

ALASKA LEGISLATURE SPECIAL COMMITTEE/SUBJECT FILE 8672
2047 SCOMM 78: SENATE SPEC. COMM. ON OIL & GAS, 1991-1992

SCOMM

78:22

MINUTES

3/26/91

bangs - grass weight
 44 - under 2,500
 19 - 2,500 - 5,000
 29 - 5,000 +
 92 to be

Opposition $\equiv$

Uncertainty

3rd Level of govt.

Risk / Lower stas
were regulated

Cost / Potential Savings
Require appropriation

Overall / step in new
direction - opportunity for
AIC to increase influence
~~on other~~ on decisions that
Affect us.

Amenos / differences

① Origin — WSC / PFTF

② What is compact? US const.

art. 1 sec 10 "no state shall
w/out const -- enter into
compact."

rule regarding N.W. Power
Planing Council

③ What does this compact DO?
P. 7. — P. 9/10

④ How does AEC fit in?

⑤ Protections offered

⑥ Benefits for AEC —

more Power from DC to user
least.

increases state Power
w/ state Regs & FED Regs now in Progress

we can learn from each
other -

Some would argue that
we can do that now

Study groups, WLC, BC-states
etc.

no power / less interest

OBA '90 we fought

U.S. states v. state/capital

Trusty cost & states
have power -

if west coast states agree
export would be acceptable

Alaska State Legislature

Senate Committee on Oil and Gas

Senator Sam Cotten, Chairman
Senator Drue Pearce, Vice-Chairman
Senator Bettye Fahrenkamp
Senator Lyman F. Hoffman
Senator Dick Shultz



P. O. Box V, State Capital
Juneau, AK 99811
(907) 465-3711

May 6, 1991

To: Members of the Senate Special Committee on Oil and Gas
and Senate Transportation Committee

From: Senator Sam Cotten 
Chair, Senate Special Committee on Oil and Gas

RE.: Sectional Analysis of Senate Bill 102--Pacific Ocean
Resources Compact Amendments

In general, this version of the bill is a compromise between the original bill and the amendments proposed by the state of Oregon reviewed at the last committee meeting on the Compact. Under the first bill, the Compact agency would have authority to essentially direct U.S. Coast Guard (USCG) rulemaking. The second proposal established the Compact as an interested party for making recommendations to the USCG.

Under the current proposal, the Compact agency continues with the status as an interested party. In addition, by serving as a West Coast Spill Prevention Advisory Committee to the USCG, the Compact is more intricately involved in the development of rules pertinent to the prevention of oil spills. As in all the reviewed versions, the USCG retains enforcement authority.

In addition to the amendments outlined below, the committee will consider amendments for exempting small barges from Compact regulation.

Article I-Findings and Purpose

Page 2, line 23: New language inserted to further clarify that the Compact is not intended to regulate fisheries or marine resources

Page 3, line 2: "Ocean management" was in the original bill draft; was removed to reduce the Compact's scope; inserted back to avoid limiting of the Compact

Lines 19-27: Similar language was in the original draft; current language in the same spirit but

"softened"

Line 31: "encouraging" changed from "providing"

Page 4, lines 4-8: "coordination," "work with," "advance," and "monitor" changed from "sovereignty over," "direct," "act in," and "enhance the oversight and supervision of," respectively. These changes essentially change the Compact from an entity that directs federal agencies to one that works with federal agencies--especially the U.S. Coast Guard.

Line 16: "ocean resource management" added back consistent with page 3, line 2 cited above.

Lines 29-30: "recommend" and "monitor" changed from "establish" and "provide oversight," respectively. These changes have an effect similar to those on page 4, lines 4-8 cited above.

Article II-Definitions

No changes in Article II

Article III-Operative Dates

No changes in Article III

Article IV-Pacific Ocean Resources Compact

Page 6, line 24: "two" changed from "three." Changes the number of persons appointed by each party from three to two.

Article V-Pacific Ocean Resources Compact Authority

Page 7, lines 11-31: New (a)(1) added. This section authorizes the Compact to facilitate the prevention of oil and hazardous substance spills by 1) serving as a West Coast Spill Prevention Advisory Committee to the U.S. Coast Guard; 2) participating as an interested person in any U.S. Coast Guard rulemaking proceeding relating to the establishment of safety standards for routes, crews, and equipment for vessels transporting oil and hazardous substances; and 3) making recommendations to other appropriate state, federal, regional entities on proceedings as specified in two above.

Page 8, line 5: "consistent" changed from "at least as stringent as," the federal Oil Pollution Act of 1990.

Lines 9-15: New language added that 1) allows contingency plans approved by states to remain in effect until a new contingency plan is approved by the Compact and 2) requires Compact contingency plans to cover all subject areas included by the member parties' prior to the Compact's formation.

Page 9, lines 5-6: Specifically includes submission of contingency plans and financial assurance requirements as topics of regulations the U.S. Coast Guard is requested to enforce.

Lines 7-10: Allows for Compact cost recovery for the review of contingency plans.

Lines 18-19: Establishes a standardized cost recovery formula for damages to natural resources by spills.

Lines 20-30: Provides for the Compact to enter into an agreement with the U.S. Coast Guard under which the Compact will administer compliance with the requirements for demonstrating financial responsibility under section 1016 of the federal Oil Pollution Act of 1990. As with contingency plans, states' financial responsibility requirements remain in effect until the Compact establishes requirements and enters into an agreement with the U.S. Coast Guard for enforcement.

Under this new section, the Compact agency can no longer issue subpoenas.

Article VI-Pacific Ocean Resources Compact Organization

No changes.

Article VII-Voting and Quorum

Pages 10-11, Lines 30-31 and 1 Changes voting procedure so each representative from each party state has one vote. For a measure to passage, it must have one affirmative vote from each party state.

JOINT SENATE TRANSPORTATION AND
SPECIAL COMMITTEE ON OIL AND GAS

March 5, 1991

1:35 P.M.

OIL AND GAS MEMBERS PRESENT

Senator Sam Cotten, Chairman
Senator Drue Pearce, Vice Chairman
Senator Lyman Hoffman
Senator Dick Shultz

OIL AND GAS MEMBERS ABSENT

Senator Bettye Fahrenkamp

TRANSPORTATION MEMBERS PRESENT

Senator Curt Menard, Chairman
Senator Lloyd Jones, Vice Chairman
Senator Drue Pearce
Senator Dick Shultz

TRANSPORTATION MEMBERS ABSENT

Senator Bettye Fahrenkamp

COMMITTEE CALENDAR

SENATE BILL NO. 102

"An Act enacting and entering into the Pacific Ocean Resources Compact."

PREVIOUS ACTION

SB 102 - No previous action to consider.

WITNESS REGISTER

Professor Harry Bader
University of Alaska, Fairbanks
Division of Natural Resources Management
School of Agriculture and Land Resources Management
Fairbanks, Alaska

Virginia Fay, Legislative Aide
c/o Senator Cotten
P.O. Box V
Juneau, Alaska 99811

Janice Adair, Special Assistant

Senate Oil & Gas

-1-

March 5, 1991

Department of Environmental Conservation
P.O. Box 0
Juneau, Alaska 99811-1800

Captain Bodron, Chief
Marine Safety Division
U.S. Coast Guard, 17th District
P.O. Box 3-5000
Juneau, Alaska 99802-1217

ACTION NARRATIVE

TAPE 1, SIDE 1
Number 001

SENATOR COTTEN called the Joint Senate Transportation and Oil and Gas Committee meeting to order at 1:35 p.m. and announced SB 102 PACIFIC OCEAN RESOURCES COMPACT to be up for consideration. He said they were on teleconference with Professor Harry Bader, University of Alaska, Fairbanks. He said the purpose of the meeting was to give the members initial exposure to the legislation. He said that a lot of different organizations had been talking about this sort of compact, including the Ocean Resources Committee of the Western Council of State Governments of which he is Vice Chairman and the Pacific Fisheries Task Force. He said this bill was one of the main topics of the Pacific Fisheries Task Force meeting held this past week end in San Diego. He explained that this legislation has been introduced in Alaska, Washington, Oregon, Hawaii, and California. The U.S. Congress would have to ratify any compact. There is still a question of whether British Columbia could become a voting member. He said the primary intent of this legislation is to regulate traffic that handles oil and hazardous substances. He said initially they want to talk about routes, crews, equipment standards, and contingency plans. He said there was a need to protect those who provide local essential services.

Professor Bader said that a compact ratified by Congress becomes federal law, and is binding upon federal agencies. Intrastate compacts are relatively new territory and were created out of Supreme Court decisions made within the last decade. He said that regional sovereignty is more effective than large uniform federal standards, because they accommodate local situations. Since this is such a new area, there are concerns about what the compact would actually do.

SENATOR PEARCE asked if the language passed by each legislature have to be the same. Senator Cotten answered that the language does have to be essentially the same, but not exactly. He said that each state may have differences, for instance, in how the members are picked to represent Alaska,

how it's funded, etc.

SENATOR PEARCE requested a list of "industry" people who attended the Ocean Resources meeting of April last year and what their comments were on this issue.

PROFESSOR BADER emphasized that this is not the type of compact that is regularly contemplated in constitutional law. Its authority and jurisdiction is a direct result of a series of cases first enunciated in 1983 and culminated with Seattle Master Builders in 1986 which recognized for the first time definitively that an interstate compact, for all intents and purposes, is federal law. In other words, the state could exercise jurisdiction and sovereignty in a manner not otherwise available to an individual state due to the interstate commerce clause of the federal constitution.

Professor Bader explained that it was felt that the Exxon Valdez disaster was caused from complacency and a lack of vigilance. They isolated three areas of concern - enhanced state sovereignty, enhanced community empowerment and avenues for public participation, and the third, uniform standards that would be consistently applied. Also, there is a need to protect those who provide local essential services. Professor Bader said that they thought local people would have a better opportunity to influence the results of a regional based compact, rather than going through the federal bureaucracy. He commented that the uniform standards are good for both environmental protection and economic planning. He said the greatest disincentive to economic development is an unstable regulatory environment.

Number 300

SENATOR PEARCE asked for a list of items he was outvoted on recently. She thought that now would be a good time to support getting some of those items back. Professor Bader said he was outvoted on exemptions for local barges which would drive up the cost to local communities. He said that Virginia Fay, Senator Cotten's staff, is in contact with Jeannette Hohman regarding clarification of this issue.

SENATOR PEARCE asked about returning to the simple majority vote within the compact. Professor Bader said that was another important issue he was outvoted on. Senator Pearce agreed this was important as Senator Zharoff and Representative Davidson said, because of our Alaska experience with the interstate fisheries management committees where the Alaskans have felt their vote was lost.

SENATOR JONES asked if the compact takes precedence over the federal government. Professor Bader said that no, the compact

is the federal government, because it is ratified by Congress with a delegation of authority "normally considered the sphere" of federal government. He clarified that the law of the compact cannot involve a subject area not originally intended by Congress to be abrogated.

Senator Jones asked if the compact covered ocean resources within the EEZ. Professor Bader answered no, and definitely stated that the intent of the compact is the protection of ocean resources from threats due to the transportation of oil and hazardous substances and in no way is involved in allocation or management of ocean resources. Senator Cotten also stated that there is no question that the compact does not manage fish.

Number 400

SENATOR PEARCE asked if and when Congress can change the compact. Professor Bader explained that generally Congress approves a compact by passing a joint resolution, yes or no, but they do have the authority to manipulate and say their approval is contingent upon amendments.

SENATOR COTTEN said some questions were raised by the Pacific Fisheries Task Force. One questioned whether the compact wanted the authority to coordinate and deal with an entire body of maritime law that could also include international law.

On the issue of routes, Professor Bader suggested requiring the federal government, or the Coast Guard, to enforce the compact rules unless the federal government either adopts the regulation or goes through a formal administrative due process and rejected with justification the compact autonomy in this issue. A rejection would be subject to suit under the Administrative Procedures Act.

He also strongly urged them to amend the definition of "vessels" to provide explicit protection for smaller vessels. He thought they should change Article 7 so that each state has two voting representatives and that the majority action include a voting member from each state.

SENATOR COTTEN noted that there needed to be more discussion on vessel definition of 5,000 dead weight tons. Professor Bader said that he tried to use language that is consistent with the 1990 Oil Pollution Control Act, so whatever the federal government used as a definition is what he would use.

Number 494

JANICE ADAIR, Special Assistant, Department of Environmental Conservation, said they are receiving copies of statutes from other states now which would be subject to this compact for comparison with Alaska's. At this point, they have questions like who would be responsible for determining what is in a contingency plan and who would review it. Senator Cotten said he thought it should be made clear that the compact has sole authority for contingency plans. Another issue, Ms. Adair said, was how the regulations would be adopted and how people of the state could participate as they are formed. She said they needed to find out which statutes would no longer be applicable.

SENATOR PEARCE asked whether the compact would become the enforcement authority. Senator Cotten said that wasn't clear.

SENATOR PEARCE raised questions regarding organization and staffing of the compact that needed clarification.

VIRGINIA FAY, Legislative Aide for Senator Cotten, said her impression is that there would be a staff to the compact of around 12 people. She said that she understood that the compact would be responsible for the implementation and enforcement of the compact regulations. The states work out between themselves what financial responsibilities and standards they want. She said, according to staff in Senator Bradbury's office in Oregon, that the Coast Guard would continue to enforce routes and things of that nature.

SENATOR PEARCE asked if the compact covered contingency plans for shore based facilities as well as vessels. Ms. Fay said she understood that shore based facilities would remain under state jurisdiction. Ms. Adair commented that in the authority section of the statute, one and three make it clear that this is just for vessels, but number two kind of opened up the issue and needs clarification.

TAPE 1, SIDE 2
Number 001

SENATOR JONES said that enforcement is clearly covered by the Coast Guard on page 8, line 12. He asked what was meant on page 7, line 27 regarding "various ocean programs that may have been established by each party" what was meant. Professor Bader said that section references the research and investigation of ocean resources phase of the compact's duties. He reiterated that this compact in no way intends to allocate or manage resources. Senator Jones said that needed to be clarified in the bill. Senator Cotten noted that page 2, lines 19 - 23 makes it real clear that the compact does not intend to encompass those activities.

SENATOR JONES asked where the compact interfaced with the Coastal Zone Management Act (CZMA). Professor Bader said the Act has provisions for compacting, as well as funding for it. The compact activities are worded to be consistent with the CZMA.

Professor Bader stated that it is important to create a complete paper trail on the history of all issues that might be disputed, because there will be litigation over this compact.

Number 500

SENATOR JONES asked if a veto action could be put in the compact so any one state could stop action for a cause. Professor Bader said that history on compacts points to the contrary.

SENATOR PEARCE commented that there would be a lot of contingency plans for 12 people to look at.

Senator Pearce asked if a state contingency plan would no longer be required since the compact would require contingency plans. Professor Bader said this would reference constitutional law embodied in two U.S. Supreme Court decisions - Askew v. American Waterways Operators, Inc. 411 U.S. 325 and Ray v. Atlantic Richfield Co. 435 U.S. 151 which says that docking facilities are not within the purview of the interstate compact. Its jurisdiction extends from the territorial sea out to the 200 mile limit. In considering the scope of the compact, the zones need to be clarified and what authority the state has outside of federal authority. He pointed out that the compact was written with state sovereignty in mind, because this was lost in Chevron v. Hammond.

CAPTAIN BODRON, Chief, Coast Guard, said he passed a copy of the bill to the Coast Guard's Chief Counsel for review and they are awaiting comments. He read a portion of a letter from Admiral Chengalini, 17th District Commander, Juneau, which said that among the issues being looked at most closely are the ramifications of delegating broad tank vessel safety and pollution prevention regulatory and enforcement authority to a nonfederal regional entity, the role of British Columbia in the compact, and the role of the compact in view of the authority already granted to the state by the Oil Pollution Act of 1990.

Captain Bodron asked Professor Bader to comment on the Oil Pollution Act of 1990. Professor Bader said that they had worked under an assumption from the Oil Spill Commission's report which stated that complacency occurred at all levels

of government due to a failure of empowerment of the citizenry. They believe that regulatory vigilance is maintained when there is a maximum grant of state or regional sovereignty. Captain Bodron said it seemed that the two would overlap in several places.

SENATOR JONES asked how the Coast Guard would work within the compact. Captain Bodron said that the Coast Guard is known to cooperate with government entities, but it's still unclear what the compact would require them to do.

SENATOR HOFFMAN asked who would have jurisdiction over the ocean in between the shore lines of the compact parties, if for instance Alaska and California were part of the compact and Washington and Oregon were not. Professor Bader commented that Congress would probably not ratify the compact without unanimity among the states.

SENATOR COTTEN said they would schedule another meeting on this issue and adjourned the meeting at 2:55 p.m.

**SENATE JOINT TRANSPORTATION AND
SPECIAL COMMITTEE ON OIL AND GAS**
March 26, 1991
1:43 P.M.

OIL AND GAS MEMBERS PRESENT

Senator Sam Cotten, Chairman
Senator Drue Pearce, Vice-Chairman
Senator Lyman Hoffman
Senator Dick Shultz

OIL AND GAS MEMBERS ABSENT

Senator Bettye Fahrenkamp

TRANSPORTATION MEMBERS PRESENT

Senator Curt Menard, Chairman
Senator Lloyd Jones, Vice Chairman
Senator Drue Pearce
Senator Dick Shultz

TRANSPORTATION MEMBERS ABSENT

Senator Bettye Fahrenkamp

OTHER SENATE MEMBERS PRESENT

Senator Rick Uehling

COMMITTEE CALENDAR

SENATE JOINT RESOLUTION NO. 21
Relating to oil and gas exploration and production within, and
the state's royalty shares in the development of, the Arctic
National Wildlife Refuge.

SENATE BILL NO. 102
"An Act enacting and entering into the Pacific Ocean Resources
Compact."

PREVIOUS SENATE COMMITTEE ACTION

SJR 21 - See Oil and Gas Committee minutes dated 3/12/91.

SB 102 - See Joint Transportation and Oil and Gas Committee
minutes dated 3/5/91.

Senate Transportation
& Oil & Gas

WITNESS REGISTER

Virginia Fay, Legislative Aide
Senator Sam Cotten
P. O. Box V
Juneau, Alaska 99811

POSITION STATEMENT: Testified on SB 102.

Assistant Professor Harry Bader
Environmental Law and Policy
University of Alaska, Fairbanks
POSITION STATEMENT: Testified on SB 102.

Jerry Aspland, President
ARCO Marine, Inc.
Long Beach, California
POSITION STATEMENT: Commented on SB 102.

Tom Mullens, Manager
Environmental and External Affairs
BP Oil Shipping Co.
POSITION STATEMENT: Commented on SB 102.

Theresa Savancara
Alaska Environmental Lobby
P.O. Box 22151
Juneau, Alaska 99802-2151
POSITION STATEMENT: Supported SB 102.

ACTION NARRATIVE

Tape 1, Side 1
Number 001

SENATOR COTTEN called the Joint Transportation and Senate Special Committee On Oil and Gas meeting to order at 1:43 p.m. and announced SJR 21 ENDORSING ANWR LEASING W/C ROYALTY CHANGE to be up before the Special Committee On Oil and Gas.

SENATOR HOFFMAN moved to adopt the CS to SJR 21. There were no objections and it was so ordered.

SENATOR PEARCE moved to pass CSSJR 21 (Oil and Gas) from Committee with individual recommendations. There were no objections and it was so ordered.

SENATOR COTTEN said they would now meet jointly with Senate Transportation and announced SB 102 PACIFIC OCEAN RESOURCES COMPACT to be up for consideration. He said they were on teleconference.

Senate Transportation
& Oil & Gas

VIRGINIA FAY, Staff for Senator Cotten, briefed the Committee on the background of the issue. She noted that Senator Bradbury from Oregon had gone through all the proposed amendments from California, Oregon, and Washington, on their Compact bills, which are essentially identical to ours, and synthesized them into Oregon SB 500.

Essentially, she said, Article 1 changes some of the purposes of the Compact and Article 5 changes some of the authority. She explained that originally the Compact had authority to give the state sovereignty over some federal agencies. Some of the amendments move the Compact authority down to a more advisory level. It does not supercede the federal level. It leaves individual state's sovereignty intact.

In exchange for the reduction in authority, it received a short cut into the federal Administrative Procedures Act which is the normal avenue for a state to influence federal actions, such as Coast Guard Regulations, tanker routes, etc. Instead of having to petition the Coast Guard for "standing," the amendments recognize that the states in the Compact have "standing" to influence regulations. Then there is a formal procedure for addressing and responding to concerns.

Ms. Fay explained the papers that were contained in their packets.

HARRY BADER, Assistant Professor of Environmental Law and Policy at the University of Alaska, Fairbanks, said he participated in the Western States Legislative Conference in negotiating a potential compact. He said he would go over the amendments first and then respond to Senator Pearce's request from a previous meeting to brief them on the issues he was outvoted on regarding protecting Alaska's sovereignty within the Compact.

Some of the amendments are direct reflections of comments submitted from British Petroleum and the Coast Guard. The language in Article 1b 1 and a on page 2 was to reduce the likelihood of compact encroachment on valid existing state authority. Article 1a specified the limited scope of their compact. He thought these two sections clarified that the Compact is not trying to involve itself in an area of resource management and allocation.

The substantive provision comes from Article 51 a and b which is a direct response to the Coast Guards's concern that the Compact was trying to supplant its authority and elevate the states into a completely federal sphere. It heightens the scrutiny that a petition must be assessed under in the Administrative Procedures Act (APA), Sections 553 E and 555

B of the APA. It establishes that once a party, petitioning under these provisions, proves it is an interested party, they can petition a regulatory agency and draft a regulation or a modification, with the analysis and reasons for that, and submit it to the agency. The agency must review the petition request in a formalized process where the strictures of due process have been later enunciated through the court interpretation of APA. The affected agency must respond with a formal response in a timely fashion point by point.

This is not normal under the general provisions of APA. The advantage is that it saves time, cost, and creates certainty.

Number 289

Article 51 AC talks about the status being comprehensive in that the Compact is not going to be any less than the most comprehensive state prior to compacting needs clarification. The intent of the use of the word "comprehensive" was intended to reflect directive authority, not the level or the intent of the authority or the rigorousness of the regulation. The best way to think of it is in terms of subject areas. Mr. Bader emphasized that "comprehensive" should be interpreted and has to be clarified to reflect that we are dealing with subject areas. Therefore the subject area of the Compact will include prevention, but not the most rigorous provisions within that subject area. Comprehensiveness needs to be clarified to reflect scope not intensity of regulation. The way it is currently worded, it is ambiguous and could be litigated.

SENATOR COTTEN commented that in a memo from Terri Lauterbach she concludes that California's law is more comprehensive, because they have specific prevention measures. Mr. Bader said they did not intend for the most rigorous state's regulation to be the base line. They intended the most comprehensive state in terms of subject areas.

Number 322

Mr. Bader said there were three concerns where he was outvoted - Article 2, numbers 2 and 8 which is the definition and Article 7 which is voting. His concern when negotiating with other states was that Alaska is unique, because we have remote communities that are dependent upon diesel fuel and other products being brought in. And every regulation that is added increases the cost of transportation by \$1. He explained that if they increase the cost of energy in regulation by 10%, it may actually cause a 15% - 20% reduction in the available income which can't be done to those communities.

Mr. Bader proposed two amendments which redefines vessel so that it categorically and explicitly exempts any vessel from Compact regulation that is less than 5,000 dead weight tons.

SENATOR COTTEN asked if OPA 90 exempts those vessels. Mr. Bader explained that OPA 90 has two areas where they implicitly talk about trying to assist smaller vessels. One category is 10,000 dead weight tons and the other is 5,000 dead weight tons and those refer to retrofitting and liability and that is implicit. One of the problems with OPA 90 is that it is ambiguous like "comprehensive." He thought if they took the serious step of going into a Compact, they should get rid of ambiguous language and not rely on OPA 90 for its implicit inferences. Make it clear that the Compact cannot touch those vessels. If someone else regulates them, it's not the Compact's authority.

Number 349

SENATOR JONES asked about industries that rely on the use of certain hazardous products and their competing with those same industries in Oregon and Washington. What happens when Oregon and Washington get together and raise the price of that substance so that Alaskan mills can't compete. How can you control that? Senator Cotten asked if he was referring to pulp mills. Senator Jones said that would be a good example. Mr. Bader said that issue leads to a second amendment which is aimed at protecting Alaskan interests. He said they need to change the way the Oregon legislation was written. He explained that meant going back to the pre-Hawaii agreement that they had which is every state gets two voting representatives rather than the one that is in Article 7. Rather than require a simple majority of those representatives, the majority has to contain at least one vote from each member state. That way Alaska's interests are protected, in that a representative from Alaska has to be in the voting majority for a Compact provision to pass.

MR. BADER explained that two voting representatives are needed from every state because in a Compact giving a single state automatic veto tends to reduce the likelihood of passage by Congress. Also if you expand the number of representatives, you reduce the problem that the Alaska Oil Spill Commission found that by increasing representation you reduce the chance of any special interest capture of the entire state delegation. The intent of this amendment is to prevent the three states of California, Oregon, and Washington from forming a cartel and through regulation increasing the price of one product so that Alaska industries are at a disadvantage.

Number 394

SENATOR JONES asked what prevents one of the delegation from voting with the other states for some reason? Mr. Guder answered that if that person is a duly appointed representative of the state of Alaska, nothing prevents that. Senator Cotten commented that each state probably has different ways of selecting its representative for the Compact.

SENATOR COTTEN said they would take questions from the teleconference now.

Number 412

JERRY Aspland, President, ARCO Marine, Inc., said he believed the objective of the Compact was two fold. One is to coordinate marine activities up and down the coast and secondly to allow the states more input into federal rule making. He said those objectives are important and he supported them. He supports them only from the stand point that we can somehow, instead of having a Compact, develop another state DC Task Force. He also recommended establishing within the state of Alaska an Office of Maritime Affairs similar to what is being established in the state of Washington, because it is very difficult to go to any state government and find the right agency in which to discuss marine affairs. He thought an office like that could coordinated the state marine efforts. He said that ARCO Marine cannot support the application of Compact law to accomplish the objectives, because as rules and regulations are developed, the Compact will supercede the federal law.

Mr. Aspland also pointed out that the Compact extends to the outer boundaries and limits of the economic zone. Present law only applies to three miles, so this is a huge step outside of present regulatory authority. The Compact as written allows for single states to withdraw and it is his understanding that the court system has not allowed this in the past. That once you're in you're in and the only way to get out of a compact is to dissolve the Compact. The proposed Compact steps out of the traditional compact language.

Mr. Aspland recommended that a body similar to the state's DC Task Force be developed to address the subjects that are outlined in the new draft Oregon SB 500. That Task Force could be made up of state, federal, citizen, and industry representatives to develop guidelines and influence on the federal regulation. They strongly urge the state to establish an Office of Maritime Affairs similar to Washington which has a central clearing house responsibility for marine activities

within the state. It could also serve as the state's "expert witness" in maritime affairs.

In conclusion, he said he believes there is a need for this western cooperation between the states. They do not support the Compact form, since it would supercede federal regulation.

SENATOR COTTEN said one of the attractions of this idea is to go beyond the three mile limit, because things that take place up to 200 miles and more off shore affect what happens to interests here in Alaska. As far as getting out of the Compact, he said that the proposed language does allow for a state to give notice and then elect to leave the Compact. He asked if he thought this was the same as the Northwest Planning Council. Mr. Aspland answered yes, that there were some 200 compacts that have been made across the U.S. which are very specific in their makeup and objectives and the one before them is very broad.

Senator Cotten asked him if he was concerned with the states superceding federal law in the areas that the states don't currently have jurisdiction. Mr. Aspland said if you take this far enough, for example, into vessel structure, if it were to be built in the U.S., he would have to build it to two different regulations - one covered by federal regulations governed by the Coast Guard and another set of regulations that are covered by the compact. There could be a personnel affect on the situation where a person could have to have a license that was issued by the compact and a license issued by the federal government.

Mr. Aspland said he hoped they would take an interest in developing some of the federal regulations. He thought that was important for industry.

Number 514

TOM MULLENS, Manager of Environmental and External Affairs, BP Oil Shipping Co., said he agreed with much of Mr. Aspland's testimony. He thought the compact added another layer of regulation and that it was much too soon to embark on that type of effort. Time is needed for HB 567 and the Federal Oil Commission Act of 1990 to be fully implemented. They are also concerned about the confusion that can be created regarding international, federal, and state efforts that are under way. He said that a state would have very limited power with a one fifth vote.

In conclusion, he said they do support interstate communication and coordination. They have actively supported the BC State's Initiative.

Senate Transportation
& Oil & Gas

Number 555

THERESA SAVANCARA, volunteer with Alaska Environmental Lobby, supported the formation of the Pacific Ocean Resources Compact, because it would empower the states most likely damaged by oil and other hazardous substance spills and allow them to act in a unified manner to prevent and respond to spills.

TAPE 1, SIDE 2
Number 001

SENATOR COTTEN announced an Ocean Resources Committee meeting in San Francisco on April 6 and 7 and adjourned the meeting at 2:30 p.m.

OREGON

PROPOSED

AMENDMENTS

DRAFT**PROPOSED AMENDMENTS TO****Senate Bill 500**

Sponsored by Senator BRADBURY; Senators BRENNEMAN, COHEN, GOLD, KITZILABER, SPRINGER, Representatives JOSL, 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 (striked and bracketed) is existing law to be omitted.

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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

(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

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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 (9) 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

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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.

ARTICLE III

Operative Dates

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

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

ARTICLE IV

Pacific Ocean Resources Compact

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

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

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

ARTICLE V

Pacific Ocean Resources Compact Authority

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

*Need vessel
 Amendment*

SB 500

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

"(A) 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. If the United States Coast Guard does not adopt the recommendations of the compact, the United States Coast Guard shall explain in writing, as part of the rulemaking process the basis for its finding that the adoption of such recommendation would be inconsistent with the prevention of oil and hazardous substance spills.

"(B) 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. If the United States Coast Guard does not initiate rulemaking as requested by the compact, the United States Coast Guard shall explain in writing the basis for its finding that the initiation of such rulemaking would be inconsistent with the prevention of oil and hazardous substance spills.

(C) Making recommendations to other appropriate state, federal and regional entities regarding 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 at least 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. 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 are at least as comprehensive as similar plans required by the parties

before adoption of this compact

and to integrate, to the fullest extent possible, any requirements for vessel contingency plans in effect at the time the compact initiates its requirements under this subparagraph.

(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.

major change in authority
gives state standing
under administrative
procedures act

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(c) 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.

(d) 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.

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

(f) 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.

(g) 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.

(h) 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.

(i) Request the United States Coast Guard to enforce or assist in the enforcement of any regulations adopted by the compact.

(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 spilled.

(f) Establish a uniform level of proof of financial responsibility to be provided to each party to the Compact.

(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. 82-463, 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 508.

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 party 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 parties.

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

Need Voting
Amendment

SB 500

1 or the enforcement of any requirement imposing additional conditions and restrictions to conserve
2 ocean resources.

ARTICLE X

Absence

3
4
5 Continued absence of representation or of any compact representative from any party shall be
6 brought to the attention of the appointing authority of the party not represented.

ARTICLE XI

Funding

7
8
9 (1) Each party shall contribute to the support of the compact according to the party's relative
10 proportion of the party's gross state product, but each party must contribute at least 10 percent of
11 the total annual budget for the compact and shall not be required to contribute more than 50 per-
12 cent of the total annual budget for the compact.

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

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

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

ARTICLE XII

Withdrawal from Compact

18
19
20 This compact shall continue in force and remain binding upon each party until renounced by it.
21 Renunciation of this compact must be preceded by sending six months' notice in writing of intention
22 to withdraw from the compact to the other parties to the compact.

23
24 **SECTION 3.** There is appropriated to the Pacific Ocean Resources Compact, for the biennium
25 beginning July 1, 1991, out of the General Fund, the sum of \$ _____ for the purpose of carrying
26 out the provisions of the Pacific Ocean Resources Compact.
27

DRAFT

SB 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

- Analysis/
Summary
- Proposed
Changes
-

**PACIFIC OCEAN RESOURCES COMPACT
SUMMARY OF PROPOSED AMENDMENTS
MARCH 20, 1991**

ARTICLES	SB 500	SB 500 AMENDMENTS
ARTICLE I: Findings & Purpose	Outlines areas of spill response improvement, and common interests of Compact parties.	Adds language consistent with changes in Compact Authority.
ARTICLE II: Definitions		Unchanged; although under amended Compact definitions will not supersede definitions in federal Oil Pollution Act.
ARTICLE III: Operative Dates	Compact effective when ratified by at least two Compact states and granted approval by Congress.	Unchanged
Article IV: Pacific Ocean Resources Compact	Creation of Pacific Ocean Resources Compact	Unchanged

ARTICLES	SB 500	SB 500 AMENDMENTS
Article V: Pacific Ocean Resources Compact Authority	Supersedes Federal Law with respect to establishing uniform safety standards for routes, crews and equipment for vessels transporting oil and other hazardous substances in compact zone. One contingency plan per vessel submitted to compact. Compact has authority to request that the US Coast Guard enforce or assist in the enforcement of regulations adopted by the Compact relating to the prevention of oil and hazardous substance spills in compact zone. Compact may issue subpoenas.	Amended to be consistent with Federal Law. Submission of one contingency plan clarified; compact supersedes all other contingency plans; one plan per vessel. Adds sec.1(a) (A) and (B) to Article V: Gives Compact elevated standing with respect to Coast Guard rule-making regarding routes, crews and equipment. Compact has ability to (A) request initiation of rule-making and (B) respond to Coast Guard Rule Making. Adds Sec. 1 (a) (C): Gives Compact authority to make recommendations to state, federal and other appropriate authorities. Sec. 1 (L) added: Compact has authority to assess fees. Sec. 2: Compact "may" do the following: (e) and (f) added: 2.(e) Compact may establish cost recovery plan. 2.(f) Compact may establish uniform level of proof of financial responsibility. Compact may not issue subpoenas.

ARTICLES	SB 500	SB 500 AMENDMENTS
ARTICLE VI: Pacific Ocean Resources Compact Organization		Unchanged
Article VII: Voting and Quorum	Each party has one vote. A quorum must be present for any Compact business to proceed.	Unchanged
Article VIII: Support Agencies		Unchanged
Article IX: Parties' Powers Under Compact		Unchanged

Prepared by M. Brown
for Sen. Bill Bradbury

MEMO

DATE: April 4, 1991

RE: Pacific Ocean Resources Compact, Amendments

TO: Honorable Senator S. Cotten Fax 465-4979

FROM: Harry R. Bader

Introduction

The recent amendments proposed by the state of Oregon fine tune the compact language and ameliorate some of the problems that have surfaced concerning the relationship between the states, the federal government, and the regional compact's jurisdiction. However, the major concerns I raised in negotiations during meetings in Seattle, Sitka, and Anchorage have still not been resolved. Until these positions have been accommodated, I cannot recommend Alaska's ratification of the compact. These three issues are as follows:

1. VOTING REPRESENTATION
2. EXEMPTION FOR SMALL OPERATORS IN REMOTE AREAS
3. CLARIFICATION OF "COMPREHENSIVE" IN COMPACT REGULATORY LANGUAGE.

This memo will first summarize the Oregon amendments, and then, in section 2, justify the need for further amendment to protect Alaska's unique interests.

Summary of Compact Following the Oregon Modifications

The concerns about the authority of the compact to involve itself in resources allocation and management of Ocean Resources should be dispelled by the explicit language on 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 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.

Like the APA sections 553(e) and 555(b), the amendment 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) and 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. This provision will be discussed below.

The definition of the compact zone (page 3 lines 31 and 32) NEEDS FURTHER CLARIFICATION to explicitly include or exclude the state's territorial sea. What "border" is referred to? Is it the land or territorial sea within state jurisdiction? This issue needs to be resolved in order to reconcile the compact with the rulings of RAY v. ATLANTIC RITCHFIELD and ASKEW v. AMERICAN WATERWAYS OPERATORS, INC.

Section Two: Suggested Amendments

1. Vessel Exemption

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 (vessels less than 5,000 dwt) 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. A version of proposed language for this vessel exemption should be in Senator Cotten's information booklet. The Vessel Exemption was drafted by Ms. Fay and myself the last time I was in Juneau to testify about this bill.

2. Voting Mechanism

Changes in the voting and representational system are necessary to protect Alaskan interests, as well as those of Oregon and Hawaii. First, I would return to the pre-Kona agreement in which each state is given two votes. Secondly, I would re-institute 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. A version of potential draft language is also included in the Senator's information notebook.

3. Clarification of the term "Comprehensive"

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 any party 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.

Thus I would rephrase this section to read:

"In establishing regulations under this paragraph, the compact shall work closely with officials of the parties to assure the vessel contingency plans required under this compact WILL EXTEND TO ALL SUBJECT AREAS CONTEMPLATED BY THE MEMBER STATES, IN AGGREGATE, PRIOR TO THE ADOPTION OF THE COMPACT."

ALASKA

AMENDMENTS

5/7/91

Proposed Contingency Plan Amendment

Page 8, line 11: Insert--after "paragraph;"

"if a contingency plan approved by one of the parties to this compact expires after the compact contingency plan regulations are adopted, a new contingency plan must be adopted under the compact regulations;"

5/7/91

REVISED DEFINITION OF VESSEL FOR THE PACIFIC OCEAN RESOURCES
COMPACT

See Article II (8)

These changes are designed to take advantage of the language contained in the 1990 Oil Pollution Control Act which protects small operators providing essential service in remote or rural areas. The need for exemptions are particularly important throughout much of Alaska.

New Definition of Vessel

Vessel means a watercraft or other artificial contrivance that is constructed or adapted to carry, or that carries oil or hazardous substances in bulk as cargo or cargo residue and that is greater than 5,000 gross weight tonnage.



Texaco Inc
Marine Department

2000 Westchester Avenue
White Plains NY 10650
914 253 4000

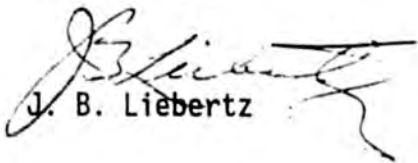
May 3, 1991

The Honorable Sam Cotten
Alaska State Legislature
P. O. Box V, State Capital
Juneau, AK 99811

Dear Senator Cotten:

In response to your letter dated April 26, 1991, we are pleased to advise that the tug/barge units VALIANT/PENNSYLVANIA and VICTORY/TEXAS are each 12,591 gross tons and they trade in the U.S. Gulf between Texas and Florida.

Yours truly,


J. B. Liebertz

JBL:map
3/1

Bering Sea Fisheries, Inc.

H. W. BODEY, (PRES.)

4413 - 83 AVE. S.E.

EVERETT, WASHINGTON 98205

PHONE EVERETT 334-1498

April 28, 1991

Senator Sam Cotten, Chairman
Juneau, Alaska

Dear Mr. Cotten:

Received your letter of April 23rd, regarding oil barge regulations, etc..
Yes, we do have an oil barge, "King Salmon"--979 tons--10,000 barrel.
Pollution insurance is maintained according to Alaska State law.

We have a processing facility near Emmonak, in the Yukon, established in 1966. We hauled our own fuel for many years and bought what we couldn't haul at False Pass and St. Michael. In 1981, we purchased a tug and barge to haul our fuel, freight and frozen fish, not only for ourselves, but also Yukon Delta, of Emmonak. At the time, they were left without any transportation.

We take fuel from Seattle, on the way North, and get fuel at Dutch Harbor during the summer. We supply Yukon Delta, the Emmonak Tank Farm, and, of course, all our fishermen and our own needs, plus anyone else who may need fuel in the general area.

I certainly hope we do not get in the same class as the super tankers. From your letter, I believe you are on the right track. So far, the DEC has some pretty stiff rules suggested, which can either drive us out of business or raise the price of fuel in these areas considerably, to cover costs of abiding by them. This fuel and supplies are vital at Spring breakup--not only to us but to others we supply.

I sincerely hope this answers your questions. Please feel free to contact me at any time on this issue.

Yours truly,

H.W. Bodey

H.W. Bodey
Bering Sea Fisheries

P.S. Mr. Cotten:

If something went down about the DEC, + all of their requirements in this oil plan - we + every other small operator will be out of business, probably in one year! I cannot overemphasize this.

H.W. Bodey

Alaska State Legislature

Senate Committee on Oil and Gas

Senator Sam Cotten, Chairman
Senator Drue Pearce, Vice-Chairman
Senator Bettye Fahrenkamp
Senator Lyman F. Hoffman
Senator Dick Shultz



P. O. Box V, State Capital
Juneau, AK 99811
(907) 465-3711

April 23, 1991

Received 4-28-1991

Bering Sea Fisheries
4413 83rd Avenue, SE
Everett, WA 98205

Dear Sir or Madame:

This session I introduced legislation in the Senate that will enable Alaska to join the Pacific Ocean Resources Compact. The Compact as currently proposed will have three members from each of the states of Alaska, California, Hawaii, Oregon, and Washington. Similar legislation was introduced in these states. The compact agency will have authority to regulate activities related to oil and hazardous substances within the compact zone. The compact zone extends from the oceans bordering the party states to the 200-mile exclusive economic zone.

Under Article II of the proposed compact, the definition of vessel is intended to exempt smaller barges transporting non-crude petroleum products to communities. However, the current compact language is not clear. Our intent is to clarify the language in the committee process to exempt barges under 5,000 gross-weight tonnage.

To facilitate this process, we would like information on the ports of call of the barge vessels in your fleet. Attached is an Alaska Department of Environmental Conservation memorandum on barges operating in Alaska. I would appreciate if for your company you would 1) verify the information provided, especially information on vessel gross-weight tonnage; 2) provide information on the ports of call of each of the identified vessels; and 3) add any omitted information.

Senate Bill 102 is currently in the Senate Special Committee on Oil and Gas; additional hearings are expected to be scheduled in the near future. If you have any questions, please contact me or Ginny Fay on my staff at (907)465-3711 or FAX (907)465-4979.

Sincerely,

Sam Cotten
Sam Cotten
Senator

Samson Tug & Barge Company, Inc.

Phone (907) 747-8559 • Fax(907) 747-5370 • P.O. Box 559 • Sitka, Alaska 99835

Senator Sam Cotten
Alaska State Legislature
P.O. Box V
State Capitol
Juneau, AK. 99811

May 2, 1991

Ref: Committee
Oil and Gas

Dear Senator Cotten:

In reference to the Senate Committee on Oil and Gas letter of April 23, 1991, the following information is verified:

Tank Barge Annahootz, Official Number 655941, 2,638 gross tons is operated by Samson Tug and Barge Company, P.O. Box 559, Sitka, Alaska 99835.

The T/B Annahootz is inspected and certificated under Subchapter D of 46 CFR by the U.S. Coast Guard; certified for ocean service. It is also required to meet the requirements of Subchapter O of 33 CFR - Pollution. In addition to carrying 37,000 plus barrel of non-persistent petroleum products (gasoline, diesel oil, and aviation fuel) the above deck cargo consist of containerized freight. Cargo consisting of boats, building supplies, modular homes and groceries may be carried.

The ports of Sitka, Juneau, Haines, and Ketchikan, in Southeast Alaska are the normal ports for the transportation of petroleum products. However, contracts for delivery to other ports in Alaska are possible and have occurred. With a Certificate of Inspection for ocean service, we are not prohibited from transporting cargo on the high seas or to any port in Alaska.

The containerized cargo may be assigned to ports of call, such as Seward, Valdez, Kodiak, King Salmon, Dutch Harbor, and Adak, as well as others. Also cargo may be shipped to Seattle from these ports. Samson Tug and Barge Company provides a year round, every two week sailing schedule from the port of Seattle, Washington to ports in Alaska.

We hope this information will be helpful in the of processing SB 102. If we can assist in this matter further, please feel to contact me, I am


ALBERT M. SNELLING
Safety Director

Samson Tug & Barge Company, Inc.

Phone (907) 747-8559 • Fax(907) 747-5370 • P.O. Box 559 • Sitka, Alaska 99835

Senator Dick Eliason
Alaska State Legislature
P.O. Box V
State Capitol Building
Juneau, AK. 99811

May 2, 1991

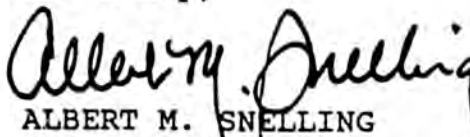
Dear Senator Eliason:

A marine industry organization from Anchorage advised us on Friday May 26, 1991, of Senate Bill 263, which had been introduced, was in committee, and that testimony was being received on that afternoon. This bill would amend a portion of HB 567 of 1990. It would offer some relief from the regulations that go into effect on 1 June 1991; extending portions of the regs until 1992. We have submitted written comment on this bill to the Oil and Gas Committee. We invite you to review the bill and encourage its passage.

Senate Bill 263 would allow time to study and analyze non-crude operations, including facility operations, transportation of and the economic effects. The operational and engineering standards, established by the state in HB 567, we consider to be unworkable and as a result petroleum transportation operations by our company will be discontinued on June 1, 1991. Operating under the interim approved contingency plan we now have, plus amendments that must be made, we feel cannot be done legally. The opposite of course being illegal, which subjects Samson Tug and Barge to civil penalties, lawsuits, and possible criminal action. We have been advised that other transportation companies are considering this same avenue.

As our State Senator, we would request that you keep us up to date on the outcome of this bill and future bills concerning the transportation of petroleum products.

Sincerely,


ALBERT M. SNELLING
Safety Director

Copy: Congressman Grussendorf
Senator Cotten
Senator Hoffman

BOYER TOWING, INC.

7318 4th Avenue South
Seattle, Washington
98108

April 29, 1991

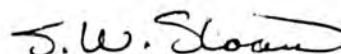
Senator Sam Cotten
Alaska State Legislature
Senate Committee on Oil & Gas
P.O. Box V State Capitol
Juneau, Ak. 99811

Dear Senator Cotten:

In answer to your April 23, 1991 letter, Boyer Towing operates two fuel barges in Southeast Alaska. These two barges (Callapooya & Kootznahoo) deliver non-crude petroleum products into log camps, mines and towns along the Panhandle area of Alaska. The barge Callapooya also transports petroleum products from Washington State.

The information on the Alaska department of Environmental conservation memorandum on Boyer Towing's fleet is correct.

Sincerely



Boyer Towing Inc.

(Crowley continued)

500-2	7,171	16	2,442
18	3,179	254	2,971
DB 300	2,614	Cinnabar	75

Foss Maritime Co. 660 West Ewing St. Seattle, Wa 98119	Foss 256 Foss 255 Foss Tongass SEA 76 Foss Energizer Phoenix 120 Hanalei	2,656 2,637 744 830 4,757 3,218 1,849	Insurance
--	--	---	-----------

Exxon Shipping Co. P.O. Box 3342 Houston, TX 77253	Exxon Barge No. 503 Exxon Equity Holding Co.	9,185 Guaranty
--	---	-------------------

Delta Western P.O. Box 102916 Anchorage, AK 99501	DW 282 DW 280	1,000 1,000	Self-Insurance
---	------------------	----------------	----------------

Boyer Towing Inc. 7318 4th Ave. Seattle, WA 98108	Kootinahoo Callapooya	312 1,192	Insurance
		Approval Rescinded 3/4/91	

Samson Tug & Barge Co. P.O. Box 559 Sitka, AK 99835	Annahootz	2,638	Insurance
---	-----------	-------	-----------

Texaco Marine Services 2000 Westchester Ave. White Plains, NJ 10650	Valliant/ Pennsylvania Victory/Texas (tug/barge)	Self-Insurance
---	--	----------------

White Pass Transportation Ltd. P.O. Box 4070 Whitehorse, Yukon Y1A 3T1	Alaskan Spirit	Insurance
--	----------------	-----------

Smith Lighterage Co. P.O. Box 106 Dillingham, AK 99576	Skip I Ray'Sons	216 98	Insurance
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Moody's Sea Lighterage Aleknagik, AK 99555	Sealite I ST 20	194 294	Insurance
		Approval Rescinded 2/27/91	

Kugkaktlike Limited General Delivery Kipnuk, AK 99614	Chalin	206	Insurance
---	--------	-----	-----------

Alaska Marine Charters 106 110th Place S.E. Bellevue, WA 98004	Investigator	1,730	Insurance
	Approval rescinded until new insurance meeting State requirements can be met		



1441 NORTH NORTHLAKE WAY, SEATTLE, WASHINGTON 98103 (206) 632-1441 FAX: (206) 548-0552

April 26, 1991

Alaska State Legislature
Senate Committee on Oil and Gas
P. O. Box V, State Capital
Juneau, AK 99811

Senator Cotten,

We presently operate a 72,500 barrel oil barge between Nikiski and Dutch Harbor, with diversions to Bethel, Cold Bay, Akutan, Homer, Valdez, Cordova, Kodiak, Skagway, and Ketchikan. We are the operators for the vessel owner, Forty Niner Transportation.

This is presently the only contract we have in Alaska Waters for the transportation of bulk petroleum products.

Sincerely yours,

UNITED MARINE TUG & BARGE, INC.

A handwritten signature in black ink, appearing to read 'Ted Van Duin', is written over the typed name.

Ted Van Duin,
Port Captain



4511 Shilshole Ave. N.W.
PO Box 70438
Seattle, Washington 98107
(206) 781-0100
(800) 782-2213
FAX (206) 781-0406

May 2, 1991

Senator Sam Cotten
Chairman, Senate Committee on Oil & Gas
PO Box V, State Capital
Juneau, AK 99811

Re: Pacific Ocean Resources Compact

Dear Senator Cotten,

In response to your letter dated April 23, 1991 to Larry Soriano, the following represents changes and additions to the list provided by the DEC

BARGE	GROSS TONS
Barge DW 280	3382
Barge DW 282	3365
Barge DW 180-2	1053

These barges are serving numerous ports within Southeast, South Central and Western Alaska. The primary ports of call are Wrangell, Juneau, Haines, Yakutat, Seldovia, Nikiski, Anchorage, Sand Point, King Cove, Dutch Harbor, Dillingham and Naknek.

If you require any further information, please do not hesitate to contact me.

Sincerely,

Randy Collar
Transportation Manager

RC:paa

ADEC Staff

March 12, 1991

Revised List

465-2630

Barges w/Approved
Proof of Financial
Responsibility

Glenn Adams
Project Assistant
EQ/SPPM/Financial Responsibility

The following fuel Barges have approved Proof of Financial Responsibility through June 1, 1991. Please let me know of any other fuel barge that is not on this list, that is operating in Alaskan waters. Other barges will be added to this list when they are approved.

Barge Owner/Operator	Barge Name & GRT		Type of Proof
Crowley Maritime Corp.	B&R 5	247	Surety Bond
101 Calif. St.	B&R 80-1	109	B&R 80-2 121
San Francisco, Ca.	B&R 80-3	121	120-1 318
94111-5875	120-2	318	160-1 530
	160-4	569	BC 151 629
	BC 152	629	BC 154 629
	210	1,256	211 1,256
	212	1,256	213 1,256
	218	1,256	251 2,637
	255	2,971	312-3 3,157
	Arctic	4,717	PAC 570 5,057
	Challenger		
	Cordova	5,051	Nikiski 5,051
	McKinley	5,051	Ketchikan 5,051
	Palmer	5,051	Kodiak 5,051
	Juneau	5,145	101 5,498
	102	7,970	450-2 8,123
	450-3	5,123	50-4 8,123
	450-6	8,987	450-7 8,987
	450-8	8,123	450-9 8,134
	450-11	8,923	UT 10 4,133
	250-10	2,639	SATCO 10 1,257
	SATCO 20	1,202	SATCO 21 1,202
	Barge ST22	338	Barge ST23 338
	Napamute	334	Kodiak No.1 221
	Eek	53	Orca No.2 192
	Oil No. 1	155	14 3,174
	17	2,442	450-10 8,914

(Crowley continued)

500-2	7,171	16	2,442
18	3,179	254	2,971
DB 300	2,614	Cinnabar	75

Foss Maritime Co. 660 West Ewing St. Seattle, Wa 98119	Foss 256 Foss 255 Foss Tongass SEA 76 Foss Energizer Phoenix 120 Hanalei	2,656 2,637 744 830 4,757 3,218 1,849	Insurance
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Exxon Shipping Co. P.O. Box 3342 Houston, TX 77253	Exxon Barge No. 503 Exxon Equity Holding Co.	9,185 Guaranty
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Delta Western P.O. Box 102916 Anchorage, AK 99501	DW 282 DW 280	1,000 3,365 1,000 3,382	Self-Insurance
---	------------------	----------------------------	----------------

Boyer Towing Inc. 7318 4th Ave. Seattle, WA 98108	Kootznahoo Callapooya	312 1,192	Insurance
			Approval Rescinded 3/4/91

Samson Tug & Barge Co. P.O. Box 559 Sitka, AK 99835	Annahootz	2,638	Insurance
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Texaco Marine Services 2000 Westchester Ave. White Plains, NJ 10650	Valliant/ Pennsylvania Victory/Texas (tug/barge)	Self-Insurance
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White Pass Transportation Ltd. P.O. Box 4070 Whitehorse, Yukon Y1A 3T1	Alaskan Spirit	Insurance
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Smith Lighterage Co. P.O. Box 106 Dillingham, AK 99576	Skip I Ray'sons	216 98	Insurance
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Moody's Sea Lighterage Aleknagik, AK 99555	Sealite I ST 20	194 294	Insurance
			Approval Rescinded 2/27/91

Kugkaktlike Limited General Delivery Kipnuk, AK 99614	Chalin	206	Insurance
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Alaska Marine Charters 106 110th Place S.E. Bellevue, WA 98004	Investigator	1,730	Insurance
			Approval rescinded until new insurance meeting State requirements can be met

Northland Services, Inc.	ZPC 401	1,739	Insurance
601 So. Myrtle Street	Kvichak Trader	2,227	
Seattle, WA 98124			

Bering Sea Fisheries	King Salmon	979	Insurance
4413 83rd Ave. S.E.			
Everett, WA 98205			

Trident Seafood Corp.	NC-S-1		Insurance
5303 Shilshole Ave. NW	J-S-1		
Seattle, WA 98107		Approval Rescinded 2/28/91	

Coastwise Trading Co.	Georgia Bay	9,759	Guaranty
200 East Randolph Dr.	Florida Bay	11,296	
Chicago, IL 60601			

Dojer Ltd.	Itswoot		Insurance
P.O. Box 660	Blue Fox		
Whittier, AK 99693	Approval rescinded until new insurance meeting State requirements is provided		

Forty Niner	FNT-180	1,066	Guaranty
Transportation Co.	FNT-340	5,214	Harbor Ent.
1600 A Street, Suite 307			
Anchorage, AK 99501			

Brice Inc.	OBS 4000		Insurance
P.O. Box 668			
Fairbanks, AK 99707	Approval rescinded 2/11/91 pending new insurance coverage		

United Marine Tug and	UMBT 281	3365	Insurance
Barge, Inc.	MLC 344	5214	
1441 North Northlake Way	MLC 332	4564	
Seattle, WA 98103	MLC 340-1	5214	
	MLC 333	4586	

Brix Maritime Barging, Inc.	Sitka	2,506	Insurance
P.O. Box 83018	Palmer	5,051	
Portland, OR 97283			

DIVISION OF LEGAL SERVICES

LEGISLATIVE AFFAIRS AGENCY STATE OF ALASKA

P.O. Box Y, Juneau, Alaska 99811
(907) 465-3867 or 465-2450
FAX (907) 465-2029

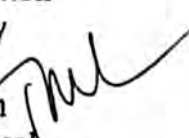
Deliveries to: 240 Main Street
Court Plaza, Room 500
Mail Stop 3101

MEMORANDUM

March 19, 1991

SUBJECT: Vessel Contingency Plans
(Work Order No. 7LS-1032)

TO: Senator Sam Cotten
Attn: Ginny Fay

FROM: Terri Lauterbach 
Legislative Counsel

You have asked whether the laws of California are more comprehensive or more stringent than the laws of Alaska with respect to oil spill contingency plans for vessels.^{1/}

In my opinion, the laws of California are both more comprehensive and more stringent than the laws of Alaska for vessel contingency plans. Contingency plan requirements for vessels in California cover at least one additional area compared to Alaska and have stricter requirements in some of the areas that are covered in both states' laws.

CONTEXT OF DISCUSSION

The context in which you asked your question comes from the possibility of Alaska joining an interstate compact with other West Coast states that might contain language such as the following:

The compact shall work closely with officials of the [party states] to assure that the vessel contingency plans required under this compact are at least as comprehensive as similar plans required by the parties before adoption of this compact and to integrate, to the fullest extent possible, any requirements for vessel contingency plans in effect at the time the compact initiates its requirements under this subparagraph. (Emphasis added.) (Language obtained from you.)

^{1/} This memo is restricted to a discussion of the statutes of the two states. No attempt is made to compare the regulations of each state. Both sets of regulations are still being developed.

I interpret this language to mean that the vessel contingency plans of the compact states must not only address all relevant areas (comprehensiveness) but also contain "any requirements...in effect at the time" (be as stringent).^{2/}

COMPREHENSIVENESS

The main area covered by California laws that makes their contingency planning requirements for vessels more comprehensive than under Alaska's laws is in the area of prevention measures.

California requires that vessel contingency plans demonstrate that "all protection measures are being taken to reduce the possibility of an oil spill occurring as a result of the operation of the...vessel." Alaska has no such requirement to reduce the possibility of an oil spill.

Our laws call the plans "oil discharge prevention and contingency plans" but Alaska law only contains standards for response measures that must be taken after a spill occurs. DEC can make exceptions to the response planning standards for vessels that take prevention measures, but no vessel is required to take prevention measures under our law.

STRINGENCY

California's vessel contingency plan laws are more stringent than Alaska's in several respects.

(1) Best available protection. California's laws require that contingency plans provide for "the best achievable protection of coastal and marine resources."^{3/} In contrast, Alaska's laws set specific response planning standards in terms of size of vessel, size of discharge, and number of hours.

^{2/} Since the compact language you sent to me deals only with vessel contingency plans, that is the only subject addressed in this memo. This memo does not address master state plans or other aspects of state prevention or response to oil discharges, such as state research into technology, state deployment of equipment and personnel, or state marine safety regulations.

^{3/} Govt. Code 8670.28(a). "Best achievable protection" is defined in Govt. Code 8670.3(c) as being
the highest level of protection which can be achieved through both the use of the best achievable technology and those manpower levels, training procedures, and operational methods which provide the greatest degree of protection achievable...

"Best achievable technology" is further defined in Govt. Code 8670.3(d) to include processes "that are being developed, or could feasibly be developed anywhere in the world."

In my opinion, California's "best achievable protection" standard might well be a stricter standard than our 72-hour standard, particularly as technologies improve, and particularly for smaller spills which, in Alaska, are only subject to the same 72-hour standard as larger spills.

(2) Best available technology. In California, the state can require a contingency plan to be resubmitted when new response technologies become available.^{4/} In Alaska, a plan only needs to contain the best technology available at the time of submission or renewal, with no modifications required for upgrading technology within the three-year approval period.^{5/}

(3) Reasons for modification. In California, the state can require resubmission of a contingency plan for reasons not allowed in Alaska. Those reasons are availability of better technology than when the plan was first approved (discussed above), changes in regulations (not necessarily in response to a change in the underlying law), deficiencies determined in a statewide evaluation one year after the 1991 regulations are adopted, and increased need to protect endangered species habitat.^{6/}

In Alaska, the only specified reasons for modifications within the three-year approval period are changes within the operation of the facility and discharge experience.^{7/}

(4) Approval period. In California, a contingency plan is approved for only a two-year period. In Alaska, a plan is approved for three years.

(5) Conditional approval. It does not appear to me that California's law allows for approval of a plan subject to conditions, as is allowed under regulations of DEC in Alaska.^{8/} California law specifically provides that "A plan is not deemed approved until all portions are approved."^{9/} A nonapproved plan must be returned to the sender. Failure to gain approval after a second submission may be determined to be a violation in California.

^{4/} Govt. Code 8670.31(g).

^{5/} AS 46.04.030(e).

^{6/} Govt. Code 8670.31(g).

^{7/} AS 46.04.030(e).

^{8/} While this memo is primarily limited to statutory comparisons, I mention this particular Alaska regulation because it has been made noteworthy by developments in this state. I consider it highly unlikely that California might turn out to have a similar regulation when its regulations are adopted because of its more specific statutory language about plans not being approved in parts.

^{9/} Govt. Code 8670.31(d).

Senator Sam Cotten
March 19, 1991
Page 4

I hope you find the discussion in this memo helpful. Please let me know if I can answer further questions on this matter or be of other assistance.

TML:pl
91-180.plm

REVISED DEFINITION OF VESSEL FOR THE PACIFIC OCEAN RESOURCES
COMPACT

See Article II (8)

These changes are designed to take advantage of the language contained in the 1990 Oil Pollution Control Act which protects small operators providing essential service in remote or rural areas. The need for exemptions are particularly important throughout much of Alaska.

New Definition of Vessel

Vessel means a watercraft or other artificial contrivance that is constructed or adapted to carry, or that carries oil or hazardous substances in bulk as cargo or cargo residue and that is greater than 5,000 dead weight tons.

REVISED COMPACT VOTING PROCEDURE

Article VII

- (1) A majority of representatives, with at least one member from each member state, shall constitute a quorum.
- (2) Each member state shall have two voting representatives.
- (3) No action or decision of the compact shall be approved unless the action or decision receives a majority of votes of the representatives, with at least one representative from each state voting in the majority.

FEDERAL

OPA 90

(OIL POLLUTION
ACT, 1990)

September 1990

THE ROLE OF THE STATES
UNDER THE FEDERAL OIL SPILL LAW

American Petroleum Institute
Office of General Counsel

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THE ROLE OF THE STATES UNDER THE FEDERAL OIL SPILL LAW

I. BACKGROUND

For the past fifteen years, comprehensive oil spill legislation has been considered in the U.S. Congress, with the issue of preemption of state liability laws dividing the House and Senate. In 1989, the House abandoned its historic position and passed a bill which does not conflict with the Senate Bill and allows the States to enact their own oil spill liability laws. On August 18, 1990, President Bush signed this legislation.

In order to legislate responsibly in this area, the States should carefully analyze the comprehensive federal law which addresses issues of oil spill liabilities, funding, financial responsibility, contingency planning, "Good Samaritan" legal protections, and coordination of oil spill response and cleanup.

This new federal law vests in the individual States extensive responsibilities for developing regulatory standards and enforcing its provisions. The States should carefully assess their rights and benefits under this federal law, which creates a \$1 billion federal oil spill fund, and avoid oil spill legislation which would unnecessarily duplicate or conflict with the federal law.

Such conflicts, for example, in the financial responsibility area could significantly obstruct the efficient conduct of national and international commerce. In the contingency planning and response area, federal and state conflicts could jeopardize an immediate and effective strategy for containing, mitigating and removing an oil spill.

The sections below will briefly summarize the major aspects of the new federal oil spill law and its important provisions concerning the role of the States in protecting their interests. The States should enact their own provisions in the following areas only if they find the federal legislation incomplete or otherwise unsatisfactory.

II. LIABILITY

A. Strict Liability for All Damages

The new federal law, entitled "The Oil Pollution Act of 1990," imposes strict liability on tankers or other vessels and facilities for damages resulting from an oil spill. The Act independently lists the extensive damages for which the spiller would be liable, including:

1. removal costs incurred by the U.S. or a State;
2. all damages for economic losses, including injury and lost use of real and personal property and lost income or profits, recoverable by any citizen or business in any state;
3. natural resource damages recoverable by a State under an assessment by State trustees, for all costs of assessing damages and restoring the State's natural resources, including the "lost use" value of such resources pending restoration;
4. lost State government revenues, including lost taxes, royalties, rents, fees, or net profit shares;
5. subsistence uses of damages natural resources; and

6. public services costs (of State and local governments) required during or after oil spill removal activities, including protection from fire, safety or health hazards.

States concerned that federal cleanup standards may be less stringent than State standards should examine section 1011 of the new law:

The President shall consult with the affected [state] trustees...on the appropriate removal action to be taken in connection with any discharge of oil. For the purposes of the National Contingency Plan, removal with respect to any discharge shall be considered completed when so determined by the President in consultation with the Governor or Governors of the affected States. However, this determination shall not preclude additional removal action under applicable state law.

This provision will ensure that cleanup operations under the National Contingency Plan are sufficiently carried out to the reasonable satisfaction of the Governor of any State impacted by a spill. This participatory mechanism will ensure that States will have a significant role in determining the extent and sufficiency of cleanup operations necessitated by an oil spill. In addition, the states are free to require "additional removal actions under applicable state laws" if they are not satisfied with the cleanup achieved under the National Contingency Plan.

B. The Necessity of Liability Limits

The federal limits on liability have been substantially increased and are set at a sufficiently high level to foster responsible and environmentally protective conduct on the part of petroleum transporters and facilities -- without exposing them to

unlimited, and therefore uninsurable, liability. Specifically, tankers would be exposed to an overall liability level of \$1200 per gross ton, onshore facilities and deepwater ports would have a \$350 million liability limit, and outer continental shelf facilities would face a \$75 million limit on liability for third party damages with no cap on clean up costs. Finally, federal liability caps would not apply in cases where the operator was grossly negligent, engaged in willful misconduct, violated applicable federal safety, construction, or operating standards, or failed to report the spill incident as required by law.

These federal liability provisions will ensure compensation to citizens, businesses and state/local governments who suffer damages from an oil spill -- under the strictest liability standards against oil spillers. Some states, however, have considered ill-advised legislation which would expose oil spillers to unlimited liabilities. State laws for unlimited liability undermine the federal law which carefully balanced imposing tough liabilities on oil spillers against practical concerns of insurance availability and affordability and international competitiveness. Given the unprecedented cost experience of the Exxon Valdez oil spill, with cleanup costs alone approaching \$2 billion, the federal Congress understood correctly that petroleum transporters and facilities will not be willing to "bet their companies" in every case in which they handle or transport petroleum. The States must be no less cognizant of these critical concerns. Major coastal states such as Florida and New York have instead wisely legislated appropriate

limits on the liability of petroleum facilities and vessels.

If the States are satisfied with the federal proposal's strict standards of oil spill liability, backed by at least a \$1 billion federal fund, they should not legislate in this area. Most critically, the States should reject the counterproductive measure of imposing unlimited liabilities on oil spillers.

C. The Fund

To the extent a catastrophic spill results in damages in excess of the federal liability caps, the \$1 billion federal fund would satisfy most remaining liabilities -- with one important exception. "Removal costs" incurred on account of state legal requirements which are not consistent with the National Contingency Plan under the federal Clean Water Act may not be paid from the federal fund. This is not to say that the federal law does not hold spillers liable for removal costs incurred solely pursuant to state law -- it does. However, the new federal law denies access to the new federal fund for removal costs imposed by the states which are not called for under the new requirements for oil spill contingency planning. Thus, if the states participate in the new contingency planning process, as this new law calls for, and the states incorporate their removal standards in this process, the federal fund will be accessible to satisfy any such state removal standards.

This condition on the availability of the federal fund for state removal costs was added in the last stages of the Congressional conference on this new federal law. Significantly,

new contingency planning requirements, which bear very little resemblance to provisions in the previously passed House and Senate bills, were also added in the last stages of the conference. The philosophy underlying the limitation on the states' access to the federal fund is to encourage the states to participate diligently in the contingency planning process of the new federal law -- if, prior to a spill, the state and federal officials can agree on appropriate removal strategies and standards and incorporate them in the required plans, the federal fund will ensure total access and compensation to meet those standards. The states will not have unlimited access to the federal fund, however, if they decide to impose or create new cleanup and removal standards after a spill has occurred which are not mentioned in the contingency plans required under the new law.

Under section 1012(d) of the new law, a State Governor may obtain the President's consent to obligate up to \$250,000 from the federal fund for "the immediate removal of a discharge" -- but again only if the removal costs are consistent with the National Contingency Plan. In addition, under section 1013(b), a claim for state removal costs consistent with the National Contingency Plan may be presented immediately to the fund for payment. A state therefore does not have to follow the usual claims procedure under this law of presenting his claim to the spiller and waiting 90 days before presenting a claim to the fund. Furthermore, under section 6002(b), these fund expenditures are exempt from federal appropriations procedures and will be paid "expeditiously." See,

Sec. 1012(g).

Ultimately, it makes eminent sense to insure against catastrophic oil spill liability once -- at the federal level up to at least \$1 billion -- rather than to do so 50 times over, legislating a duplicative, catastrophic fund for each of the 50 States. The reasons which existed for the States to set up their own funds -- to sufficiently insure potential oil spill liabilities, finance State government clean up costs, and limited access of state governments to various federal funds - no longer exist. The States should instead accept the invitation in the new federal law to participate in the development of removal standards under the National Contingency Plan which will enable their access to the federal fund for the immediate payment of oil spill liabilities.

III. FINANCIAL RESPONSIBILITY

Section 1019 of the new law provides:

"A State may enforce, on the navigable waters of the State, the requirements for evidence of financial responsibility under section 1016."

The Conference Report elaborates that "[t]his authority includes the right to inspect vessels and facilities, to require the display of evidence of financial responsibility and to impose sanctions for failure to comply with the requirements."

Given this broad delegation of authority to the States to embrace and enforce federal requirements of financial responsibility, the States should refrain from legislating

additional (or merely duplicative) requirements unless they find the federal requirements deficient in some respect. To the extent state law in this area would merely duplicate federal requirements, no substantive purpose would be served. Rather, local businesses would merely be burdened by the annual preparation and submission of paperwork. To the extent any State governments required higher levels of financial responsibility than those required under the new federal law, (which approach the highest levels of insurability), that state might jeopardize the viability of petroleum operations located in that State. The efficient flow of commerce is achieved by the imposition of a uniform level of financial responsibility, so long as that level is high enough to insure against all of the potential liabilities of a petroleum operator or transporter.

Summary of Federal Financial Responsibility Requirements

The new law contains an array of available sanctions against those vessels and facilities that do not satisfy their financial responsibility requirements -- including seizure, detention, and withholding clearance for entry, and the imposition of civil penalties of up to \$25,000 per day. Substantively, oil tankers are required to show financial responsibility of the greater of \$1200 per gross ton or \$10 million. Offshore facility owners and operators are subject to financial responsibility of \$150 million; deepwater ports are required to have \$350 million of financial responsibility. Various methods of demonstrating financial responsibility are enumerated in the new law, including evidence of

insurance, surety bonds, guarantees, letters of credit, and self-insurance.

These federal financial responsibility requirements are extremely high and the sanctions for non-compliance are strict and punitive. The States should find that the federal requirements for financial responsibility provide a satisfactory guarantee of compensation for the states, their citizens, and natural resources. The States should aggressively undertake the enforcement prerogatives regarding financial responsibility which are offered the under the new federal law.

IV. GOOD SAMARITAN PROTECTION FOR OIL SPILL RESPONDERS

With the emergence of a new federal oil spill liability law, and recent costs for oil spill damages reaching the multi-billion dollar level, the viability and effectiveness of organizations designed to respond to oil spills is threatened. Such organizations, many of which are non-profit, simply can not afford exposure to the "brave new world" of oil spill liabilities -- and why should they?

The law must recognize the significant differences between the spill response organizations and the original spillers of oil -- allocating their respective liability risks accordingly. Specifically, federal and state laws should extend to spill response cooperatives and contractors the protection from liability -- except in cases of gross negligence or willful misconduct -- which is afforded other emergency entities in our society,

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including ambulance services and firefighters. In the case of damages allegedly caused by the negligence of oil spill responders, it is the original spiller of oil, whose conduct necessitates the response, who should pay those damages.

The new federal law therefore contains a provision which extends such limited immunity protection for oil spill response organizations -- but only for the liabilities they face under the federal law. This provision will not succeed if spill responders continue to face duplicate, (and in some case unlimited), liabilities under individual state laws. At present, the majority of existing Good Samaritan state laws applicable to oil spill responders contain a host of impractical and unrealistic condition on the immunity. For example, under many of these state laws, an oil spill responder loses its immunity if it charges any fee for its services. Such conditions on liability exposure only undermine the goal of ensuring emergency response capability. The States should instead legislate for the promotion of the best possible response to spill emergencies by enacting straightforward limited responder immunity provisions such as the new national standard.

V. FEDERAL PRIMACY IN SPILL RESPONSE AND CONTINGENCY PLANNING.

A. Response Chain of Command

A most important lesson learned from recent, publicized spill incidents is that immediate and decisive response to oil spills is essential to a successful containment and cleanup. The new federal law fundamentally amends the Clean Water Act's provisions in this

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regard to charge federal authorities with the duty to ensure an effective response. Thus, section 4201 provides that "[t]he President shall, in accordance with the National Contingency Plan and any appropriate Area Contingency Plan, ensure effective and immediate removal of a discharge...into or on the navigable waters...." In cases of "a substantial threat to the public health or welfare of the United States,...the President shall direct all Federal, State, and private actions to remove the discharge...." Federal primacy is express in the new legislation with respect to oil spill response: "Each federal agency, State, owner or operator, or other person participating in [removal] efforts...shall act in accordance with the National Contingency Plan or as directed by the President...." See, new section 311(c)(3) of the Federal Water Pollution Control Act, as amended by section 4201 of the new law.

The States should avoid oil spill response legislation which conflicts or is otherwise inconsistent with this new federal duty and authority to ensure effective response measures are taken. Of course, to the extent state contingency plans or other response provisions would interfere with the new federal response provisions of the Clean Water Act, they would be inconsistent and of questionable effect. States should, however, be careful not to cause uncertainty by placing federal response authorities or oil spill responders in the position of having to resolve conflicting directives from federal and state authorities.

Recent examples of such conflicts resulted in delayed response

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and exponentially increased damage to economic and environmental interests. The Conference Report emphasizes the point: "This subsection is designed to eliminate the confusion evident in recent spills where the lack of clear delineation of command and management responsibility impeded prompt and effective response."

B. Contingency Planning

The new federal law establishes a new and comprehensive national planning and response system under the Federal Water Pollution Control Act. This system will consist of an updated National Contingency Plan, a new National Response Unit, Coast Guard Strike Teams, Coast Guard District Response Groups, Area Committees and Contingency Plans, and vessel and facility contingency plans.

Within one year of enactment, the President is required to revise and republish the National Contingency Plan (NCP) to "provide for efficient, coordinated, and effective action to minimize damage from oil and hazardous substance discharges, including containment, dispersal, and removal...." The new NCP must assign "duties and responsibilities among Federal departments and agencies in coordination with State and local agencies and port authorities...." New Coast Guard Strike Teams are established as well as "[p]rocedures and techniques to be employed in identifying, containing, dispersing, and removing oil...." The NCP also importantly calls for

A system whereby the State or States affected by a discharge of oil or hazardous substance may act where necessary to remove such discharge and such State or States may be

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reimbursed in accordance with the Oil Pollution Act of 1990, in the case of any discharge of oil from a vessel or facility, for the reasonable costs incurred for that removal, from the Oil Spill Liability Trust Fund.

The NCP must also include a new fish and wildlife response plan, developed in consultation with, inter alia, "State fish and conservation officials."

By August 18, 1991, the Secretary of Transportation must establish a new "National Response Unit" (NRU) in Elizabeth City, North Carolina. The NRU will maintain a comprehensive computer list of spill removal resources, "coordinate the use of private and public personnel and equipment to remove a worst case discharge," administer Coast Guard Strike Teams and maintain all approved Area Contingency Plans.

Also by August 18, 1991, Coast Guard District Response Groups must be established in each of ten Coast Guard districts. These response Groups will manage all federal removal resources within their district, including firefighting equipment.

By February 18, 1991, the President is required to designate areas for which new "Area Committees" are to be established, ensuring "that all navigable waters, adjoining shorelines, and waters of the exclusive economic zone are subject to an Area Contingency Plan...." Area Committees are to be comprised of "members appointed by the President from qualified personnel of Federal, State, and local agencies." Area Committees are required, by February 18, 1992, to submit "Area Contingency Plans" which are "adequate to remove a worst case discharge...from a vessel,

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offshore facility or onshore facility operating in or near the area." The plans must note "areas of special economic or environmental importance that might be damaged by a discharge" and "describe in detail the responsibilities of an owner or operator and of Federal, State, and local agencies in removing a discharge...." These plans must be integrated with the NCP and individual vessel and facility contingency plans.

Finally, owners or operators of tankers and facilities must prepare and obtain Presidential approval of individual contingency plans. These plans must, among other things,--

identify, and ensure by contract or other means approved by the President the availability of private personnel and equipment necessary to remove to the maximum extent practicable a worst case discharge....

Regulations for vessel and facility contingency plans must be published by August 18, 1992 and plans must be submitted for approval no later than February 18, 1993.

As a consequence of these extensive planning requirements, which will include extensive State and public input, the States should not require a potentially fourth and conflicting level of oil spill contingency planning. Contingency planning requirements under state law would entail the preparation and submission of potentially duplicative paperwork and would risk inconsistency with federally-required plans -- each potential factors in delaying an immediate and ordered response which is critically necessary in order to limit environmental and economic damages. Finally, to the extent a state's contingency plan requirements were at variance

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with plans approved by federal authorities, they would be of dubious legal effect.

No Duplication

As has been noted, the driving philosophy of this federal legislation is that the spiller is strictly and exclusively responsible for all the consequences of his spill. In this regard, it is the spiller who must ensure the availability of "private personnel and equipment necessary to remove to the maximum extent practicable a worst case discharge" -- and pay all spill liabilities if a spill occurs. Consistent with this philosophy, the Congress rejected a course of action which would relieve private industry of its obligation -- as an ordinary business cost -- of providing sufficient national oil spill response capability. In large part, the creation of MSRC reflects industry's fulfillment of this obligation.

Because of this federal requirement that a private response and cleanup capability exists which is sufficient to respond to worst case discharges from vessels or facilities, any further public expenditures for these would duplicate private efforts. As a practical matter, public resources are expressly precluded from being referenced by vessels and facilities to fulfill their contingency and response planning obligations under federal law. It would therefore be a redundant and wasteful exercise for the

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states to tax their citizens for the purpose of creating and sustaining state response and cleanup resources which duplicate those private capabilities mandated by federal laws.

**AMERICAN PETROLEUM INSTITUTE - OFFICE OF GENERAL COUNSEL
STATUTORY SCHEDULE OF IMPLEMENTATION OF THE OIL POLLUTION ACT OF 1990
(AUGUST 1990)**

Date of Enactment: August 18, 1990

<u>DEADLINE</u>	<u>SECTION</u>	<u>IMPOSED ON WHOM; BRIEF DESCRIPTION</u>	<u>RESPONSIBILITY FOR ISSUE MANAGEMENT</u>
None	1004(d)(1)	Sec. of Trans.; Discretionary regulation to reduce liability limits for onshore facilities from \$350 million down to \$8 million, considering specified factors.	STTF
No later than 1 year after enactment.	1004(d)(2)(B)	Sec. of Trans.; Submit Report to Congress of deepwater port oilspill risks.	M.T.C.
	1004(d)(2)(C)	Sec. of Trans.; must issue regs. within 180 days of submission of Report, lowering liability limits for deepwater ports from \$350 million down to \$50 million, if Report concludes that deepwater port operations pose a reduced environmental threat than other operations.	M.T.C.
Within 6 months of date of enactment, and from time to time thereafter.	1004(d)(3)	President; Report to Congress on desirability of adjusting liability limits under the Act.	M.T.C.

<u>DEADLINE</u>	<u>SECTION</u>	<u>IMPOSED ON WHOM; BRIEF DESCRIPTION</u>	<u>RESPONSIBILITY FOR ISSUE MANAGEMENT</u>
Every three years.	1004(d)(4)	President; Regulations adjusting liability limits to reflect increases in the CPI.	M.T.C.
Not later than 2 years after enactment.	1006(e)(1)	NOAA, in consultation with EPA and Fish and Wildlife Service; Regulations for the assessment of natural resource damages.	MRDA Task Force
None	1012(c)	President; Discretionary regs. to designate officials to administer the Fund.	M.T.C.
Not later than 6 months after enactment.	1012(e)	President; proposed regulations on obligating the Fund and entering into agreements with the states (\$250,000). Final regs. must be published within 3 months of the close of the comment period for proposed regs.	M.T.C.
One year after enactment.	1012(g)	Comptroller General Audit Report of Fund	M.T.C.
None	1013(e)	President shall publish regs. for the adjudication of claims against the Fund.	M.T.C.
None	1014(b)	President; Regulations for designation of responsibility for a spill and advertisement.	M.T.C.