the United States Coast Guard does not initiate
16 rulemaking as requested by the compact, the United States Coast Guard shall
17 explain in writing the basis for its finding that the initiation of such
18 rulemaking would be inconsistent with the prevention of oil and hazardous
19 substance spills.

20 "(C) Making recommendations to other appropriate state, federal and re-
21 gional entities regarding".

22 Delete line 3 and insert "substances in the".

23 In line 9, delete "at least as stringent as" and insert "consistent with"
24 and delete "spill".

25 In line 12, after "and" insert "shall supersede".

26 In line 15, after "parties" insert "before adoption of this compact".

27 In line 38, after "compact" delete the rest of the line and insert "including
28 but not limited to regulations related to the submission of a contingency
29 plan or financial assurance requirements".

30 In line 39, delete "stance spills".

1 After line 39, insert:

2 "(L) Establish a schedule of reasonable fees to be assessed for the review
3 of a contingency plan submitted under paragraph (c) of this subsection. The
4 fees shall be sufficient to recover the costs of reviewing the plans and con-
5 ducting any related inspections. The fees may be assessed in increments up
6 to the maximum amount."

7 On page 6, delete line 3 and insert:

8 "(e) Establish a standardized cost recovery formula for damages to other
9 resources based on the amount of oil spilled.

10 "(f) Establish a uniform level of proof of financial responsibility to be
11 provided to each party to the compact."

12 In line 4, delete "(f)" and insert "(g)".

13 In line 7, delete "(g)" and insert "(h)".

14 In line 11, delete "(h)" and insert "(i)".

15

DRAFT

PROPOSED AMENDMENTS TO

Senate Bill 500

Sponsored by Senator BRADBURY; Senators BRENNEMAN, COHEN, GOLD, KITZILBER, SPRINGER, Representatives JOSL, RIJKE, SCHROEDER, WHITTY

SUMMARY

The following summary is not prepared by the sponsors of the measure and is not a part of the body thereof subject to consideration by the Legislative Assembly. It is an editor's brief statement of the essential features of the measure as introduced.

Ratifies Pacific Ocean Resources Compact. Appropriates money.

A BILL FOR AN ACT

Relating to Pacific Ocean Resources Compact; and appropriating money.

Be It Enacted by the People of the State of Oregon:

SECTION 1. (1) The Legislative Assembly of the State of Oregon hereby ratifies the Pacific Ocean Resources Compact as set forth in section 2 of this Act. This compact shall take effect after one or more of the States of Alaska, California, Hawaii or Washington ratify the compact and consent is granted by Congress as required by section 10, Article I of the Constitution of the United States.

(2) In addition to the States of Alaska, California, Hawaii and Washington, the Province of British Columbia may become an associate party to the compact, without voting power. Upon request of the Province of British Columbia and approval of Congress, the Province of British Columbia may become a full party to this compact with the same rights and powers as the party states.

SECTION 2. The provisions of the Pacific Ocean Resources Compact are as follows:

ARTICLE I

Findings and Purpose

A. The parties recognize:

(1) The States of Alaska, California, Hawaii, Oregon and Washington and the Province of British Columbia have a common interest in the protection of marine and coastal resources. This common interest results from:

(a) The fluid, dynamic ocean currents and atmospheric winds that carry pollutants beyond one party's coastal area to another.

(b) The migratory nature of many important living marine resources that depend upon the marine habitat of various parties for different parts of their lifecycle.

(c) The economic reliance of each party upon renewable resources of the ocean.

(d) The use of the ocean for transport of oil and other hazardous substances between ports in the various parties and other nations.

(e) A regional interest in providing a stable environment for those communities dependent upon ocean resources and ocean trade for a livelihood.

(2) Some marine resource activities, such as fisheries, are currently highly managed with regard for their regional or transboundary nature through existing state programs, regional fisheries

NOTE: Matter in bold face in an amended section is new; matter (italic and bracketed) is existing law to be enacted.

SB 500

1 councils, interstate compacts and international treaties. Because there are existing formal mech-
2 anisms for interstate cooperation and coordination for these marine resource activities, this compact
3 is not intended to encompass these activities.

4 (3) A formal interstate agreement does not exist to address and resolve issues of mutual concern
5 or to coordinate individual programs of the parties that affect regional interests in the areas of:

- 6 (a) Prevention of oil and hazardous substance spills;
- 7 (b) Transportation of oil and other hazardous substances;
- 8 (c) Oil and hazardous substance spill response planning;
- 9 (d) Environmental monitoring and research ; and".
- 10 (e) Ocean resource management."

11 (4) Each party has jurisdiction over the submerged and submersible lands within its territorial
12 sea and responsibility for management of many marine resources and ocean uses. Each party has
13 unique natural resource, social, economic and political conditions for which local management by
14 the individual party is the most appropriate.

15 (5) Parties now do not have an effective means to address mutual concerns related to transport
16 of oil and hazardous substances in waters within and beyond the party's jurisdiction that may
17 jeopardize ocean resources and uses important to one or more coastal parties.

18 (6) The 1983 Presidential Proclamation of the 200-mile United States Exclusive Economic Zone
19 has created the opportunity for all coastal states to more fully exercise and assert their responsi-
20 bilities pertaining to the protection, conservation and development of ocean resources under United
21 States jurisdiction.

22 (7) Citizens of the Pacific states and the Province of British Columbia are increasingly con-
23 cerned with the environmental integrity of the ocean and protection of all ocean resources.

24 (8) Recent studies conducted in the wake of major accidental releases of oil or hazardous sub-
25 stances have concluded that the existing system of response to spills could be
26 improved in the following ways to provide better protection of ocean re-
27 sources:

- 28 (a) Enhance personnel training and qualifications;
- 29 (b) Improved vessel design and integrity;
- 30 (c) Better mechanisms for cost recovery by the states or the province;
- 31 (d) Improved coordination in regulatory oversight;
- 32 (e) Enhanced traffic management; and
- 33 (f) An improved information base dealing with marine and coastal

34 environments.

35 (9) A spill or discharge of oil or hazardous substance from an ocean-going vessel has the po-
36 tential of causing major regional impacts.

37 B. Therefore, the purposes of this compact shall be:

38 (1) To assist in the promotion of interstate commerce by encouraging uniform regulation of the
39 transportation of oil or hazardous substance within the compact zone.

40 (2) To provide a legal mechanism to regulate certain ocean activities within the United States
41 Exclusive Economic Zone.

42 (3) To enhance regional coordination of issues of critical importance.

43 (4) To work with federal agencies to advance the best interest of the region.

44 (5) To foster regional cooperation and pooling of resources to reduce costs and increase effective
use of scarce resources.

(6) To monitor activities of concern to the parties.

(7) To address issues of mutual concern to the Pacific states and the Province of British

SB 500

1 Columbia and enhance the parties' influence over activities of concern that are not now addressed
2 through existing compacts, including:

- 3 (a) Spill prevention;
4 (b) Transportation of oil and other hazardous substances;
5 (c) Spill response planning;
6 (d) Environmental monitoring and research; and
7 (e) Ocean resource management.

8 (8) To foster cooperation and coordination among the parties in order to increase the effective-
9 ness of the individual party's ocean laws and programs.

10 (9) To provide technical assistance to parties for ocean activities covered by this compact.

11 (10) To provide for formal participation by the Province of British Columbia with the compact
12 to more fully address issues of regional concern.

13 (11) To insure that the citizens of the region have opportunities to participate in discussions and
14 deliberations of regional ocean resources issues.

15 (12) To establish an innovative system under which the parties can represent their shared in-
16 terests within the compact zone, including:

17 (a) The maintenance and protection of common ocean resources; and

18 (b) The vessel transportation of oil and other hazardous substances.

19 (13) To recommend uniform safety standards for routes, crews and equipment for vessels trans-
20 porting oil and hazardous substances within the compact zone and to monitor the im-
21 plementation of these standards and regulations by federal agencies, states or provinces and private
22 industry.

23 (14) To promote more coordinated management of ocean resources that are of mutual concern.

24 (15) To provide a forum for the regional coordination of the individual parties' plans for the
25 management and protection of those areas of the Pacific Ocean and adjacent waters over which the
26 compacting parties jointly or separately now have or may acquire jurisdiction.

27 ARTICLE II

28 Definitions

29 As used in this compact:

30 (1) "Compact" means the representative body created by Article IV of this compact.

31 (2) "Compact zone" means the portion of the oceans bordering the parties within the 200-mile
32 exclusive economic zone.

33 (3) "Hazardous substance" or "hazardous substances" means any element or compound that,
34 when it enters in or upon the water, presents an imminent and substantial danger to the public
35 health or welfare or the environment, including but not limited to fish, animals, vegetation or any
36 part of the natural habitat in which they are found. "Hazardous substance" includes but is not lim-
37 ited to a substance designated under 33 U.S.C. §1321 (b)(2)(A), any element, compound, mixture,
38 solution or substance designated under 42 U.S.C. §9602, any hazardous waste having characteristics
39 identified under or listed under 42 U.S.C. § 6921, any toxic pollutant listed under 33 U.S.C. §1317
40 (a) and any imminently hazardous chemical substance or mixture with respect to which the Admin-
41 intrator of the United States Environmental Protection Agency has taken action under 15 U.S.C. §
42 2606.

43 (4) "Navigable waters" means the waters of the United States, including the territorial sea.

44 (5) "Oil" means crude petroleum oil and any other hydrocarbons regardless of gravity, which
are produced at the well in liquid form by ordinary production methods, and any petroleum products