

ALASKA LEGISLATURE SPECIAL COMMITTEE/SUBJECT FILE 8672
2048 SCOMM 78: SENATE SPEC. COMM. ON OIL & GAS, 1991-1992

<u>DEADLINE</u>	<u>SECTION</u>	<u>IMPOSED ON WHOM; BRIEF DESCRIPTION</u>	<u>RESPONSIBILITY FOR ISSUE MANAGEMENT</u>
None	1016(a)	Financial responsibility regulations; for vessels by Sec. of Trans.; for facilities, by the President.	MTC/POC
Within 6 months after enactment.	3002	Secretary of State; Report to Congress on U.S. - Canada Great Lakes Oil Spill Cooperation.	
Within 6 months after enactment.	3003	Secretary of State; Report to Congress on U.S. - Canada Lake Champlain Oil Spill Cooperation.	
None	4103(b)	Sec. of Trans.; regulations regarding license re-issuance.	M.T.C.
Within 1 year of enactment.	4107	Sec. of Trans.; Report to Congress on need for expanded authority to direct the movement of vessels and expanded VTS.	M.T.C.
Not later than 1 year after enactment.	4109	Sec. of Trans.; Regs. establishing minimum standards for plating thickness.	M.T.C.
Not later than 1 year after enactment.	4110	Sec. of Trans.; Regs. establishing minimum technicals standards for overfill prevention and cargo tank pressure monitoring.	M.T.C.

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Not later than 1 year after enactment.	4111	Sec. of Trans.; initiate a study regarding tanker navigation safety standards (crew sizes, qualifications, navigation equipment/-procedures, tanker-free zones). Not later than 2 years after enactment, Sec. must submit Report to Congress and recommendations.	M.T.C.
Not later than 1 year after enactment.	4112	Sec. of Army; Report to Congress on Dredge Modification Study.	
Not later than 1 year after enactment.	4113	President (to designate EPA and Coast Guard); Study on liners/secondary containment for onshore facilities. 6 months after submission of Report, recommendations are implemented.	S.T.T.F.
Within 180 days of enactment.	4114(a)	Sec. of Trans.; initiate a rulemaking regarding conditions for auto-pilot use.	M.T.C.

<u>DEADLINE</u>	<u>SECTION</u>	<u>IMPOSED ON WHOM; BRIEF DESCRIPTION</u>	<u>RESPONSIBILITY FOR ISSUE MANAGEMENT</u>
Within 12 months of enactment.	4115(b)	Sec. of Trans.; issue a final rule affecting vessels over 5000 gross tons for "structural and operational" requirements (in addition to double hulls), e.g., "hydrostatic loading, liners, spill rails..."	M.T.C.
Not later than 6 months after enactment.	4115(e)	Sec. of Trans.; Report to Congress on National Academy of Sciences Study regarding other "structural and operational requirements... equal to or greater than [double hulls]." Not later than 5 years after enactment, Report to Congress or impact of double hull and other requirements on environment and health of maritime transportation industry.	M.T.C.
None	4116(a)	Sec. of Trans.; Regulation for pilotage in Prince William Sound.	M.T.C.
None	4116(b)	Sec. of Trans.; Designation of areas where master/mate is required in addition to pilot.	M.T.C.

<u>DEADLINE</u>	<u>SECTION</u>	<u>IMPOSED ON WHOM; BRIEF DESCRIPTION</u>	<u>RESPONSIBILITY FOR ISSUE MANAGEMENT</u>
Not later than 6 months after enactment.	4116(c)	Sec. of Trans.; Initiate issuance of regs. to define areas for escort of tankers.	M.T.C.
Not later than 1 year after enactment.	4117	Sec. of Trans.; Report to Congress on Study of feasibility of Maritime Oil Pollution Prevention Training Program.	M.T.C.
Not later than 1 year after enactment.	4118	Sec. of Trans.; Regulations regarding vessel communications equipment.	M.T.C.
Not later than 1 year after enactment.	4201(c)	President shall revise and republish the National Contingency Plan (NCP) to implement amendments, including establishment of strike teams, a national center, conditions for dispersant use, state participation, and fish and wildlife response plan.	Spill Response and Effects Task Force

<u>DEADLINE</u>	<u>SECTION</u>	<u>IMPOSED ON WHOM; BRIEF DESCRIPTION</u>	<u>RESPONSIBILITY FOR ISSUE MANAGEMENT</u>
Not later than 6 months after enactment.	4202(b)	President shall designate areas for which Area Committees will be established. Not later than 18 months after enactment, Area Committees shall submit to President Area Contingency Plans; Not later than 24 months after enactment, President shall review these plans.	Spill Response and Effects Task Force
Not later than 1 year after enactment.	4202(b)	Sec. of Trans.; must establish new "National Response Unit." Sec. of Trans. must establish new Coast Guards District Response Groups.	M.T.C.
Not later than 24 months after enactment.	4202(b)(4)	Pres. shall issue regs. for tank vessel and facility contingency plans; after 30 months from enactment, tank vessels/facilities must submit plans to President; Pres. must review submitted plans within 36 months after enactment, (but may permit operations for up to 2 years after submission of plans under certain conditions).	M.T.C.

<u>DEADLINE</u>	<u>SECTION</u>	<u>IMPOSED ON WHOM; BRIEF DESCRIPTION</u>	<u>RESPONSIBILITY FOR ISSUE MANAGEMENT</u>
Within 36 months of enactment	5002(1)(1)	Alaska Regional Advisory Councils (Prince William Sound, Cook Inlet) and Terminal/Tanker Associations shall report to President and Congress concerning activities/recommendations.	M.T.C.
Within 36 months of enactment	5002(1)(2)	GAO Report to President and Congress on funds, programs, and recommendations concerning Alaska Terminal and Tanker Oversight and Monitoring.	M.T.C.
Within 1 year of enactment	5004	Sec. of Trans.; shall issue final regs. necessary for effective VTS in Valdez, including audible alarms. Sec. of Trans.; shall report to congressional committees on feasibility of "positive control of tank vessel movements in Prince William Sound by Coast Guard personnel."	M.T.C.
Not later than 6 months after enactment.	6003(e)	Environmental Sciences Review Panel report to Sec. of Interior regarding adequacy of information for North Carolina OCS leasing.	General Committee on Exploration

<u>DEADLINE</u>	<u>SECTION</u>	<u>IMPOSED ON WHOM; BRIEF DESCRIPTION</u>	<u>RESPONSIBILITY FOR ISSUE MANAGEMENT</u>
Within 180 days of enactment	7001(b)	Interagency [Oil Pollution Research] Committee shall submit Plan for research to Congress.	Spill Response and Effects Task Force
No later than 1/31/91	8302	Sec. of Interior must Report to Congress on study of contingency plans, damages recovery, and coordinated action in response to oil spill in Arctic Ocean.	Spill Response and Effects Task Force

OPA 1990

REGULATED FACILITIES/VESSELS:

Tank Vessels: any vessel constructed or adapted to carry oil or hazardous material in bulk as cargo

Offshore Facilities

Onshore Facilities: any facility capable of discharging into navigable waters, adjoining shorelines, or exclusive economic zone

MAJOR C-PLAN REQUIREMENTS/STANDARDS:

Tank Vessel and Facility Response Plan for responding, to the maximum extent practicable, to a worst case discharge, and to a substantial threat of discharge.

Response plan to identify private personnel and equipment needed to remove, to the maximum extent practicable, worst case discharge (including discharge due to fire or explosion), and to mitigate or prevent discharge.

Tank vessels to carry appropriate removal equipment employing best technology that is economically feasible and compatible with safe operation of vessel.

Response plan shall describe training, equipment testing, periodic unannounced drills and response actions.

Response plan shall be consistent with National Contingency Plan and Area Contingency Plan.

FINANCIAL RESPONSIBILITY LEVELS - PER INCIDENT:

Onshore Facility - \$350,000,000.

Offshore Facility - \$150,000,000.

Tank Vessel/Oil Barge over 3,000 tons - the greater of \$1,200 per ton or \$10,000,000

Tank Vessel/Oil Barge under 3,000 tons - the greater of \$1,200 per ton or \$2,000,000.

Any Vessel over 300 tons - the greater of \$600 per ton or \$500,000.

RESPONSE FUNDING:

Federal Oil Spill Liability Trust Fund - \$1,000,000,000 with \$25,000,000 available to Coast Guard, and \$30,000,000 through FY

92 available to establish National Spill Response System. Up to \$250,000 available on request of Governor to State for immediate removal or, pursuant to agreement, request by a designated state official.

PREVENTION REQUIREMENTS:

Review of driver's license, alcohol and drug testing; suspension of licenses, certificates or documents; removal of ship's master if under influence of alcohol or drugs.

Periodic gauging of vessel plate thickness.

Requirements defining provisions for tank vessel operation with auto pilot engaged or unattended engine room.

Watches on tank vessel cannot exceed 15 hours during any 24 hour period or 36 hours in any 72 hour period.

Double hull tank vessels required according to replacement schedule. Single hull tank vessels phased out by 2010, until then will require double tug escort while in sensitive waters such as Prince William Sound.

Pilotage in Prince William Sound by Alaska licensed pilot who is not a member of vessel's crew. Federal designation of pilotage waters in areas and approaches of Prince William Sound.

INSPECTIONS/DRILLS:

Periodic inspections of containment booms, skimmers, vessels and other major equipment used to remove discharges.

Periodic drills without prior notice of removal capability according to relevant facility and vessel response plans. Annual reports of these drills will be published, including assessments of the effectiveness of the plans and a list of amendments made to improve the plans.

RESPONSE CONTRACTOR STANDARDS:

OPA 1990 provides for an immunity from liability for persons other than responsible party who are providing clean up assistance or advice in an action consistent with the National Contingency Plan, except for personal injury, wrongful death, gross negligence or willful misconduct.

ALASKA

REGULATED FACILITIES/VESSELS:

Oil Terminal Facilities (over 5,000 barrels crude, 10,000 barrels noncrude)
Exploration/Production Facilities
Oil Pipelines
Tank Vessels/Oil Barges

MAJOR C-PLAN REQUIREMENTS/STANDARDS:

Sufficient oil discharge containment, storage, transfer, and cleanup equipment, personnel, and resources to meet the following time/volume standards:

Oil Terminal Facilities - discharge equal to capacity of largest tank or greater if high risk area; within 72 hours, or shortest possible time if spill is to an environment other than open water.

Oil Exploration/Production Facilities - discharge equal to "realistic maximum oil discharge" (RMOD); within 72 hours or shortest time if other than open water.

Oil Pipelines - discharge equal to "RMOD" within 72 hours, or shortest time if other than open water.

Tank Vessels/Oil Barges

- less than 500,000 barrels crude oil capacity shall maintain in region resources for 50,000 barrel discharge supplemented by resources outside region for "RMOD", within 72 hours or shortest time if other than open waters.

- more than 500,000 barrels crude oil capacity shall maintain in region resources for 300,000 barrel discharge supplemented by resources outside region for "RMOD", within 72 hours or shortest time if other than open waters.

- any noncrude cargo capacity shall have resources to contain or control the greater of 15 percent of maximum capacity or "RMOD", within 48 hours or shortest time if other than open waters, clean up within shortest possible time.

FINANCIAL RESPONSIBILITY LEVELS - PER INCIDENT:

Crude Oil Terminal Facilities - \$50,000,000.

Noncrude Oil Terminal Facilities - \$25 per barrel storage capacity or \$1,000,000; maximum of \$50,000,000.

Offshore Exploration/Production Facility - \$50,000,000.

Onshore Exploration Facility - \$5,000,000.

Onshore Production Facility - \$20,000,000.

Pipeline - \$50,000,000.

Crude Oil Tank Vessel/Oil Barge - \$300 per barrel storage capacity or \$100,000,000.

Noncrude Tank Vessel/Oil Barge - \$100 per barrel storage capacity or \$1,000,000; maximum of \$35,000,000.

All dollar amounts adjust according to Consumer Price Index.

RESPONSE FUNDING:

Surcharge of \$.05 per barrel of oil produced from property in the state; surcharge suspended when maximum fund balance exceeds \$50,000,000.

PREVENTION REQUIREMENTS:

Department may consider evidence of implementation of oil discharge prevention measures such as double hulls, containment systems, hydrostatic testing, vessel traffic systems and enhanced staffing levels to reduce time/volume standards for individual facility, pipeline, tank vessel or oil barge operation.

INSPECTIONS/DRILLS:

Department may require plan holder to demonstrate ability to meet standards, including exercises and verification of access to resources identified in C-Plan. Department may reasonably enter and inspect facilities, pipelines, tank vessels, or oil barges. Department may perform structural integrity inspections if determined necessary.

RESPONSE CONTRACTOR STANDARDS:

If other than spiller and according to C-Plan, or order of state or federal authority, then contractor not civilly liable unless negligent or grossly negligent according to generally accepted professional standards and practices, or intentional misconduct.

CALIFORNIA

REGULATED FACILITIES/VESSELS:

Vessels: Barges and tankers constructed or adopted to carry oil in bulk or in commercial quantities as cargo.

Facilities: Any facility located in marine waters or capable of discharging into marine waters.

MAJOR C-PLAN REQUIREMENTS/STANDARDS:

State oil spill contingency plan due January 1, 1993; 3 year term

Vessel and marine facility plans due 90 days after the regulations go into effect which is to be on or before December 31, 1991; 2 year term.

May not conflict with the National Contingency Plan

Plans must demonstrate all necessary equipment and services for the response, containment, and cleanup of a "reasonable worst case oil spill" scenario. Equipment and services must be either in place or the planner must show it has the appropriate financial or contractual arrangements in place.

Must identify the types of equipment that can be used, its location and how long to deliver to the spill site.

Each marine facility must also identify the hazards associated with the operation of the facility, including the use of the facility by vessels, due to operating error, equipment failure and external events. It must identify measures to be taken to protect the recreational and environmentally sensitive areas that would be threatened by a "reasonable worst case oil spill."

Each plan must contain a list of contact to call during drills, threatened or actual discharges and a timetable for implementing the plan.

The regulations will set standards for determining a "reasonable worst case oil spill."

FINANCIAL RESPONSIBILITY LEVELS:

Vessels: \$500 million; rises to \$750 million on July 1, 1995 and \$1,000 million on January 1, 2000. May be reduced for "small barges" based on quantity of oil and potential risk to marine waters.

Facilities: "Reasonable worst case oil spill" based on amount of oil, risk to marine waters, costs of cleanup, frequency of operations and potential damages.

RESPONSE FUNDING:

\$0.25 per barrel collected from refineries, terminals and pipelines with a \$100,000,000 cap. (Oil Spill Response Trust Fund)

If no money is in the Trust Fund, the Fish and Wildlife Pollution Cleanup and Abatement Account may be used for cleanup. It is funded through oil spill settlements and civil penalties.

PREVENTION REQUIREMENTS:

Report due to the Legislature by December 31, 1992 on the feasibility of requiring new technologies to aid prevention.

INSPECTION/DRILLS:

Regular inspections of facilities along with associated equipment.

Periodic announced and unannounced drills; drills may also be conducted prior to approving a contingency plan.

SUMMARY OF FEDERAL OIL SPILL LEGISLATION

HR 1465 CONFERENCE COMMITTEE REPORT

TITLE I - Oil Pollution Liability and Compensation

SUBTITLE A - Prevention

1) Liability

1) Tank vessel - The greater of \$1200/gross ton or \$10,000,000 if the vessel is greater than 3,000 gross tons
\$2,000,000 if the vessel is less than 3,000 gross tons

2) Any other Vessel - \$600/gross ton or \$500,000 whichever is greater

3) Offshore Facility - except deep water port, the total of all removal costs plus \$75,000,000*

4) Onshore Facility and Deep Water Port - \$350,000,000

* The President may establish a limit on liability for offshore facilities of less than \$350,000,000 but not less than \$8,000,000 and deep water ports to not less than \$50 million.

2) Deep Water Port Study - The Secretary shall conduct a study the relative operational and environmental risks posed by the transportation of oil by vessel to deep water ports vs. other ports, including offshore lightering practices and an analysis of the volume of oil transported by vessel using those practices and an analysis of the frequency and volume of oil discharges which occur in connection with lightering practices. Study must be completed in one year.

3) Damages- spillers are liable for the following damages: 1) loss of earning capacity due to property or natural resource damage and property damage or loss; 2) loss of subsistence use of natural resources by anyone who uses the resource for subsistence; 3) loss of tax or other revenues by governments and 4) damages for the net costs to state and local governments of providing increased or additional public services during or after removal activities. Lawsuits must be started within three years of the time removal actions are completed.

4) Preservation of State Authorities

5) Creates the \$1 billion federal oil spill liability trust fund that can be use by federal or state officials for removal costs and the costs of monitoring removal actions and be consistent with the NCP. However the fund can not be used to pay for meeting stricter state standards). The fund can also be used to pay: 1) the costs of natural resource damage assessments and restoration; 2) claims for damages when the spiller denies liability or when the claim is not settled by payment within 90 days; and 3) administrative, operational, and personnel costs for implementation and enforcement of the act. Up to \$25 million is available to the Coast Guard in any fiscal year. Up to \$30 million each year through fiscal 1992 is available to establish a national spill response system, including the purchase and pre spill positioning of oil spill equipment. Up to \$26.5 million a year is available for research and development activities.

6) Clean up standards - Clean up is considered complete when determined so by the President in consultation with the Governor's of affected states.

TITLE II - Conforming Amendments

1) Money in three existing federal oil spill funds are combined into the Comprehensive federal oil pollution liability fund.

TITLE III - International Oil Pollution Prevention

1) Non-binding resolution stating that the U.S. should participate in an international oil pollution liability and compensation system that is at least as effective of state and federal laws. The president is required to encourage international organizations to establish an international inventory of spill removal equipment and personnel.

TITLE IV - Prevention and Removal

1) Alcohol and Drugs:

- a) review of driver's license records of applicants for licenses, certificates of registry, or merchant mariner's documents
- b) alcohol and drug testing of merchant sailors;
- c) temporary suspension of licenses, certificates and documents under certain circumstances;
- d) criminal checks prior to issuance or renewal of documents;
- e) suspension or revocation of a license, certificate or document if the individual is convicted of driving under the influence; and
- f) removal of the ship's master if he is under the influence of alcohol or dangerous drugs

2) Vessel Traffic Service Systems Study to-

- a) determine whether the Secretary should be given additional authority to direct the movement of vessels
- b) determine and prioritize the U.S. Ports and Channels that are in need of new, expanded or improved VTSS. The study is to be completed in one year.

3) Periodic Gauging of plating thickness - Requires periodic gauging of the plate thickness of vessels, and requires overfill and pressure monitoring devices to prevent spills.

4) Study to ensure the safe navigation of vessels transporting oil or hazardous substances

- a) determine appropriate crew sizes
- b) evaluate the adequacy of qualifications and training of crew members
- c) evaluate the ability of crew members to take emergency actions to prevent or remove a discharge
- d) evaluate the adequacy of navigational equipment and systems on tankers
- e) evaluate and test electronic means of position reporting and identification of tankers
- f) evaluate the adequacy of navigation procedures
- g) evaluate whether areas of navigable waters should be designated as zones where the movement of tankers should be limited
- h) evaluate the adequacy of inspection standards
- i) review and incorporate the results of past studies
- j) evaluate the use of computer simulator courses
- k) evaluate the size, cargo capacity and flag nation of tankers transporting oil or hazardous substances on navigable waters. The study is to be completed in 2 years.

5) Study on dredge modification - The army will conduct a study the feasibility of modifying dredges to use in the removal of oil and hazardous substances. The report will be completed in one year.

6) Study to determine whether liners or other secondary means of containment should be used to prevent leaking or to aid in leak detection of on shore facilities used for the bulk storage of oil and located near navigable waters. Study will be completed by the President in one year.

7) Manning requirements - The Secretary shall initiate regulations to define the conditions and waters which tank vessels may operate with auto pilot engaged or with an unattended engine room.

- a) watches - a licensed individual or seaman may not be permitted to work more than 15 hours in any 24 hour period or more than 36 hours in any 72 hour period except in an emergency or drill.

8) Double Hull Tankers - Double hulls are required on all new oil tankers and barges operating in waters

subject to U.S. jurisdiction, except for vessels used only to respond to discharges of oil or hazardous substances. All single hull tankers will be phased out by 2010 based on age and size and until then at least two tugs would be required to accompany any single hull ships in certain sensitive areas such as Prince William Sound and Puget Sound. Not later than 6 months after the date of enactment, the Secretary shall determine based on recommendations from the National Academy of Sciences or other qualified organization, whether other structural and operational tank vessel requirements will provide protection to the marine environment equal to or greater than that provided by double hulls.

9) Pilotage - The Secretary shall designate by regulation the areas of the approaches and waters of Prince William Sound on which a vessel is not required to be under the direction and control of a licensed pilot. In any area of Prince William Sound, where a vessel is required to be under the direction and control of a pilot, the pilot may not be a member of the crew of that vessel and shall be a pilot licensed by the State of Alaska who is operating under a federal license when a vessel is navigating waters in PWS.

SUBTITLE B - Removal

1) National Contingency Plan - provides for efficient, coordinated and effective action to minimize damage from oil and hazardous substances and shall include:

- a) assignment of duties and responsibilities among federal departments and agencies in coordination with state and local agencies and port authorities.
- b) identification, procurement, maintenance and storage of equipment and supplies
- c) establishment or designation of coast guard strike teams consisting of:
 - 1) personnel who shall be trained, prepared and available to provide necessary services to carry out the NCP
 - 2) adequate oil and hazardous substance pollution control equipment and material
 - 3) a detailed oil and hazardous substance pollution and prevention plan, including measures to protect fisheries and wildlife
- d) a system of surveillance and notice designed to safeguard against as well and ensure earliest possible notice of discharges of oil and hazardous substances and imminent threats of such discharges to the appropriate state and federal agencies
- e) establishment of a national center to provide coordination and direction for operations in carrying out the plan
- f) procedures and techniques to be employed in identifying, containing, dispersing and removing oil and hazardous substances
- g) a schedule, prepared in cooperation with the states, identifying spill dispersants, chemicals, and other spill mitigating devices and substances
- h) a system whereby the state or states affected by a discharge of oil or hazardous substances may act when necessary to remove discharges and may be reimbursed
- i) establishment of criteria and procedures to ensure immediate and effective federal identification of, and response to, a discharge
- j) establishment of procedures and standards for removing a worst case discharge of oil or for mitigating or preventing the discharge
- k) designation of the federal official who shall be the federal on-scene coordinator for each area for which an area contingency plan is required
- l) establishment of procedures for the coordination of activities of the Coast Guard strike teams, federal on scene coordinators and district response groups
- m) a fish and wildlife response plan for the immediate and effective protection, rescue, and rehabilitation of fish and wildlife resources

2) National Response Unit - The Secretary of the department in which the Coast Guard is operating shall establish a National Response Unit in Elizabeth City, North Carolina. The Secretary shall:

- a) shall compile and maintain a comprehensive computer list of spill removal resources, personnel, and equipment that is available worldwide
- b) shall provide technical assistance, equipment, and other resources requested by a FOSC
- c) shall coordinate use of private and public personnel and equipment to remove a worst case discharge
- d) may provide technical assistance in the preparation of an area contingency plan

- e) shall administer Coast Guard Strike Teams
- f) shall maintain on file all area contingency plans approved by the president
- g) shall review plans

3) Coast Guard District Response Groups - Response groups including personnel and equipment will be established in each of the 10 Coast Guard Districts

4) Area Response plans and Area Committees - composed of federal state and local agencies will prepare the Area contingency plan (designated 6 months after enactment, plans must be submitted 18 months after enactment)

5) The President shall issue regulations which require an owner or operator of a tank vessel or facility to prepare and submit a plan for responding, to the maximum extent practicable, to a worst case discharge of oil or a hazardous substance.

A tank vessel or facility plan shall be:

- a) consistent with the requirements of the NCP
- b) identify the qualified person having full authority to implement removal actions and require immediate communications between that individual and the appropriate federal official and the persons providing personnel and equipment
- c) identify and ensure, by contract or other means, private personnel and equipment necessary to remove to the maximum extent practicable a worst case discharge or to mitigate or prevent the discharge
- d) describe the training, equipment testing, periodic unannounced drills and the response actions of persons on the vessel or at the facility.

6) Equipment Requirements and Inspections - Not later than 2 years after enactment, the president shall require:

- a) periodic inspections of containment booms, skimmers, vessels, and other major equipment used to remove discharges
- b) vessels to carry appropriate removal equipment that employs the best technology economically feasible that is compatible with the safe operation of the vessel

7) Drills

SUBTITLE C - Penalties

1) Existing penalties are increased and may be assessed administratively. Federal enforcement powers are strengthened.

TITLE V - Prince William Sound

1. Prince William Sound Oil Spill Recovery Institute - Conduct oil spill research and educational and educational demonstration projects. 18 members including a representative of the Department of Environmental Conservation, Fish and Game and Commerce and Economic Development.

Under the Institute is an advisory board and a scientific technical committee

- a) identify and develop the best techniques, equipment and materials for dealing with oil spills in the arctic and subarctic marine environments
- b) complement federal and state damage assessment efforts and determine the long term effects of the Exxon Valdez oil spill

2) Terminal and Tanker Oversight and Monitoring - 2 programs are developed, one in PWS and one in Cook Inlet. Both are made up of an Oil Terminal Tanker Operations Association and a Citizens Advisory Council

The Association is made up of one terminal facility, one shipper, one state government official and one federal government official. The functions of the Association is to 1) review policies related to operation and maintenance of the oil terminal facilities and oil tankers which affect or may effect the environment and 2) provide a forum to discuss and make recommendations concerning all permits,

plans and site specific regulations governing the activities and actions of terminal facilities and tankers.

The Citizens Advisory Council is appointed by the Governor and shall represent fishing, aquaculture, native corporations, environmental organizations, recreational organizations, state chamber of commerce (tourism), and specific representatives from local communities, and non-voting members including EPA, Coast Guard, NOAA, Forest Service, BLM, DEC, F&G, DNR, DES. Duties include: provide advice and recommendations to the Association on policies, permits and regulations relating to operation and maintenance of facilities and tankers which may effect the environment; monitor environmental impacts of the operations of facilities and terminals; review the adequacy of oil spill prevention and contingency plans for tankers and facilities; provide recommendations to the Association on Port Operations, policies and practices; recommend standards for permits and regulations, modifications of terminal facility and tanker operations; and modifications to prevention and contingency plans; and create additional committees.

Funding provided by the oil industry, contingency plans will not be approved if these Environmental monitoring and oversight programs are not funded. \$2 million in PWS, \$1 million in Cook Inlet.

3) The Transportation Secretary is required to establish special requirements for Prince William Sound including:

- a) an improved vessel traffic service system for the Port of Valdez and a Bligh Reef warning light
- b) pre-positioned oil spill containment and removal equipment in strategic locations
- c) establishment of an oil spill clean up force sufficient to clean up a 200,000 barrel spill
- d) training in oil removal techniques for fishermen and fishing industry employees in the area
- e) spill drills twice a year
- f) Tankers that have spilled more than 1 million gallons are prohibited from operating in Prince William Sound

TITLE VI - Miscellaneous

TITLE VII - Research and Development

1) \$28.5 million annually for a new research and development program coordinated by an Interagency Coordinating Committee on Oil Pollution Research. The Committee would coordinate efforts by federal agencies, industry, universities, research institutions, states and other nations. The Committee will investigate technologies to prevent and clean up spills, ways to improve industry and government response to spills, ways to restore damaged natural resources, the environmental effects of spills and other topics.

TITLE VIII - Trans-Alaska Pipeline System

1) Pipeline ROW holders are responsible for paying all costs and are strictly liable for \$350 million in damages.

2) Presidential Task Force - Composed of an appointee of the EPA, Interior, and Transportation, 3 members appointed by the Governor (one from DEC and one from DNR), one member nominated by OTA. The Task Force will conduct a comprehensive 2 year audit of the TAPS and terminal operations and make recommendations concerning prevention of oil spills, and health and environmental damage. the audit includes a review of whether Alyeska is in compliance with laws, regulations and right of way agreements. \$5 million annually is authorized from the fund.

3) Penalties

TITLE IX - Amendments to Oil Spill Liability Trust Fund, ETC.

Oil Pollution Act of 1990

PL 101-380

The 101st Congress enacted comprehensive oil spill legislation in response to an 11-million-gallon spill from the tanker *Exxon Valdez* into Alaska's Prince William Sound in March 1989.

The conference report (HR 1465, H. Rpt. 101-653) passed the Senate Aug. 2, 1990, and the House followed suit Aug. 3. President Bush signed the bill Aug. 18.

The act establishes a new liability and compensation system for oil spills. Vessel liability limits are dramatically increased. Additional money for cleanup and compensation is available from a \$1 billion fund supported by a tax on oil.

The act also requires double hulls on oil tankers, requires better contingency planning and preparedness, increases penalties for spills, requires measures to increase navigation safety, and expands research on oil spill effects and cleanup methods.

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Title I — Liability and compensation

Overview: Title I sets up a single federal liability and compensation system that is intended to provide prompt compensation for cleanup costs and damages from oil spills. Those seeking compensation could include federal, state and local governments, and private parties such as fishermen, beach front property owners, boat owners and hotel owners.

Spillers are liable for cleanup costs and damages up to specified liability limits, but in certain circumstances their liability is unlimited. If full compensation is unavailable from the spiller, additional compensation for cleanup costs and damages will be available from a federal oil spill liability fund. The fund, previously established in the tax code, is supported by a 5-cent-per-barrel tax on oil.

The act's liability and compensation system applies to oil spills from vessels and facilities in navigable waters, adjoining shorelines, or the 200-mile exclusive economic zone. Examples of onshore facilities are oil terminals; offshore facilities include oil drilling and production platforms.

Liability: Each owner and operator of a vessel or facility that discharges oil is liable for "removal costs" and specified damages.

Removal costs include costs of cleanup, other actions to

minimize damage from a spill, and prevention (in cases where there is a substantial threat of a discharge of oil). Spillers are liable for removal costs incurred by federal, state or Indian governments under state law or specified federal laws. Spillers also are liable for removal costs incurred by any person for actions that are consistent with the national contingency plan, the federal regulations governing oil spill response.

Damages for which spillers are liable include:

- loss of profits or earning capacity due to property or natural resource damage;
- property damage or loss;
- natural resource damage;
- loss of subsistence use of natural resources by anyone who uses the resources for subsistence;
- loss of tax or other revenues by governments; and
- damages for the net costs to state and local governments of providing increased or additional public services during or after removal activities (such as protection from fire, safety or health hazards).

Spillers generally are not liable if they can show the spill was caused solely by an act of God, an act of war, or an act or omission of a third party (generally not including employees or parties that have a contractual relationship with the spiller).

A person (for example, a vessel owner) can file "contribution" lawsuits to recover a portion of cleanup costs and damages from any other liable or potentially liable party (who may have helped to cause a spill). Anyone who pays a claimant for removal costs or damages — such as an insurance company or the oil spill trust fund — obtains the claimant's rights to sue potentially liable parties to recover the money. (This is called subrogation.)

The liability provisions do not apply to discharges allowed by a permit, or to discharges from public vessels.

Special provisions apply to claims by foreign claimants and parties responsible for a spill.

Lawsuits to recover removal costs must be started within three years of the time removal actions are completed. Lawsuits to recover damages must be started within three years after the date the injury and its connection with the spill were reasonably discoverable — or, in the case of natural resource damages, three years after damage assessment regulations are issued.

Liability limits: Liability is unlimited if the spill was caused by gross negligence or willful misconduct, or by a violation of an applicable federal safety, construction or operating regulation.

Liability also is unlimited if the responsible party fails or refuses to report the incident, to provide reasonable cooperation to responsible officials in connection with removal activities, or to comply with a cleanup order issued under section 311 of the Federal Water Pollution Control Act (the Clean Water Act).

In other cases, liability limits are as follows:

- Tank vessels (which carry oil in bulk) — \$1,200 per gross ton, but no less than \$10 million for vessels greater than 3,000 gross tons, and no less than \$2 million for smaller vessels. (Many inland barges weigh less than 3,000 gross tons.)

- Other vessels — \$600 per gross ton or \$500,000, whichever is greater.

- Offshore facilities — \$75 million for damages plus all cleanup costs.

- Onshore facilities and deep-water ports — \$350 million. (A deep-water port receives oil from supertankers and pipes it ashore.)

The president can lower the limit for categories of onshore facilities to as low as \$8 million, and for deep-water ports to as low as \$50 million based on a study. Special provisions apply to mobile offshore drilling units.

Natural resource damage: Compensation for natural resource damage can be sought by U.S., state, Indian or foreign governments. The measure of natural resource damages is the cost of restoring, rehabilitating, replacing or acquiring the equivalent of the damaged resources — and “the diminution in value of those natural resources pending restoration,” plus the reasonable cost of assessing those damages.

Officials designated as natural resource trustees are to assess the damage from spills, and develop and implement restoration plans. The National Oceanic and Atmospheric Administration must issue regulations assessing natural resource damage, in consultation with the Environmental Protection Agency, Fish and Wildlife Service and other affected agencies.

Money recovered for natural resource damage by a trustee (federal, state, Indian or foreign) is to be kept in a revolving trust account to pay costs incurred by the trustee. Any leftover money is to be deposited in the federal oil spill fund.

Financial responsibility: Those responsible for vessels and deep-water ports are required to have insurance or other evidence of financial responsibility up to their liability limits; offshore facilities must have coverage of \$150 million. Violators are subject to stiff sanctions, including seizure of the vessel.

States can enforce federal financial responsibility requirements.

Lawsuits for compensation can be filed directly against guarantors (insurers).

Cleanup standard: For purposes of the national contingency plan, cleanup is considered complete when determined so by the president in consultation with the governors of affected states. Additional removal actions can be carried out under state law.

Uses of fund: The federal oil spill liability trust fund can be used by federal and state governments for removal costs, and the costs of monitoring removal actions. The costs

must be determined by the president to be consistent with the national contingency plan (this means the fund cannot be used to pay for meeting stricter state standards).

The fund also can be used to pay:

- the costs of natural resource damage assessments and restoration;

- claims for damages when the spiller denies liability, when the claim is not settled by payment within 90 days, or when a claim is not fully and adequately compensated;

- administrative, operational and personnel costs for implementation and enforcement of the act. Up to \$25 million will be available to the Coast Guard in any fiscal year. Up to \$30 million each year through fiscal 1992 will be available to establish a national spill response system, including the purchase and pre-spill positioning of oil spill removal equipment. Up to \$27.25 million a year will be available for research and development activities.

Up to \$250,000 from the fund will be available to a state for immediate oil spill removal actions. States can enter into agreements with the federal government that set procedures for receiving additional payments.

The federal government can sue spillers to recover compensation paid from the fund.

State pre-emption: The act expressly preserves states' authority to impose additional liability or requirements with respect to oil spills and removal activities. The act also preserves states' authority to establish their own oil spill funds, and to impose fines and penalties for oil spills.

Title II — Conforming amendments

The act repealed or made conforming amendments to several earlier federal oil spill laws, including the Intervention on the High Seas Act, section 311 of the Federal Water Pollution Control Act, Deepwater Port Act, and Title II of the Outer Continental Shelf Lands Act Amendments of 1978. (See also Title VIII.)

Money in three existing federal oil spill funds — the section 311(k) fund, the Deepwater Port Liability Fund, and the Offshore Oil Pollution Compensation Fund — is to be deposited in the comprehensive federal oil pollution liability fund.

Title III — International oil pollution prevention and removal

Due to Senate opposition, the conference report omitted House provisions to implement in the United States after U.S. ratification a pair of international oil spill liability and compensation protocols. Instead, the act contains a non-binding resolution stating that the United States should participate in an international oil pollution liability and compensation system that is at least as effective as federal and state laws.

The secretary of state must review international agreements and treaties with Canada regarding oil spills in the

Great Lakes and Lake Champlain. The purpose is to determine whether changes or new agreements are needed.

The president must encourage international organizations to establish an international inventory of spill removal equipment and personnel.

Title IV, subtitle A — Prevention

This summary of Title IV is derived from a summary by House and Senate staff.

Double hulls: Double hulls are required on all new oil tankers and barges operating in waters subject to U.S. jurisdiction, except for vessels used only to respond to a discharge of oil or hazardous substances. New vessels of less than 5,000 gross tons are required to have double containment systems; existing vessels of that size are required to have double containment systems by 2015.

Certain vessels are exempt from the double hull requirement until 2015: vessels unloading oil at deep-water ports, and ships engaged in "lightering," or transferring, oil to other ships more than 60 miles from the U.S. coast.

Existing vessels without double hulls must be phased out beginning in 1995. Older vessels will be phased out before newer ones, and heavier ones before lighter ones. All vessels with single hulls must be retired by 2010, and all vessels with double bottoms or double sides must be retired by 2015.

The transportation secretary must require interim measures on vessels to provide substantial protection to the environment until the double hull requirement is fully implemented. Also required is a study of other structural or operational requirements that would provide equal or greater protection to the environment than double hulls.

The transportation secretary is authorized to provide Title XI loan guarantees under the Merchant Marine Act of 1936 to aid in financing a contract for construction or reconstruction of a vessel to comply with the double hull requirement.

Alcohol and drugs: The act establishes new requirements to prevent oil spills due to use of alcohol or drugs by ship personnel.

The act provides for:

- review of driver's license records of applicants for licenses, certificates of registry, or merchant mariner's documents;
- alcohol and drug testing of merchant sailors;
- temporary suspension of licenses, certificates or documents under certain circumstances;
- criminal checks prior to issuance or renewal of documents;
- suspension or revocation of a license, certificate or document if the individual is convicted of driving under the influence; and
- removal of the ship's master if he is under the influence of alcohol or dangerous drugs.

Manning standards: The act limits the number of

hours a crew member can work on a tanker during a one-day or three-day period, and requires the transportation secretary to issue regulations on the use of automatic pilots by tank vessels.

The transportation secretary is required to evaluate the vessel manning, training, qualification and watch-keeping standards of foreign countries periodically. If the secretary determines that a country has failed to maintain or enforce standards equivalent to U.S. law or international standards accepted by the United States, the secretary must prohibit vessels with documentation from that country from entering the United States. The secretary may allow provisional entry if the vessel owner or operator shows that the vessel is not unsafe, or that entry is necessary for the safety of the vessel or individuals on board.

Vessel traffic service systems: The secretary must require tank vessels that carry oil or hazardous materials in bulk to participate in vessel traffic service systems. The authority had been discretionary.

The act requires a study of traffic service systems and a report to Congress within one year.

Additional provisions: Other provisions:

- require the transportation secretary to issue regulations on pilotage in the waters of Prince William Sound;
- require regulations to ensure that certain vessels are equipped to receive radio marine navigation safety warnings and to engage in radio communications with the Coast Guard and other designated vessels and stations;
- provide a limited exception to U.S. citizen ownership requirements for vessels engaged solely in cleanup and removal activities;
- ensure that the qualifications of Canadian pilots operating in the Great Lakes are equal to those of U.S. pilots;
- require periodic gauging of the plate thickness of vessels, and require overfill and pressure monitoring devices to prevent spills; and
- require studies related to navigation safety, the feasibility of modifying dredges to clean up spills, and the use of liners for bulk storage of oil at onshore facilities.

Title IV, subtitle B — Removal

This summary of subtitle B is taken from the staff summary.

Federal removal authority: The president is required to ensure effective and immediate removal of an oil or hazardous substance spill.

The president can federalize a spill (take over cleanup operations), direct or monitor all federal, state or private cleanup efforts, or remove or destroy a leaking vessel. In the case of spills that pose "a substantial threat to public health or welfare," the president is required to direct all federal, state and private cleanup efforts.

Immunity: With certain exceptions, immunity from liability for removal costs and damages is provided to people

involved in cleanup activities, such as industry cooperatives or response organizations. Immunity is not available to the responsible party, or when there is personal injury or wrongful death, or gross negligence or willful misconduct.

National planning and response system: A national planning and response system is established to ensure that there are adequate plans to respond to a spill.

The national contingency plan must be revised to establish procedures for removing a worst-case discharge or substantial threat of a discharge. The plan is to set out the roles of federal agencies and ensure coordination among Coast Guard strike teams, district response groups, federal on-scene coordinators — which direct spill cleanup efforts — and area committees. The plan must include a response plan for protecting fish and wildlife resources.

A national response unit is established to compile a list of oil spill removal resources, personnel and equipment worldwide, coordinate use of private and public personnel and equipment to remove a worst-case discharge, administer Coast Guard strike teams and provide technical assistance, and review and maintain on file all area contingency plans.

A district response group — including Coast Guard personnel and equipment for each port, and pre-positioned equipment — is established in each of the 10 Coast Guard districts. The groups are to provide technical assistance and equipment when required by a federal on-scene coordinator, maintain Coast Guard response equipment in the district, and review area contingency plans. The act does not require the Coast Guard to form additional strike teams to clean up spills; two strike teams had been established previously in San Francisco and Mobile, Ala.

Local area committees are established to prepare area contingency plans to respond to a worst-case discharge. The committees are to be composed of federal, state and local agency personnel. All U.S. waters and adjoining shorelines are to be covered by area contingency plans. Plans must be reviewed and approved by the president.

Owners or operators of tank vessels, offshore facilities and most onshore facilities must prepare plans for responding, to the maximum extent practicable, to a worst-case discharge. Effective 36 months after enactment, a covered vessel or facility is barred from operating if the president has reviewed but not approved its plan, or if the vessel or facility is not operating in compliance with the plan. The president can authorize operation without an approved response plan for up to two years after its submission, if the vessel or facility certifies the availability of private personnel and equipment to respond, to the maximum extent practicable, to a worst-case discharge.

The president within two years must require vessels carrying oil or hazardous substances in bulk to carry cleanup equipment employing the best technology economically feasible and compatible with safe operation of the vessel. Periodic inspection of cleanup equipment also must be required.

Title IV, subtitle C — Penalties and enforcement

The act increases penalties under the Federal Water Pollution Control Act and other laws for spills of oil and hazardous substances and many other violations related to spills, safety or navigation. The Coast Guard and EPA are given authority to assess civil penalties administratively.

Federal enforcement powers are strengthened — including powers to require record-keeping, to enter and inspect vessels and facilities, and to make arrests and execute warrants. In cases of an imminent and substantial threat to public health or welfare, the president can seek a court injunction, issue an administrative order or take other action.

Title V — Prince William Sound

A Prince William Sound Oil Spill Recovery Institute is established to conduct oil spill research and educational and demonstration projects directly related to the *Exxon Valdez* spill. The act authorizes appropriations from the oil spill trust fund of up to \$5 million the first year after enactment and \$2 million for each of the nine years thereafter.

Two environmental oversight and monitoring demonstration programs for oil terminals and oil tankers are established for Prince William Sound and Cook Inlet. An oil industry association and a citizen advisory council are established for each. Owners and operators of oil terminals and tankers operating in the area are required to provide up to \$2 million annually for the Prince William Sound program and \$1 million annually for the Cook Inlet program.

The transportation secretary is required to establish special requirements for the Prince William Sound area, including:

- an improved vessel traffic service system for the port of Valdez and a Bligh Reef warning light;
- pre-positioned oil spill containment and removal equipment in strategic locations;
- establishment of an oil spill cleanup force sufficient to clean up a 200,000-barrel spill or worst-case discharge;
- training in oil removal techniques for fishermen and fishing industry employees in the area; and
- spill drills twice a year.

Title VI — Miscellaneous

Appropriations: In general, fund money is available only by appropriation. However, fund money is available without appropriation for:

- removal actions and initiation of natural resource damage assessments, up to \$50 million in a fiscal year;
- payment of claims for uncompensated removal costs and damages;
- natural resource damage assessment and restoration, in the case of funds recovered from liable parties; and
- the Bligh Reef light and Valdez vessel traffic service system (\$5 million).

North Carolina offshore leasing: A moratorium is

placed on new oil and gas leasing, exploration or development on the outer continental shelf off the shore of North Carolina. The moratorium extends until Oct. 1, 1991, or until 45 days of continuous session of the Congress after the secretary of the interior certifies that environmental information is adequate to carry out his responsibilities under the Outer Continental Shelf Lands Act — whichever is later.

The interior secretary is required to consider the findings of a review panel consisting of five scientists selected by himself and the governor of North Carolina. The interior secretary also is required to undertake additional ecological, socioeconomic and physical oceanographic studies.

The law authorizes \$500,000 in fiscal 1991 for the interior secretary to carry out the moratorium provisions.

Common hydrocarbon-bearing areas: The secretary of the interior is required to prevent, through cooperative development of an area, the harmful effects of unrestricted competitive production of hydrocarbons from a common hydrocarbon-bearing area underlying the federal and state boundary.

The act authorizes appropriations to provide compensation, including interest, to Louisiana and its lessees for net drainage of offshore oil and gas as determined in a March 1989 study.

Title VII — Research and development

The act establishes a new research and development program coordinated by an Interagency Coordinating Committee on Oil Pollution Research. The committee is to coordinate efforts by federal agencies, industry, universities, research institutions, states and other nations.

The committee, composed of representatives of nine federal departments and independent agencies, is to develop a research plan with advice from the National Academy of Sciences. NAS later is to submit to Congress a report assessing the adequacy of the plan.

The program will investigate technologies to prevent and clean up spills, ways to improve industry and government response to spills, ways to restore damaged natural resources, the environmental effects of spills, and other topics.

The Coast Guard is to conduct oil-pollution minimization projects in the ports of New York/New Jersey, Los Angeles/Long Beach and New Orleans.

The committee is to coordinate a program of competitive grants to universities or other research institutions for research on regional aspects of oil pollution.

In addition, the agencies on the interagency committee are given authority to make research grants to universities, research institutions and others.

The act authorizes a total of \$27.25 million annually for research programs, including \$6 million annually for the regional research grants program, \$5 million in fiscal 1991 and \$3.5 million in subsequent years for environmental effects research, and at least \$2.25 million annually for the

port pollution-minimization projects. The regional research program and port projects are authorized through fiscal 1995.

Title VIII — Trans-Alaska Pipeline System

On-shore spills: Liability provisions of the Trans-Alaska Pipeline Authorization Act continue to apply to Alaska pipeline-related spills onshore. This means that pipeline right-of-way holders are responsible for paying all removal costs and are subject to strict liability (liability regardless of fault) for \$350 million in damages. (The 1990 act raised the figure from \$50 million to \$350 million.)

Spills of trans-Alaska pipeline system oil after it is loaded onto a vessel are subject to liability provisions of the 1990 act.

Elimination of TAPS fund: Trustees of the Trans-Alaska Pipeline Liability Fund (known as the TAPS fund) are to reserve amounts necessary to pay claims arising from vessel oil spills before the date of enactment, and to pay related administrative expenses.

After the comptroller general of the United States certifies that the reserved funds are sufficient, TAPS fund trustees must rebate a share of the remaining balance to Alaska (for its contributions to the TAPS fund as an owner of oil) and deposit the rest into the comprehensive oil spill liability trust fund.

Any unused reserved funds also would be deposited into the comprehensive fund after all claims were paid and the comptroller general certified that fact.

The act provides that a 5-cent-per-barrel fee on owners of TAPS oil (enacted as part of the TAPS law) need not be collected if the TAPS fund trustees determine, and the comptroller general certifies, that the fund has enough money available to pay all outstanding claims and administrative costs.

The vessel liability provisions of the Trans-Alaska Pipeline Authorization Act are to be repealed effective 60 days after the comptroller general certifies that all claims, lawsuits, and administrative expenses have been resolved or paid. The act says the repeal has no effect on any right to recover or responsibility that arose from oil spills that occurred before enactment and were subject to the repealed provisions.

Exxon Valdez compensation: The 1990 act expedites compensation for the *Exxon Valdez* spill, which is subject to liability and compensation provisions of the trans-Alaska act. The 1990 act makes retroactive changes in TAPS liability provisions. Also, the act makes compensation available from the TAPS fund if the vessel owner or operator has not paid a claim within 90 days after a claim is submitted. This includes the first \$14 million in claims, the amount of a vessel owner's liability under the trans-Alaska act.

Pipeline audit: A presidential task force is created to conduct a comprehensive two-year audit of the trans-Alaska pipeline and terminal operations and to make recommendations concerning prevention of oil spills and health and

environmental damage. The audit is to include a review of whether Alyeska Pipeline Service Co., the right-of-way holder, is in compliance with laws, regulations and agreements. The provision authorizes \$5 million annually for the task force from the comprehensive fund.

Penalties: The authority of the Minerals Management Service to impose penalties on outer continental shelf facilities is made clear. The maximum penalty is raised to \$20,000 per day and is to be adjusted for inflation.

The interior secretary can impose civil penalties of up to \$1,000 per barrel for pipeline spills in Alaska.

Alaska native corporations can bring claims for oil spill damages to lands validly selected under the Alaska Native Claims Settlement Act.

The act calls on the secretary of state, in consultation with others, to negotiate a treaty with Canada concerning oil spills in the Arctic Ocean.

Title IX — Amendments to oil spill liability trust fund

An oil spill liability trust fund was created in the Internal Revenue Code by the 1986 and 1990 budget reconciliation acts (PL 99-502 and PL 101-239), in anticipation of the oil spill law. The fund is supported by a 5-cent-per-barrel tax on oil that took effect Jan. 1, 1990.

The oil spill act amends limits on spending and borrowing authority in the Internal Revenue Code. The act allows up to \$1 billion per spill for cleanup costs and damages to be spent from the fund. The amount that can be spent on natural resource damage restoration or replacement is limited to \$500 million per spill. The fund can borrow up to \$1 billion in the aggregate from the general treasury.

The trust fund can be used only for purposes enumerated elsewhere in the act. Certain specified penalty monies are to be deposited into the comprehensive fund.

COMPARISON STATE OIL SPILL LAWS

Comparison of Oil Spill Legislation in Alaska, Oregon and Washington

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Category

Alaska

Oregon

Washington

Proof of Financial Responsibility - Type of Proof Accepted	Insurance, self-insurance, guarantee, surety, letter of credit, or other approved proof.	Insurance, surety bonds, self-insurance, or other evidence approved by the commission.	Insurance, surety bonds, self-insurance, or other evidence of financial responsibility. Documents to be kept on vessel.
- Amount	Amount per incident: Crude Oil terminal \$50 million; noncrude terminal \$25 per barrel; tank vessel with crude oil, \$300 per barrel (\$100,000,000 maximum); non-crude tank vessel, \$100 per barrel (\$35 million maximum).	Vessels over 300 gross tons, \$150/ton or \$1 million, whichever is greater.	Vessels over 300 gross tons, \$150/ton or \$1 million, whichever is greater.
Prevention Requirements - Oil Tankers			Must not exceed speed of escorting tugs. Must have Washington state licensed pilots in Puget Sound. Certain vessels need to be accompanied. Vessels larger than 125,000 deadweight tons may not enter certain areas unless they have double bottoms, two radars, and other safety equipment.
Contingency Planning - Facility and vessel plans	Terminals, pipelines, tank vessels & oil barges must have contingency plans renewed every 3 years. The state may approve, modify or disapprove plans within 65 days of submittal. State may establish regional plans.		Each facility or vessel must have a contingency plan outlining: method of response, removal of oil, early detection procedures, training & drills, equipment available, & disposal of recovered oil. Department shall review plans under specific criteria and conduct drills. Plans are legally binding.
- Statewide Plan	State master plan to be revised annually. Plan shall identify actions to reduce oil spills, depot locations, and provide for unannounced drills.	State to develop an integrated interagency response plan for oil or hazardous material spills. Plan to include an inventory of private contractors, agency personnel, volunteers, wildlife rehabilitation centers & equipment. Plan also to contain a spill response strategy.	State to update master plan annually after consultation with an advisory committee. Plan to include a map of sensitive areas. Department to develop policies for use of chemical agents and means to dispose of oil.
Equipment Requirements	The Division of Emergency Services to maintain equipment depots.		Department shall publish an annual index of contingency plans and equipment available.
Liability of Spiller or Owner	Owner and operators strictly liable, jointly & severally, for public and private damages. Vessel may be detained and sold to recover costs. Spiller liable for loss of persons, income and property. Responsible party liable for cleanup costs and restoration of environment.	Owner or person having control over oil is strictly liable without regard to fault for damages. Liable for reasonable costs. If there is not a good faith effort to clean up oil, state may recover three times the amount of its costs.	Oil discharger liable for state's cleanup expenses. Owner or controller of oil is strictly liable, without regard to fault, for damages. Other persons directly liable to the state for the state's cleanup expenses.
Limits on Liability	Contractors liable for negligence. State and response corps workers not liable.	Volunteers not liable unless grossly negligent or if there was reckless, wanton or intentional misconduct. Contractors liable.	Contractors and volunteers not liable.

Penalties - Spill penalties - Operating without a contingency plan - Operating without required financial responsibility.	Criminal penalties: criminal negligence - class A misdemeanor or class C felony depending on amount spilled. Civil penalties assessed with consideration of toxicity of oil: \$1 - \$10 per gallon (penalty 5 times higher if there is gross negligence. If the spill is over 18,000 gallons, additional penalties of \$8 - \$12 per gallon (\$500 million maximum). Other penalties may be assessed. Reckless operation of a tank vessel is a class C felony.	Persons willfully or negligently discharging oil shall incur a civil penalty equal to the amount of damage incurred. Intentional or negligent discharge of oil results in a penalty of up to \$20 thousand per day.	Civil penalty for violating chapter: up to \$100 thousand (RCW 88.44.190). Negligent discharge: up to \$20 thousand per day. Penalty for reckless discharge: \$100 thousand. Criminal penalty: \$10 per day. Civil penalty: up to \$10 thousand per day.
			First conviction: gross misdemeanor, second conviction: class C felony. Business license may be revoked and a fine of up to \$100 thousand.
			Privilege of operating vessel may be suspended. Penalty not to exceed \$10 thousand.
Response Procedures	Spiller must immediately notify state of spill. Spiller must clean up oil immediately.	Owner or controller of oil must immediately collect & remove oil or at least contain it. Anyone with knowledge of spill must report it.	Spiller must notify coast guard and the state Division of Emergency Management.
Cleanup Standards			Department to establish standards for cleanup contractors.
Response Funds	Oil & Hazardous Substance Release Mitigation Account in General Fund for money recovered. Oil & Hazardous Release Response Fund for actual cleanup expenses; funded by penalties, state, federal & private sources. Fund used for cleanup, monitoring, Oil & Hazardous Substances Response Corps, equipment depots, & environmental restoration.	Oil Spillage Control Fund within the General Fund to be used for cleanup and environmental restoration. Fund may be invested. Oil & Hazardous Material Emergency Response & Remedial Action Fund is separate from General Fund & used for cleanup.	Per transit assessments collected and placed in a fund. Tankers with an agreement with a clean-up cooperative or contractor exempt from fee. Fee not collected when fund reaches \$1.5 million. Commission may issue bonds or obtain loans.
Commissions & Councils	Citizen's Oversight Council on Oil & Hazardous Substances, in the Legislative Branch, assists in developing compacts, recommends policies, & determines if state agencies are carrying out their duties. The Hazardous Substance Spill Technology Review Council recommends research topics and maintain information on spill technology.	Environmental Quality Commission shall adopt an oil and hazardous material emergency response master plan. Commission establishes policies for operation of the Department of Environmental Quality.	Washington State Maritime Commission created to establish procedures for spill prevention and response. The commission must: assess a per transit fee, establish an emergency response communication system, contract with cleanup contractors, recover response costs, conduct drills, develop an oil spill contingency plan, and cooperate with other government jurisdictions.
Response	State employees or response corps may enter private property.	Director has right to enter private property to control oil spill.	State may enter private property to respond to a spill.
Wildlife Rescue Provisions			Wildlife rescue coalition established to coordinate rescue and rehabilitation.

Source: State Statutes From Alaska, Washington and California

Prepared by Legislative Research Agency, March 1991 (91.201)

DRAFT

**AMERICAN PETROLEUM INSTITUTE SURVEY OF
STATE OIL SPILL LIABILITY LAWS
VAN NESS, FELDMAN, SUTCLIFFE & CURTIS**

**OCTOBER 4, 1989
(UPDATED OCTOBER 29, 1990)**

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STATE OIL SPILL LIABILITY LAWS

Page 1 of 5

COMPENSATORY LIABILITY										
CLEAN UP				DAMAGES ¹						
STATE	STATUTE	STANDARD ²	LIMIT ⁴	3RD PARTY		NATURAL RESOURCES		SPILL FUND		
				STANDARD	LIMIT	STANDARD	LIMIT	LIMIT	SOURCE	AUTH. USES ⁵
Ala.	§22-22-9	Negl.	No	--	--	Negl.	--	--	--	--
Alaska	§46.03.822, §46.03.780, §46.08.020, §43.55.200	Strict	No	Strict	No	Strict	No	50 Mil	\$.05/barrel; reimbursements; penalties; appropriations	CI, NR
Ariz.	§49-283, §49-285	Strict	No	--	--	--	--	No	Reimbursements; Fees, Penalties	CI
Ark.	§8-4-103(b)	Strict	No	--	--	Strict	No	--	--	--
Calif.	Harbor §151, §293; Fish §2014, §12015, §5655; Water §13440	Strict	No	Strict	No	Strict	No	100 Mil	\$.25/barrel; Reimbursements; penalties; appropriations	CI/3dP/ NR
Colo.	§25-8-606	Strict	No	--	--	--	--	--	--	--
Conn.	§22a-451	Strict	No	--	--	--	--	80 Thous	Reimbursements; penalties	CI
Del.	§6204, §6205, §6207, §6208	Strict	Tran: 300/GT, up to 30 Mil; Fac: 50 Mil	Strict	Tran: 300/GT, up to 30 Mil; Fac: 50 Mil	Strict	Tran: 300/GT, up to 30 Mil; Fac: 50 Mil	--	--	--
Fla.	§376, §206 §377	Strict	Tran: Lesser of 50 Mil, or \$625 PGT; Fac: 25 Mil	Strict	No	Strict	No	50 Mil (\$100 Mil. if offshore drilling is approved)	\$.02/Barrel	CI/ 3dP/ NR
Ga.	§12-5-51, §12-14-1	Strict	No	--	--	Strict	No	--	--	--

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STATE OIL SPILL LIABILITY LAWS

Page 2 of 5

COMPENSATORY LIABILITY										
CLEAN UP				DAMAGES ¹						
				3RD PARTY		NATURAL RESOURCES		SPILL FUND		
STATE	STATUTE	STANDARD ²	LIMIT ³	STANDARD	LIMIT	STANDARD	LIMIT	LIMIT	SOURCE	AUTH. USES ⁴
Hawaii	§342-8, §12-8D	Strict	No	--	--	Strict	--	No	appropriations, reimbursements, penalties	CI
Idaho	§52-101	--	--	--	--	--	--	--	--	--
Ill.	85§1705; 111-1/2§1042; 56§2.1	Strict	No	--	--	Strict	No	--	--	--
Ind.	§13-7-12-3, §14-2-6-7	Tort	No	--	--	Strict	No	--	--	--
Iowa	§455B.392	Strict	Tran: 5 Mil Fac: 50 Mil	--	--	Strict	Tran: 5 Mil Fac: 50 Mil	--	--	--
Kans.	§65-171u §65-171v §65-171w	Strict	No	--	--	Strict	No	5 Thous	Appropriations; Reimbursements	CI
Ky.	§224.110	--	--	--	--	Strict	No	--	--	--
La.	§30:2025(E) §30:2077 §30:2025 §30:2034	Strict	No	Strict	No	Strict	No	1/2 Mil	Haz Waste Fund; reimbursement	CI
Maine	38§548 38§552 38§561	Strict	No	Strict	No	Strict	No	6 Mil	\$.04 Per barrel; reimbursements, penalties, fees	CI, 3dP
Md.	§4-405 Envr. §4-411 §4-408 §4-409 §4-417	Strict	No	Strict	No	Strict	No	5 Mil	\$.0075/barrel; Fees; penalties	CI, NR

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STATE OIL SPILL LIABILITY LAWS

COMPENSATORY LIABILITY									
CLEAN UP				DAMAGES		NATURAL RESOURCES		SPILL FUND	
STATE	STATUTE	STANDARD	LIMIT	STANDARD	LIMIT	STANDARD	LIMIT	SOURCE	AUTH. USES
Mass.	Ch.21E§5: Ch.91§59A Ch.130§24 Ch.131§42	Strict	No	Strict	No	Strict	No	-	-
Mach.	§323.6 §30.401	Tort	No	-	-	-	-	-	-
Minn.	§115.071(3)	Strict	No	-	-	Strict	No	-	-
Miss.	§49-17-43 §49-17-68	Strict	No	-	-	Strict	No	Fines; Penalties; Fees; Reimbursements	CI
Mo.	§41B:644.076 §41B:644.096	Strict	No	-	-	-	-	-	-
Mont.	§75-5-635	Strict	No	-	-	-	-	-	-
Neb.	§81-1508	-	-	-	-	Strict	No	-	-
Nev.	§445.319 §445.331	Strict	No	-	-	Strict	No	-	-
N.H.	§146-A:3 §146-A:10 §146-A:11 §146-A:14	Strict	No	Negl.	No	Strict	2.75 MI	License fees	CI
N.J.	§58:10-23.11e §58:10-23.1h §58:10A-10 §58:10A-6	Strict	Trans: 150/GT Fac: 50 MI	Strict	Trans: 150/GT Fac: 50 MI	Strict	No	50 MI \$.0175 per barrel	CU 3dP/ NR
N. Mex.	§74-4B-10	Strict	No	Nuisance	No	-	-	-	-

STATE OIL SPILL LIABILITY LAWS

Page 4 of 5

COMPENSATORY LIABILITY												
CLEAN UP			DAMAGES ¹									
		3RD PARTY		NATURAL RESOURCES		SPILL FUND						
STATE	STATUTE	STANDARD ²	LIMIT ⁴	STANDARD	LIMIT	STANDARD	LIMIT	LIMIT	SOURCE	AUTH. USES ⁵		
N.Y.	Nav Law §181, §174	Strict	Tran: 300PGT; Fac: 50 MI	Strict	Tran: 300PGT; Fac: 50 MI	Strict	Tran: 300PGT; Fac: 50 MI	25 MI	\$.04/Barrel; Reimbursements; fees; penalties	CU 3dP/ NR		
N.C.	§143-215.940 §143-215.94p §143-215.87	Strict	No	Strict	No	Strict	No	No	Appropriations; reimbursements; penalties	CU, NR		
N. Dak.	§61-28	-	-	-	-	-	-	-	-	-		
Ohio	§6111	-	-	-	-	-	-	-	-	-		
Ola.	§900	-	-	-	-	-	-	-	-	-		
Oreg.	§466.590, §466.640, §466.670, §468.790, §468.795, §468.800	Strict	No	Strict	No	Strict	No	No	Fees; penalties; reimbursements	CU		
Pa.	35P.S. §691	-	-	-	-	-	-	-	-	-		
R.I.	§46-12.3-1 §46-12-1 §46-12.4-1	Strict	No	Strict	No	Strict	No	No	appropriations, penalties, reimbursements	CU		
S.C.	§48-1-60(a) §48-43-560 §48-43-600	Strict	No	Ab	No	Strict	No	-	-	-		
S. Dak.	§34A-13-6 §34A-12-12 §34A-2-76 §34A-2-86	Strict	No	-	-	Strict	No	5 MI	Fees; penalties	CU		
Tenn.	§60-3-100	-	-	-	-	-	-	-	-	-		

STATE OIL SPILL LIABILITY LAWS

Page 5 of 5

		CLEAN UP		COMPENSATORY LIABILITY		DAMAGES		THIRD PARTY		NATURAL RESOURCES		SPILL FUND		AUTH. USES	
STATE	STATUTE	STANDARD	LIMIT	STANDARD	LIMIT	STANDARD	LIMIT	STANDARD	LIMIT	STANDARD	LIMIT	SOURCE	CI	CI	CI
ex.	\$26-124, \$26-263(6), \$26-265	Strict	No	-	-	Strict	No	-	-	5 MI	Appropriations; fines; penalties	CI	-	-	-
Wash.	\$26-11-1	-	-	-	-	-	-	-	-	-	-	-	-	-	-
Ut.	T.10§1274 T.10§1263	Strict	No	-	-	Strict	No	50 Thous	Reimbursements; Fees; Appropria- tions	CI	-	-	-	-	-
Va.	\$62-1-44,34,14	Strict	No	Strict	Trans: Great- er of 500PGT or \$10 MI. Fac: \$10 MI.	Strict	Trans: Greater of 500PGT or \$10 MI. Fac: \$10 MI	No	Reimbursements	CI	-	-	-	-	-
Wash.	\$90-48,335 \$90-48,336 \$90-48,142	Strict	No	Strict	No	Strict	No	No	\$0.1/gal. Fees; penalties; Reimbursements	CI	-	-	-	-	-
W. Va.	\$20-5A-1 \$20-5A-19a	-	-	-	-	Strict	No	-	-	-	-	-	-	-	-
Wts.	\$147-23	Strict	No	-	-	Strict	No	-	-	-	-	-	-	-	-
Wyo.	\$35-11-101 \$35-11-901(h)	-	-	-	-	Strict	No	-	-	-	-	-	-	-	-

Endnotes Key

1/ Does not include punitive damages or civil or criminal penalties.

2/ Negl. = Negligence; Strict = Strict and absolute liability; Tort = Liability according to state tort law; Arb. = Liability standard determined by board of arbitration.

3/ Tran = Transportation; Fac = Facility; GT = Gross Ton. All liability limits are subject to forfeiture if the spiller acts in gross negligence or willful misconduct. For Delaware, New Jersey, New York and Virginia the liability limits expressed are total limits for all types of damage claims against the state's fund. Other statutory and common law claims are not precluded to the extent they do not duplicate statutory liability.

4/ CI = Cleanup; 3dP = 3rd Party Damages; NR = Natural Resources

CRS Report for Congress

Liability Provisions in State Oil Spill Laws: A Brief Summary

SENT TO YOU BY YOUR
UNITED STATES SENATOR

Ted Stevens
ALASKA

George A. Costello
Legislative Attorney

Mark Gurevitz
Paralegal Specialist
American Law Division

October 1, 1990



Liability Provisions in State Oil Spill Laws: A Brief Summary

This report briefly summarizes state oil spill liability and compensation statutes applicable to vessels, with particular emphasis on which states provide for unlimited liability for damages resulting from oil spills, and which states limit liability. It updates and supersedes an earlier survey dated Sep. 27, 1989. Examined were laws of the Atlantic, Pacific, and Gulf coastal states, and in addition, laws of states bordering on the Mississippi and Ohio rivers. Of the 37 states surveyed, we have identified 28 that provide for liability to the state or to others for oil spill damages. Of these 28, 19 provide for unlimited liability and 9 provide for limited liability to the state. Fifteen of the 28 states also create a private right of action to recover damages; of these, 10 provide for unlimited recovery and 5 for limited liability. We also identified the following 9 states that have general water pollution control laws that contain no express authority for the state or for private parties to recover for cleanup costs or for other damages: Hawaii, Indiana, Louisiana, Minnesota, Ohio, Pennsylvania, Rhode Island, Tennessee, and West Virginia.

A few general cautionary notes. Our investigation was limited to a check of *statutory* law, and did not include decisional law. Thus, our figures do not address the possibility of recovery under the common law of torts, or under general statutory provisions not contained in the same statute as the identified oil spill or water pollution control provisions. Secondly, we have relied on the most recent compilations of state codes and statutes available to us, and cannot be certain that all recent enactments have been accounted for.

For purposes of categorization, we have distinguished between those state statutes specifically addressing oil spills, and general pollution control laws (for the most part, water pollution laws) that define pollution broadly enough to include oil pollution, and that also provide for liability to the state for cleanup costs or other damages. Our findings are summarized in chart form below, followed by a brief narrative summary of each state's laws.

State Statutes Specifically Addressing Oil Spills

	<u>liability to state</u>	<u>to private parties</u>
Alaska	U	U
California	U	U
Delaware	L	L
Florida	L	L
Maine	U	U
Maryland	U	U
Massachusetts	U	U
New Hampshire	U	U
New Jersey	L*	L
New York	L	L
North Carolina	L	U
Oregon	U	U
South Carolina	L*	U
Vermont	U	
Virginia	L	L
Washington	L	U

U = unlimited liability

L = limited liability

* = unclear. See discussion.

**General Pollution Control Laws Covering Oil Pollution,
Providing for Liability to the State,
and Not Providing for Liability to Private Parties**

	<u>liability to state</u>
Alabama	U
Arkansas	U
Connecticut	U
Georgia	U
Illinois	U
Iowa	L
Kentucky	U
Michigan	U
Mississippi	U
Missouri	U
Texas	U
Wisconsin	U

State-By-State Summary

Alabama. The Alabama Water Pollution Control Act defines "pollution" broadly enough to include oil pollution, and authorizes the attorney general or any district attorney to bring a civil action to recover the state's "reasonable costs to prevent, minimize or clean up any damage resulting from pollution resulting from the wrongful act, omission or negligence." ALA. CODE § 22-22-9(m). In addition, if the pollution causes the death of any fish or wildlife, the state may recover money reasonably necessary to restock waters or replenish wildlife. § 22-22-9(n).

Alaska. In addition to having provisions specifically addressing oil pollution, Alaska also provides for strict liability, without regard to fault, for the damages "to persons or property, whether public or private, including damages to the natural resources of the state or a municipality," and for response costs, caused by the discharge of "hazardous substances" into state waters, (ALASKA STAT. § 46.03.822), and defines hazardous substance to include oil (§ 46.03.826). Damages are defined to include "injury to or loss of persons or property, real or personal, loss of income, loss of the means of producing income, or the loss of an economic benefit." (§ 46.03.824).

Arkansas. Arkansas has a general water pollution control law broad enough to cover oil, and authorizes the state to recover for cleanup costs, investigatory expenses, and damages for loss of fish and wildlife. ARK. STAT. ANN. § 8-4-103. There is no provision for private recovery, and no express limit on state recovery.

California. California provides for liability to the state for "all actual damages, in addition to the reasonable costs actually incurred in abating or cleaning up the oil deposit." CAL. HARB. & NAV. CODE § 151. In addition, the Miller Anti-Pollution Act of 1971 (HARB. & NAV. CODE § 293) provides for absolute liability for vessel owners or operators for "any property damage incurred by the state or by . . . any person, and for any damage or injury to the natural resources of the state" resulting from oil spills. No limitation is placed on either of these liability provisions.

Connecticut. Connecticut imposes liability to the state for response costs incurred in "containing, removing, or mitigating" pollution caused by spills of oil or hazardous wastes. The attorney general is authorized to bring a civil action to recover such costs. Conn. Gen Stat. § 22a-451. No limitation is placed on such recovery. No express provision is made for recovery by private parties.

Delaware. Delaware has a specific oil pollution liability statute. Persons responsible for oil pollution are liable to the state for cleanup costs and natural resources damages, and to private parties for a variety of damages, including injury to or loss of the use of real or personal property, and loss of the use of natural resources. DEL. CODE ANN. tit. 7, § 6207. All such liability is limited; in the case of vessels the limitation is the greater of \$300 per gross

ton or \$250,000, but may not exceed \$30 million. § 6208. The liability limitation is inapplicable if the spill resulted from gross negligence or willful misconduct.

Florida. Florida has a Pollutant Spill Prevention and Control Act governing spills of oil and other chemicals. Responsible parties are liable to the state (i.e., to the Florida Coastal Protection Trust Fund) for costs of cleanup or abatement. In addition, the Fund may pay private claimants for damages resulting from a spill. Liability to the Fund is limited, in the case of vessels, to the *lesser* of \$50 million or \$625 per gross ton, unless the discharge resulted from willful misconduct or gross negligence. The liability limits are also inapplicable if the responsible party fails to report the incident or fails or refuses to provide "reasonable assistance" in cleanup activities. FLA. STAT. § 376.12.

Georgia. Georgia has a statute directed at oil or hazardous substance spills, but it provides only for civil penalties and not for liability to the state or to private parties. GA. CODE ANN. §§ 12-14-1 to 12-14-4. Under Georgia's general Water Quality Control Act, pollution is defined broadly enough to include oil spills, and violators can be held liable to the state for costs incurred in cleaning up and abating a spill, and for replacing aquatic wildlife. GA. CODE ANN. § 12-5-51. There is no limitation placed on this liability to the state. No provision is made for private recovery.

Illinois. Illinois has a general provision protecting public water supplies from oil or other water pollution. When oil or other pollutants are discharged into the state's waters, appropriate units of local government are authorized to act to remove the pollution. Responsible parties are then liable to such governmental body for actual removal costs. Ill. Ann. Stat. ch. 85, § 1705.

Iowa. Iowa has a hazardous substances response law with a broad definition of "hazardous substance" that has been interpreted administratively to include oil. When a "hazardous condition" exists, the state may recover for reasonable cleanup costs, for costs incurred in evacuating people threatened by the condition, and for damages to natural resources. IOWA CODE ANN. § 455B.392. Liability to the state is limited to a total of \$5 million for vessels and other transportation conveyances, and to \$50 million for any facility. No provision is made for private recovery.

Kentucky. Under Kentucky law, persons responsible for water pollution that causes "injury, death, or destruction of fish or other wildlife" are liable to the state "in an amount reasonably necessary to restock or replenish such fish or wildlife." KY. REV. STAT. § 224.110.

Maine. Maine's oil spill compensation and liability law provides for unlimited liability to the state for all damages incurred by the state for cleanup costs, and for disbursements to private claimants who have been paid by the Maine Coastal and Inland Surface Oil Clean-up Fund. ME. REV. STAT. ANN. tit. 38, §§ 551, 552.

Maryland. Maryland's oil spill law provides for liability to the state for removal costs and for "the cost of restoring the area damaged by the spillage to its original condition." MD. ENV. CODE § 4-408. In addition, persons responsible for an oil spill are liable to private parties for resulting damage to real or personal property. § 4-409.

Massachusetts. The Massachusetts Oil and Hazardous Substances Material Release Act is (but for its coverage of oil) patterned on CERCLA. Persons responsible for the release of oil or hazardous substances into the waters of the state are liable to the state for "all costs of assessment, containment and removal," and for damages for injury to and destruction of natural resources, and in addition are liable to private parties for damage to real or personal property. There is no limitation on this liability; liability to the state for assessment, containment, and removal can be for treble damages. MASS. GEN. LAWS ANN. ch. 21E, § 5.

Michigan. Under Michigan law, the owner or operator of any "watercraft" that discharges oil into state waters is liable to the state "for the full amount of the costs reasonably incurred for its removal." MICH. COMP. LAWS § 323.337.

Mississippi. Mississippi's general water pollution control law defines pollution broadly enough to include oil, and, in addition to prescribing penalties for violations, provides that anyone causing pollution that results in the death of fish or other wildlife shall be liable to the state for an additional amount "reasonably necessary to restock such waters or replenish such wildlife." MISS. CODE ANN. § 49-17-43.

Missouri. Missouri's Clean Water Law defines pollution broadly enough to include oil pollution, and authorizes the state or its subdivisions to sue to recover damages resulting from water pollution, including "costs and expenses of restoring any waters of the state to their condition as they existed before the violation." MO. ANN. STAT. § 644.096.

New Hampshire. Under New Hampshire's oil spill law, responsible parties are strictly liable to the state for containment and removal of the discharged oil, and for "cleanup and restoration of the site and surrounding environment." N.H. REV. STAT. ANN. § 146-A:3-a. In addition, persons responsible for an oil spill that results in damage to private property are "liable in tort to the person whose property is damaged in double the amount of the damages." § 146A:10.

New Jersey. New Jersey's Spill Compensation and Control Act, N.J. Rev. Stat. §§ 58:10.23.11 *et seq.*, prohibits the discharge into state waters of hazardous substances, defined to include petroleum products, and creates a Spill Compensation Fund to pay for cleanup and to compensate private parties. A discharger who fails to comply with a cleanup order is liable to the Department of Environmental Protection for three times the Department's cost of removal. § 58:10-23.11f. The Fund is liable for the cost of restoring

and replacing natural resources, for restoring, repairing, or replacing damaged real or personal property, for lost income due to damage to property or natural resources, and for revenue lost by the state. The fund may recover for these damages, but such recovery is limited to \$50 million for major facilities, and to \$150 per gross ton for vessels. These limitations are inapplicable if the discharge resulted from gross negligence or willful misconduct, or from a gross or negligent violation of an applicable safety, construction or operating standard or regulation. Partially duplicative of the Spill Act is the state's Water Pollution Control Act. This law defines pollutant to include oil, and authorizes the state to bring a civil action to recover for removal costs and for "damages for any loss or destruction of wildlife, fish, or aquatic life, or other natural resources, and for any other actual damages caused by an unauthorized discharge." Authority is also conferred on the court to order payment to the state of "the actual amount of any economic benefits accruing to the violator from a violation," and to order payment of "compensatory damages" to "any persons who have been aggrieved by the unauthorized discharge." N.J. REV. STAT. § 58:10A-10. No limitations are placed on recovery under this provision.

New York. New York has an oil spill prevention, compensation, and control law that provides for strict but limited liability to the state and to private parties for damages resulting from spills. In addition, responsible parties who fail to undertake necessary relocation of persons residing in the area of the spill may be liable for twice the cost of such relocation. A spill compensation fund is liable in the first instance for "all cleanup and removal costs and all direct and indirect damages, no matter by whom sustained." These damages can include the cost of restoring, repairing, or replacing damaged property, the cost of restoration and replacement of natural resources, loss of income or earning capacity, and loss of tax revenues. Responsible parties are liable to the fund, but their liability is limited to \$50 million for facilities and to \$300 per gross ton for vessels, unless gross negligence or willful misconduct can be shown. N.Y. NAV. LAW § 181.

North Carolina. North Carolina's Oil Pollution and Hazardous Substances Control Act of 1978 provides for liability for damages to public and private resources resulting from an unlawful discharge. Liability to the state is for cleanup costs and for damage to public resources; if "fish, animals, vegetation or other resources" of the state are injured or if water quality is degraded, damages include investigatory costs as well as expenses reasonably necessary to restock waters, replenish resources "and otherwise restore" waters to their condition prior to the discharge. N.C. GEN. STAT. § 143-215.90. Liability to the state is limited to "applicable limits prescribed by federal law" for federal government recovery. (\$143.215.89). In addition, violators are liable to private parties for "damages to persons or property" (§ 143-215.93); this liability is not limited by the statute.

Oregon. Oregon's oil spill law makes persons responsible for the unlawful discharge of oil that enters state waters "strictly liable, without regard to fault, for the damages to persons or property, public or private." OR. REV.

STAT. § 468.790. The state may sue to recover its costs in collecting, removing, treating, containing, or dispersing the oil. § 468.805.

South Carolina. South Carolina has a statute directed at spills of oil, gasoline, pesticides, ammonia, and chlorine, and provides for liability to private individuals for resulting damages. The state is authorized to "arrange for the removal of the pollutant"; if the discharge occurred in waters of the United States, the state is directed to act in accordance with the national contingency plan, and removal costs are to be paid "in accordance with the applicable provisions of the [federal] law." S.C. CODE ANN. § 48-43-560. The provision is unclear as to whether the state has a cause of action to recover its cleanup costs, and as to whether the liability limitation of the federal Clean Water Act limits any such recovery by the state. Recovery by private claimants is not limited; private persons may submit claims to an arbitration board, or may in the alternative bring a civil action to recover "all damages." § 48-43-600.

Texas. The Texas Hazardous Substances Spill Prevention and Control Act creates a Spill Response Fund and authorizes the state to recover cleanup costs and other damages from responsible parties. A provision limiting the state's recovery to \$5 million was repealed in 1989. Moreover, the state may recover double its cleanup costs if the responsible party has, after reasonable notice, failed to clean up the spill. Cleanup costs may include costs of scientific studies to measure environmental impact and to determine the best response, "out-of-pocket costs associated with state agency actions," "reasonable costs incurred by the state in cleanup operations," and "costs of remediating injuries proximately caused by reasonable cleanup activities." TEXAS WATER CODE ANN. § 26.265. The statute contains no private right of action.

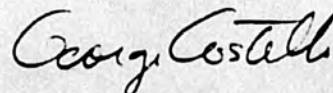
Vermont. Vermont has an environmental contingency fund to finance state response to oil and hazardous substances spills. Fund disbursements may be made for investigations, cleanup, and "to take appropriate interim action to prevent or minimize the immediate impact of such releases to the public health and the environment." The state may bring an action against a responsible party to reimburse the fund, and there is no express limitation on the state's recovery. VT. STAT. ANN. tit. 10, § 1283. No private right of action is created by the statute.

Virginia. Virginia prohibits discharge of oil into state waters, and provides for limited liability to the state and to private parties for damages resulting from an unlawful discharge. The state may recover "all costs of investigation, containment, and cleanup," and in addition may recover for all property damage incurred by the state or by a political subdivision and for loss of tax or other revenues, and for loss of any natural resources that cannot be replenished or restored. Private parties may recover for injury to person and property, and for lost income and for loss of the use of damaged property. Total liability for damages (excluding the State's cleanup costs) is limited in the case of tank vessels to the greater of \$10 million or \$500 per gross ton. The limitations do not apply in the case of gross negligence or willful misconduct, violation of safety regulations, failure or refusal to report the

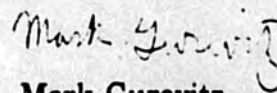
discharge, or failure or refusal to cooperate in the cleanup. VA. CODE § 62.1-44.34:18.

Washington. Washington law provides that any person owning or having control over oil that unlawfully enters state waters "shall be strictly liable, without regard to fault, for the damages to persons or property, public or private, caused by such entry." WASH. REV. CODE ANN. § 90.48.336. There is no statutory limitation on private recovery, and responsible parties are also liable to the State for the full cost of cleanup. §90.48.335. However, the State's recovery for damages to public resources is to be established in a compensation schedule prepared by the Department of Ecology; this schedule is to reflect "adequate compensation for unquantifiable damages . . . for any adverse environmental, recreational, aesthetic, or other effects" caused by the spill. The State's recovery under this compensation schedule is to be no less than one dollar and no more than \$50 per gallon of oil spilled. §90.48.366.

Wisconsin. Wisconsin's general water pollution control act covers oil pollution (WIS. STAT. ANN. § 147.015), and a polluter is liable to the state for cleanup costs, including the cost of replacing fish and wildlife. § 147.23. No limitation is placed on the state's recovery, and the statute makes no provision for a private right of action.



George Costello
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October 1, 1990

PUBLIC COMMENTS

STATEMENT OF
EXXON SHIPPING COMPANY
TO THE
SPECIAL COMMITTEE ON OIL AND GAS
ALASKA SENATE
ON SB 102
March 26, 1991

Exxon Shipping Company appreciates the opportunity to provide comments on Senate Bill 102.

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

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

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

The Compact specifically provides for uniform regulation of oil and hazardous substance transportation, including the establishment of standards for routes, crews, and equipment for vessels and for vessel contingency plans. Comprehensive oil spill prevention and response legislation was passed in 1990 at the federal level (Oil Pollution Act of 1990) and in Alaska through a package of more than 10 laws in 1989 and 1990. Implementation of these legislative efforts is well underway at both federal and state levels through the development of extensive regulations. Compact provisions for development of an additional layer of regulations for these purposes is both unnecessary and inappropriate. At best, such an effort would be duplicative of Alaska and federal work; at worst, it could result in totally confusing layers of regulations under various authorities. It seems logical to allow the industry and states to operate under the statutes being developed before deciding whether additional or modified regulations are needed.

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

The U.S. Coast Guard has primary authority for marine transportation in U.S. waters and is responsible for establishing vessel safety and design standards, training and manning requirements, routing, and traffic control. It is the only agency which participates in the development of internationally approved maritime protocols and has the demonstrated experience, expertise, and resources to assure uniform enforcement of marine regulations. Moving this regulatory authority for marine transportation to the proposed Compact will lead to confusion among domestic and international shippers as to which agency has primary jurisdiction over safety standards for vessels transporting oil or hazardous materials. Exxon Shipping Company firmly supports the concept of uniformity of maritime law and regulations throughout the United States. We believe the U.S. Coast Guard already provides that uniformity. Since our industry is international in scope, we believe a single U.S. agency approach is absolutely critical.

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

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

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

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

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

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

STATEMENT OF
EXXON SHIPPING COMPANY
TO THE
SPECIAL COMMITTEE ON OIL AND GAS
ALASKA SENATE
ON SB 102
March 17, 1992

Exxon Shipping Company appreciates the opportunity to provide comments on Senate Bill 102.

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

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

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

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

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

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

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

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

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

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

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

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

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Written Statement

of

Jerry A. Aspland

President, ARCO Marine, Inc.

Senate Oil and Gas Committee

Hearing on S.B. 102

The Pacific Ocean Resources Compact

March 17, 1992

Mr. Chairman, Members of the Committee; my name is Jerry Aspland. I am the President of ARCO Marine, Inc., the shipping subsidiary of Atlantic Richfield Company - more commonly known as ARCO. ARCO is a major U.S. based producer and marketer of petroleum and petroleum products, natural gas, coal, and petrochemicals. We are also a major transporter of petroleum by water and pipeline in the Mid-Continent region of the U.S. By far, our greatest transportation activity occurs along the West Coast, both through our 21 percent ownership interest in the Trans Alaska Pipeline, as well as on ARCO Marine's ten vessel U.S.-flag tanker fleet.

ARCO Marine is keenly interested in S.B. 102, the Pacific Ocean Resources Compact. I have participated in discussions of this topic before the Oceans Committee of the Western Legislative Conference, and have registered my concerns with the Compact proposal when it was considered in the states of Washington, Oregon, and California. I appreciate the opportunity to present my written statement to you today.

The Compact, a concept which seeks to regulate oil and hazardous substance transportation, spill prevention and response, and other maritime and coastal concerns, including the extension of the State's coastal economic zones from three miles to two hundred miles is fraught with

implementation as well as operational problems. While the Compact proposal before you today would enter into force upon its ratification by two or more of the five Western States, it will also require the approval of the U.S. Congress.

Arco Marine remains committed to the belief that the coordination of oil spill prevention and response plans, both among the Western States, as well as with the Federal Government is important in achieving optimal environmental protection. This goal is achievable by increased coordination of Western State policies, with an eye towards building upon, instead of supplanting, the Federal framework.

While changes have been made in comparison to the original Compact proposal, moving it in the direction of increased coordination among the participating states with more active participation in the Federal legislative and regulatory process, the concept of a formal, Congressionally approved, Compact is still troublesome. There are three primary concerns with the compact approach in this instance. Our first concern arises from the fact that the Western States, and Alaska in particular, were quick in developing legislation to ensure safe oil transportation and to protect their waters, resources, and citizenry from oil spills. ARCO Marine welcomed an opportunity to comment during the oil spill legislative process and continues to provide input to state agencies as regulations are formulated which

implement the legislation. To sweep this all aside in an effort to legislate uniformity between the Western States is a misplaced, duplicative, and expensive effort.

I am also concerned that the Compact would supersede established and proven Federal laws and regulations which provide a uniform framework for ocean policy in Federal waters. The wide-ranging improvements in spill prevention and response which will arise out of the Federal Oil Pollution Act of 1990 are, just as with the Alaska law, still in the implementation process.

Last of all, the addition of another layer of government, one which would come between state entities and the federal government is counterproductive. The current Federal/State review and regulatory process can be burdensome - an intermediary Compact layer would only further complicate the process.

If the primary thrust of the Compact is one of increased input into the Federal regulatory process while achieving uniformity among Western State regulations, ARCO Marine believes that such goals are achievable without a Compact. Many states are active participants in Federal regulation development. Similarly, state coordination can be achieved through interstate working groups without the negatives associated the Compact process. The proposed compact would require increased and open-ended

state administrative expenses, with questionable benefits to state citizens.

This fact, coupled with the loss of individual state autonomy and prerogative, argues against the adoption of the Pacific Ocean Resources Compact.

SOUTHEAST ALASKA PETROLEUM RESOURCE ORGANIZATION
540 Water Street Suite 202
Ketchikan, Alaska 99901

03/19/91

Statement concerning the proposed adoption of the Pacific
Ocean Resources Compact by SB 102 & HB 135

The Southeast Alaska Petroleum Resource Organization, SEAPRO, is a recently formed cooperative organization representing several oil transporters, oil terminals, and bulk oil users who do business in the Southeast Alaska region. Our area of operation is from Dixon Entrance to Yakutat, and our headquarters office is located in Ketchikan. The purpose of the organization is to enhance the regional industry's ability to respond to oil spills which may occur in this area, especially any spill which may be greater than the capacity of any one member to control and clean up. Currently SEAPRO operates as an information network between member companies, other regional companies, government agencies, and other pollution response organizations. One of the goals of this network is to be able to provide a rapid and comprehensive means of communication between industry and government which will allow more efficient planning for pollution prevention and response, plus acquire appropriate pollution response resources as rapidly and efficiently as possible in the event that they are needed.

Over the past couple of days we have been reviewing the proposed Pacific Ocean Resource Compact in light of it's potential impact on pollution prevention and response within our area of concern, which includes the adjacent waters of British Columbia. It is the opinion of SEAPRO management that this Compact offers some potential benefits in advancing pollution prevention and response, but that it also contains several technical deficiencies and omissions which should be corrected in advance of adoption.

BENEFITS

1. The adoption of the Compact, especially if British Columbia is included, should improve overall pollution prevention and response efficiency. All of the Pacific coastal jurisdictions are in the process of adopting rules, regulations, and procedures which are intended to enhance pollution prevention and response. Unfortunately, each jurisdiction seems to be creating different approaches to solving the same problems. The multiplicity and duplication caused by this circumstance has forced industry to expend time, energy, and resources, sometimes at cross purposes, in attempts to divine means of compliance with the anticipated desires of each separate jurisdiction.

(1. Continued) Establishing a single set of rules to govern the entire region will allow industry to focus it's efforts and expenditures in those areas which are mutually determined to be of greatest benefit toward pollution prevention and response.

2. Adoption of the Compact should improve the expertise of each individual jurisdiction. Currently, each individual state or province is limited in it's pollution specific expertise by it's own internal capability to acquire and maintain such expertise. Additionally, the expertise acquired by any particular jurisdiction is generally limited to the specific concerns of the agencies within that region. This handicap greatly limits the broader professional knowledge which is necessary to keep abreast of technological trends or developments which tend to antedate specific regulations as well as prevention and response planning and methods. The Compact could act to centralize available expertise and distribute information tailored to the specific need of any particular jurisdiction, thereby increasing the access to expertise for all of the jurisdictions without necessarily having to maintain such expertise "in house".

3. Adoption of the Compact should force the federal government to improve the level of professionalism within their regulatory agencies. Enforcement of the Compact requirements will fall on the U.S. Coast Guard. The Coast Guard has been charged with enforcing pollution prevention and vessel safety regulations for decades. Unfortunately, due to a number of complex personnel policies and conditions within the Coast Guard, the level of professional competence at the inspection and enforcement level has deteriorated over the past several years. This condition has caused resentment of, and decreased cooperation with, Coast Guard inspectors by many in industry. Requiring the Coast Guard to enforce the provisions adopted by the Compact will allow the several jurisdictions direct oversight over the Coast Guard's professional performance. This may well force the leadership of the Coast Guard to adopt policies and procedures which will improve the level of professional competence of their inspectors and administrators, thereby increasing industries willingness to cooperate with those personnel. The end result would be an improvement in the overall material condition of merchant vessels and waterfront facilities.

TECHNICAL DEFICIENCIES

1. There seems to be a growing trend by legislators to be overly specific in technical terms when creating new law. We view this as a serious mistake. For example, under Article II Definitions (5), you end the definition of "oil" with the words "liquified natural gas, or propane". While propane is a petroleum product, (liquified petroleum gas), it is only one of a series of such products.

(1. Continued) By adopting such precise language you specifically omit other similar petroleum gasses such as butane, propylene, and butylene which are capable of liquefaction by pressurization only, while specifying LNG, (methane), which is not capable of liquefaction unless refrigerated to extreme temperatures. Aside from the fact that none of these gasses, especially LNG, pose any serious environmental threat if spilled, and aside from the fact that technology to contain these products if spilled does not exist, the attempted specificity makes the law appear silly in the eyes of professionals, and creates serious problems of compliance and enforcement.

2. Article II Definitions (8) gives a definition for "vessel" which appears to be legally insufficient. It appears that an attempt to specify tank vessels is being made, but falls short of doing so. It also points to three additional characters, "bulk", "cargo" and "residue", which are key to the definition of a vessel, yet these three characters are not defined. All three of these characters have specific definitions under 33 CFR, 46 CFR, and 49 CFR. It would be interesting to know which definition this law envisions. Also, since you are dealing with interstate commerce, possibly international commerce, it would be nice if the definition of "vessel" were a little more in compliance with that which is specified in 1 USC.

3. Article II Definitions (8) (B) ends with the words "in a place subject to the jurisdiction of the United States." Since this Compact could possibly include an international jurisdiction, possibly that wording should be changed to "in a place subject to the jurisdiction of the Compact."

4. Unfortunately, we have not had sufficient time to thoroughly analyze the proposed legislation in conjunction with the referenced laws, but we tend to believe that the general concept is acceptable if specific technical details of the regulations promulgated under the referenced laws are directly incorporated by the Compact.

OMISSIONS

The most serious omission of this proposed Compact is that it patently ignores existing and future threats to the environment. As is traditional after all oil spills which achieve notoriety, the public, (media), clamors for action and politicians pass laws to prevent a repetition of similar incidents. The problem is that usually such actions are directed at closing the barn door through which the horse has already bolted. The legislation drawn usually envisions a specific incident, but it's impacts will be felt in places unimagined.

This certainly has been the case with all of the environmental legislation passed by Alaska since the EXXON VALDEZ, and it appears to be the case here. As is clear from attempting to define a "vessel" within this legislation, everybody seems to have put their blinders on and are focusing on "tank vessels". Specifically tank vessels carrying crude oil. While tank vessels carrying crude oil will always pose a threat to the environment, they are not the sole threat. Unfortunately, the entire state of Alaska seems to be oblivious to the fact that there are other vessels plying our waters which also threaten the environment, as well as the health and safety of large numbers of people.

Every year for the past ten years, there have been significant casualties involving foreign flag cruise ships either in Alaskan waters, enroute to Alaska, or just departing Alaska. Of these, the fire and sinking of the PRINZENDAM, and the grounding and sinking of the SUN DANCER resulted in significant pollution. Fortunately, the first happened well out to sea, while the other occurred in Canada. But several others such as the DAPHNE and NORTH STAR have resulted in moderate pollution of Alaskan waters.

Many of these ships carry large quantities of heavy fuel oil which looks and acts much like crude oil. These ships proceed into some of the most sensitive habitats in our state, through difficult navigational areas, with the added pressure of keeping precise time schedules. None of these ships have contingency plans, none have adequate pollution response or control equipment, none have adequately trained spill response personnel, and all are capable of protecting themselves from legal claims arising from a ship casualty. Of course none of us will be all that concerned with environmental protection when one of these ships goes to the bottom hazarding the lives of 800 visitors to our state, but oil pollution will be a by-product of such a tragedy. You are courting disaster by not recognizing this threat and planning accordingly.

In addition to cruise ships, a significant number of foreign flag freight ships call at locations large and small throughout the state. Again, these vessels carry large quantities of heavy fuel, and they have a history of causing pollution incidents, although not as frequently as cruise ships. The most serious pollution incident in Southeast Alaska's history was caused by such a ship sinking in Dixon Entrance, and a couple of freight trampers have caused environmental damage in the Aleutians over the past couple of years.

Finally, the rapidly increasing size and number of "uninspected" fishing vessels bearing the U.S. flag working Alaskan waters also pose a serious threat. Recently one such vessel sank in Tongass Narrows in front of the oil terminals in Ketchikan, causing the largest oil spill in that community in many years. Because these vessels have had the political ability to prevent themselves from falling under Coast Guard inspection, they usually fall far below the material condition, damage control capability, and manning standards of even the foreign flag cruise ships. Again these ships pose a substantial threat to the environment, not to mention the threat to the health and safety of their crews and innocent by-standers, yet the threat they pose is being ignored.

Another omission, or more correctly a mis-classification, which will lead to serious deficiencies in pollution prevention and preparedness planning has already been encoded in HB 567 which was passed last year, and has been the cause of furious regulatory activity so far this year. This is the professionally unacceptable mistake of dividing oils into the categories of crude oil and non-crude oil for the purpose of assigning pollution regulation applicability. The use of the wording crude and non-crude was an apparent attempt by the legislature to recognize that certain non-persistent oils common to the Alaskan transportation system pose a lesser threat to the environment than does "Alaskan" crude oils. This division then was established to allow for a lesser degree of financial responsibility and even prevention and preparedness measures.

Those of us in the oil pollution business divide oils by there tendency to pose threats to the environment. The terms persistent and non-persistent are the classifications normally use to determine the gross environmental threat of a product. We tend to think of crude oil as persistent, however, there are numerous examples of crude oils which exhibit characteristics similar to gasoline or case head oils. We also tend to think of non-crude oils as non-persistent. But Number 6 oil, Bunker C, and Asphalt are all examples of non-crude oils which are highly persistent when spilled into the marine environment. In the first case, there is little concern because we do not experience very light crude oils in the Alaskan transportation system. In the second case, however, there is very real cause for concern, because we experience all three of the products mentioned with relative frequency in Alaska.

In our view, the threat to the environment posed by a spill of 100,000 gallons of heavy fuel oil or asphalt is roughly similar to a 100,000 gallon spill of "Alaskan" crude oil.

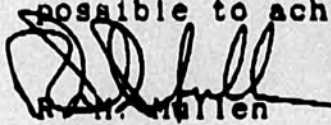
If you judge the threat to the environment by the relative persistence of the product, you can see how foolish it is for the state to treat oils of relatively equal persistence as a lesser threat than "Alaskan" crude oil. Yet this is exactly the situation created by the wording of HB 587. This is another example of trying to be over technical in writing law when you have little professional knowledge of the subject at hand.

Our reason for mentioning this last item is to illustrate the almost impossible regulatory compliance climate which is being developed by the State of Alaska. While Alaska has lead the pack in creating an impossible compliance climate, it is not alone. All of the other jurisdictions considering the Pacific Ocean Resources Compact are working toward equally impossible regulations.

It is our hope that by placing the authority for further development of pollution prevention and response regulations under a single jurisdiction, we will be able to then work with that jurisdiction to achieve a more rational and professional approach to controlling the threat posed by the transportation of oils and hazardous materials than is currently possible.

It is also our hope that in the event this Compact is not established in the very near future, that the Alaska State Legislature will revisit the legislation passed in the wake of the EXXON VALDEZ, assess the damage which those laws and subsequent regulations are doing to Alaskan businesses, and make adjustments which improve the regulatory compliance capabilities of our businesses without compromising environmental protection.

Our organization stands ready to assist you in any way possible to achieve the goals stated above.


R. H. Mullen
Manager

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

March 14, 1991

Dear Senator Cotten:

We were aware of a compact being worked on by the Pacific Coast states and the Province of British Columbia, however information was somewhat scarce. We are very appreciative of having been brought up to speed on the status of the compact and of Senate Bill No. 102. We have reviewed SB 102 and find both agreements and disagreements with the bill.

This bill, as with HB 567 of 1990, fails to recognize the largest potential for a major oil spill in Alaska or members of the compact. Certainly the Exxon Valdez made an impression, but historically how many tankships have had major spills in the last 12 years? How many large freight vessels and foreign flag passenger vessels have had major spills? A review of U.S. Coast Guard records will show a very real list. In Southeast Alaska and the nearby Canadian waters in recent years - the Lee Wang Zin, the Sundancer, the North Star, just to name a few who have grounded and spilled oil into the water. No, they are not carrying crude oil, but they all carry and use heavy bunker oil (persistent). Some of the old and the majority of the new foreign flag passenger vessels carry in the neighborhood of 1,000,000 gallons of this heavy oil. During the summer they transit throughout Southeast Alaska, Prince William Sound, Seward, and into Anchorage. They do not have onboard any major oil response equipment.

Scenario: At 0200 on a summer morning the foreign flag passenger vessel Rotterdam grounds on a charted pinnacle in the vicinity of the entrance to Glacier Bay, Alaska. Two fuel tank compartments have been holed and heavy bunker oil is leaking. Weather is Southeasterly winds 30 kts with gust to 40; tide is flooding. There are 1200 passengers onboard and the vessel has a 15 degree list.

With this scenario, we have search and rescue - 1800 persons (passengers and crew) in jeopardy, a grounded vessel that may or may not be salvageable, oil in the water and the potential for a lot more oil. They have no C-Plans, no response equipment, no trained personnel to respond, and minimum liability insurance for clean-up. This oil will be around for a long time and the impact will be tremendous and so will the public outrage. Why aren't these vessels required to comply will be the question?

Other oceangoing freight vessels, including fish processors, visit ports year round from Ketchikan to Dutch Harbor and the Pribilofs. These vessels meet the minimum federal pollution prevention regulations but carry very little oil response equipment onboard. If one of these vessels grounded, there would be little to no containment of heavy oil by the spiller.

The above noted vessels need to be added to the definitions under Article II and they need to be regulated, as they are the biggest threat to the waters of Alaska and the members of the compact.

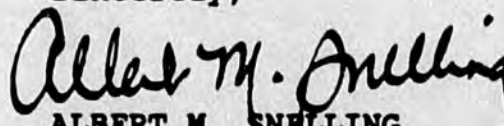
ADEC appears unwilling to acknowledge these vessels as potential threats, but the compact should, because they are threats.

As noted in your cover letter, we agree an exemption should be made for tank barges transporting non-crude petroleum products to communities. We recommend that instead of deadweight tonnage that vessel exemption be based on the barge capacity. We would recommend tank barges transporting non-persistent oils (gasoline, kerosene, diesel) of not more than 50,000 barrels be exempted. Tank barges are presently under inspection and monitored by the U.S. Coast Guard for safety, manning, and pollution prevention. They carry onboard pollution containment equipment, personnel are licensed/documented, and personnel are trained in oil spill response.

We agree with the uniformity of standards, as we transport not only petroleum products but deck cargo as well to and from Southcentral, Western, and Southeast Alaska. Requiring only one spill C-Plan for petroleum products for the Pacific region would be ideal. There are some standards that would be disadvantageous to industry and we have a disagreement with. Establishing routes that may exclude transit at night or dictate where a class of vessel must navigate; inspection standards for uninspected vessels; manning of vessels. The intent of establishing some of these standards is well meaning however industry must be included in any finalization of compact regulations. Research and studies should be done utilizing all data available and support agencies (Article VIII) should not be agencies of signatory parties. Parties outside the compact should be employed to do the research, as state agencies tend to be partial to the state government and its needs, rather than the needs of the overall people, including industry.

These are the immediate concerns of SB 102 that we have. If we can be of further assistance in this matter, please do not hesitate to call upon us.

Sincerely,


ALBERT M. SNELLING
Safety Officer

cc: Senator Eliason

**BP OIL**

BP Oil Company
200 Public Square
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(216) 586-4141

February 28, 1991

BP COMMENTS ON PACIFIC OCEAN RESOURCE COMPACT

BP supports interstate and provincial cooperation to ensure adequate and efficient prevention of and/or response to oil and hazardous substance spills. Standardization of spill response planning across the five states, in conjunction with federal requirements under the Oil Pollution Act of 1990 (OPA), will serve to greatly simplify the contingency planning task for industry and eliminate the confusion inherent in a situation where a federal plan and multiple state plans (all potentially different) would be required. The proposed formation of the Pacific Ocean Resources Compact, as introduced in the state legislatures of Alaska, California, Hawaii, Oregon, and Washington may provide an opportunity for such interaction; however, the industry has a number of concerns with this specific proposal.

The major thrust of the Compact legislation is that existing federal law (i.e., OPA) does not go far enough in setting standards and regulations for industry to follow. However, it does present an opportunity for the states to play a meaningful role in promulgating appropriate requirements for industry. The proposal merits serious consideration so long as it does not result in an additional layer of regulations, and so long as its requirements are coordinated with the Coast Guard's requirements. As proposed, the Compact seems to unnecessarily

Page 2

duplicate, on a regional basis, many of the highlighted areas of concern which will be addressed through the new federal thrust outlined in OPA and the various state oil spill legislative initiatives passed over the last few years.

It is appropriate that the Compact engage in a number of activities aimed at improvement of oil and hazardous substance spill prevention and response, including:

- providing input to Federal government agencies regarding: uniform safety standards throughout the region, covering areas such as navigation rules, training/certification of vessel officers/crew, methods of natural resource valuation, development of contingency plans, development of a regional Unified Incident Command System;
- developing regional spill trajectory models;
- arranging and conducting multi-state spill response exercise drills;
- reviewing requirements and proposals for vessel traffic management, vessel traffic systems, speed limits, and vessel traffic reduction;
- establishing and maintaining a regional index of potential spill responders and an inventory of available response equipment;
- studying the utilization of volunteers and proposing measures for volunteer training;
- creating and carrying out a spill prevention education strategy aimed at industrial operators, passenger

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- vessels, and pleasure boaters;
- encouraging and coordinating research into oil spill prevention and response by universities and other scientific organizations.

This focus of activities for the compact is much more appropriate than developing an entire new regulatory authority and structure. Beyond this primary concern, several additional problem areas exist in the Compact legislation:

- o The legislation grants broad powers to the Compact, but there is no clear definition of how these powers are to be implemented and exercised by the Compact in the performance of its duties.
- o Article 9 provides for no limitation of existing state authority. Unless there is a willingness to allow Compact standards and regulations to supercede those promulgated by the individual states little will be accomplished beyond the establishment of an additional bureaucratic entity and layer of regulations.
- o Cost and control issues may be large impediments to effective Compact operation. The states must wrestle with the problem of yielding individual control of specific issues to the Compact as a whole, while providing incremental funding (beyond that required to support similar state activities) to support the

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Compact's tasks.

- o Individual states will find wide disparity between their funding requirements and their voting privileges. As currently envisioned in Article 11, one party to the compact will most likely provide 50% of the funding requirements, while the remaining 50% will be spread on an approximately equal basis among the other parties. Even so, each party will be entitled to only one vote under Article 11's provisions. The attached chart provides the anticipated breakdown of the funding required from each party to the compact, based on relative gross state products.
- o The Compact could disrupt domestic and international trade by confusing which authorities have jurisdiction. Article 5 grants the Compact the authority to establish uniform safety standards for routes, crews, and equipment for vessels transporting oil and hazardous substances, and to request that the Coast Guard enforce or assist in the enforcement of such standards. However, the Coast Guard already has a federal mandate to do this, which will be further enhanced through the impending implementation of OPA.

The revitalized Coast Guard, with an increased budget

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and access to additional federal monies via the federal Oil Spill Liability Trust Fund, should be able to provide adequate oversight and administration of OPA-mandated requirements. By duplicating existing standards and regulations, the parties to the Compact will incur the cost and effort required to promulgate such standards and regulations. Industry will thus be faced with a myriad of potentially conflicting requirements to follow.

The formation of the Pacific Ocean Resources Compact is a concept that BP can support, as long as the main focus remains on increased cooperation between the parties to the Compact and federal government agencies, and emphasis does not shift to an attempt to duplicate regulations and procedures that already exist in federal and state oil spill legislation.

By working with the Coast Guard, via increased cooperation with respect to the enforcement of federal regulations, all parties involved (the states, the federal government, and industry) should be able to achieve the common goal, which is to maintain the best possible program for spill prevention and response. In this light, BP is preparing suggested modifications to the proposed Pacific Ocean Resources Compact.

COMPACT PARTIES GROSS STATE PRODUCTS

<u>STATE</u>	<u>1986</u> <u>(\$ BILLION)</u>	<u>% OF TOTAL GSP</u>	<u>% OF REQUIRED</u> <u>FUNDING</u>
CALIFORNIA	533.8	77	50
WASHINGTON	77.7	11	10*
OREGON	41.3	6	10*
ALASKA	19.8	3	10*
HAWAII	<u>19.3</u>	<u>3</u>	<u>10*</u>
	691.9	100	100*

* LEGISLATION STATES THAT EACH PARTY PROVIDE A MINIMUM OF 10% OF THE COMPACT'S FUNDING REQUIREMENT, BUT NO MORE THAN A MAXIMUM OF 50%. FINAL PERCENTAGE WILL NEED TO BE DETERMINED, BUT MUST EQUAL 100%.

February 28, 1991

**PROPOSED AMENDMENTS TO PROPOSED PACIFIC OCEAN
RESOURCES COMPACT LEGISLATION**

- o Section 1, (1) - Delete the words "and consent is granted by Congress as required by section 10, Article I of the Constitution of the United States."

Section 1, (2) - Delete the words "and approval of Congress,"

As amended, the Compact would not require the consent of the Congress.

- o Article I, A (6) - Delete paragraph (6) in its entirety.

As amended, the compact would cover existing jurisdictions.

- o Article I, A (8)(a-f) - Replace (8)(a-f) with the following:
"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) enhanced traffic management;
- (c) improved coordination in regulatory oversight;
- (d) better mechanisms for cost recovery by the states or the province;
- (e) an improved information base dealing with marine and coastal environments."

This language better reflects the fact that advances in prevention and preparedness have been achieved by the federal government, the states, and industry. It also incorporates the major findings of the States/BC Task Force.

- o Article I, B (1) - replace (1) with: "To assist in the promotion of interstate commerce via cooperation with the U. S. Coast Guard in regulating the transportation of oil or hazardous substances within the compact zone."
- o Article I, B (2) - replace (2) with: "To provide a legal mechanism to coordinate certain ocean activities within existing jurisdictions."

The intent should be one of enhanced cooperation between the parties to the Compact and the Coast Guard, rather than potentially duplicating the effort in areas that are already

sufficiently covered under recently enacted federal and state oil spill legislation.

- o Article I, B (3) - replace "sovereignty over" with "coordination of".

Article I, B (4) - replace "dispute" with "work with" and "not in" with "to advance".

Article I, B (6) - replace "To enhance the oversight and supervision of" with "To monitor".

Article I, B (15) - delete "over which the compacting parties jointly or separately now have or may acquire jurisdiction."

The Compact should not have jurisdiction over federal authorities, in the form of oversight and supervisory privileges.

- o Article I, B (13) - replace "To establish" with "To provide input to the Coast Guard in the establishment of". Also replace "provide oversight for" with "monitor".

The Coast Guard has federally mandated jurisdiction in these areas, which should not be duplicated at the state or multi-state Compact level. However, increased cooperation between the compact and the Coast Guard and the individual states would be beneficial.

- o Article II, (2) - Delete the words "within the 200-mile exclusive economic zone." and replace with "including all waters under the jurisdiction of the parties."

The compact's authority should extend to those areas under state jurisdiction.

- o Article III, (1) - Delete the words "and the consent of Congress is or has been granted as required by section 10, Article I of the Constitution of the United States."

Article III, (2) - Delete the words "and the approval of Congress"

As amended, the compact will not require congressional action.

- o Insert as a new Article V, (1)(a) the following:

"To engage in a number of activities aimed at improvement of oil and hazardous substance spill prevention and response, including:

- (a) providing input to Federal government agencies regarding:

uniform safety standards throughout the region, navigation rules,
training/certification of vessel officers/crew,
methods of natural resource valuation,
development of contingency plans,

development of a regional Unified Incident Command System:

- (b) developing regional spill trajectory models;
- (c) arranging and conducting multi-state spill response exercise drills;
- (d) reviewing requirements and proposals for vessel traffic management, vessel traffic systems, speed limits, and vessel traffic reduction;
- (e) establishing and maintaining a regional index of potential spill responders and an inventory of available response equipment;
- (f) studying the utilization of volunteers and proposing measures for volunteer training;
- (g) creating and carrying out a spill prevention education strategy aimed at industrial operators, passenger vessels, and pleasure boaters;
- (h) encouraging and coordinating research into oil spill prevention and response by universities and other scientific organizations.

These are the appropriate activities of this multi-state compact.

- o Article V, (1)(c) - replace (1)(c) with "Establish guidelines for the preparation of a contingency plan by any vessel transporting oil or hazardous substances in the compact zone. Such guidelines shall be consistent with the requirements for spill response plans under section 4202 of the Oil Pollution Act of 1990 (P.L. 101-380). In establishing guidelines under this paragraph, the compact shall work closely with officials of the parties to assure that the vessel contingency plans prepared under the guidelines of this compact are at least as comprehensive as similar plans required by the parties and to integrate, to the fullest extent possible, any requirements for vessel contingency plans in effect at the time the compact initiates its approvals under this paragraph."

Standardization of the major provisions of spill response planning across the parties to the compact, in conjunction with federal requirements under the Oil Pollution Act of 1990, will serve to greatly simplify the contingency planning task for industry and eliminate potential confusion caused by multiple plan requirements. The process need not be regulatory in nature to be successful, however.

- o Article V, (1)(j) - Delete paragraph (1)(j).

Article V, (2)(h), first line - Delete "or rules or regulations adopted by the compact".

As amended, the compact will not function as a regulatory body and will therefore have no need to seek redress through the implementation of sanctions or penalties, or to grant variances to rules or regulations adopted by the compact.

- o Article V, (1)(k) - Delete "adopted by the compact".

The U. S. Coast Guard will not be permitted under law to enforce state or compact regulations.

- o Article V, (2)(e) - Delete paragraphs (2)(e).

The compact should not need such authority to perform its duties.

PACIFIC FISHERIES LEGISLATIVE TASK FORCE

**SENATOR BILL BRADBURY
PACIFIC OCEAN RESOURCES COMPACT**

**AMENDMENTS TO SB 500 AND POLICY IMPLICATIONS OF
PROPOSED AMENDMENTS.**

SB 500-1

ACTION: AMEND THE COMPACT TO ADOPT THE DEFINITION OF "VESSEL" THAT IS CONSISTENT WITH THE FEDERAL OIL POLLUTION ACT, AND DELETE THE VARIANCE ALLOWING ECONOMICALLY NECESSARY ACTIONS WHICH ALSO DO NOT HAVE A REGIONAL IMPACT.

POLICY IMPLICATION: DOES THE COMPACT WANT THE SIMPLICITY OF CONFORMING TO FEDERAL LAW AND THUS AUTOMATICALLY EXEMPTING VESSELS LESS THAN 5,000 DEAD WEIGHT TONS, INCLUDING SMALL TUGS AND BARGES, FROM THE REGULATIONS ADOPTED BY THE COMPACT.

PRO-AMENDMENT: THOSE STATES WHICH HAVE SPECIFIC REGULATIONS PERTAINING TO VESSELS LESS THAN 5000 DEAD WEIGHT TONS IN PLACE WHICH ARE ALREADY AS STRINGENT AS FEDERAL LAW, WILL BE ABLE TO HAVE CONTROL OVER THESE VESSELS. THE COMPACT WON'T RUN THE RISK OF OVERLAPPING JURISDICTION WITH THE STATES IN REGARD TO THESE SPECIFIC VESSELS.

AGAINST-AMENDMENT: THE COMPACT MAY BE REDUCING ITS AUTHORITY TO REGULATE VESSELS WHICH COULD ADVERSELY IMPACT THE RESOURCES OF THE REGION.

SB 500-1
(LC 20)
3/1/91 (JK/sm)

**PROPOSED AMENDMENTS TO
SENATE BILL 500**

- 1 On page 4 of the printed bill, line 10, after "(a)" insert "(A)".
- 2 In line 11, delete "(b)" and insert "(B)".
- 3 In line 12, delete the period and insert "; and
- 4 "(b) Is greater than 5,000 dead weight tons."
- 5 On page 6, delete lines 11 through 16.

6

SB 500-2

AMEND THE COMPACT TO GIVE THE COMPACT AUTHORITY TO ASSESS A SCHEDULE OF REASONABLE FEES FOR THE REVIEW OF CONTINGENCY PLANS, TO BE ASSESSED IN INCREMENTS UP TO THE MAXIMUM AMOUNT.

POLICY IMPLICATIONS: DOES THE COMPACT WANT THE AUTHORITY TO ASSESS FEES FOR THE REVIEW OF THE CONTINGENCY PLANS?

PRO-AMENDMENT: THE COMPACT WILL MOVE IN THE DIRECTION OF BEING A SELF-SUFFICIENT BODY. THE USER WILL BE RESPONSIBLE FOR PROVIDING COMPENSATION FOR THE COSTS INCURRED BY THE COMPACT WHICH ARE OF A DIRECT BENEFIT TO THEM. EACH INDIVIDUAL STATE WILL BE RESPONSIBLE FOR A PORTION OF THE BALANCE.

AGAINST-AMENDMENT: A DETERMINATION WILL HAVE TO BE MADE AS TO THE AMOUNT AND FREQUENCY OF FEES ASSESSED, AND AS TO WHICH PARTIES MUST PAY THE FEES.

SB 500-2
(LC 20)
3/1/91 (JH/sm)

**PROPOSED AMENDMENTS TO
SENATE BILL 500**

- 1 On page 5 of the printed bill, 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 shall be assessed in increments up
6 to the maximum amount."

7

SB 500-3

ACTION: THE COMPACT WILL BE AMENDED TO CLARIFY ITS INTENT IN RELATION TO COMPACT AUTHORITY TO REQUIRE VESSEL CONTINGENCY PLANS.

POLICY IMPLICATION: SHOULD THE COMPACT BE AMENDED TO CLARIFY THE INTENTION TO BECOME THE SOLE AUTHORITY OVER THE REGULATION OF CONTINGENCY PLANS AS SPECIFICALLY ADOPTED BY THE COMPACT AND TO CLARIFY THE INTENTION NOT TO INTERFERE WITH SPILL RESPONSE PLANS THAT HAVE CAREFULLY BEEN DRAWN UP BY THE INDIVIDUAL COMPACT PARTIES?

PRO-AMENDMENT: THE AMENDMENTS WILL SIMPLIFY THE COMPACT AND ELIMINATE CONFUSION WITH REGARD TO THE SUBMISSION OF CONTINGENCY PLANS. THIS AMENDMENT WOULD CLARIFY THAT ONLY ONE CONTINGENCY PLAN WOULD BE REQUIRED FOR TRANSPORTATION WITHIN THE COMPACT ZONE. THIS ALSO MAKES CLEAR THAT THE PLAN SUBMITTED TO THE COMPACT SUPERSEDES ALL STATE PLANS.

SB 500-3
(LC 20)
3/1/91 (JH/bg)

**PROPOSED AMENDMENTS TO
SENATE BILL 500**

- 1 On page 5 of the printed bill, line 9, delete "spill".
- 2 In line 12, after "and" insert "shall supersede".

3

Notes
Other content

SB 500-4 (PART ONE)

**ACTION: ELIMINATING COMPACT AUTHORITY OVER "ROUTES";
CLARIFYING COMPACT AUTHORITY TO REGULATE VESSELS,
CREWS, AND EQUIPMENT FOR SPILL RESPONSE, NAVIGATION
AND COMMUNICATION.**

**POLICY IMPLICATION: DOES THE COMPACT WANT THE
AUTHORITY TO COORDINATE AND DEAL WITH AN ENTIRE BODY
OF MARITIME LAW THAT ALSO COULD INCLUDE
INTERNATIONAL LAW?**

*PRO-AMENDMENT: THE COMPACT WILL NOT BE DIRECTLY INVOLVED IN
A COMPLEX SERIES OF LAWS AND TREATIES, BUT WILL BE ABLE TO
ASSIST THE COAST GUARD IN IMPLEMENTING THE SAFEST ROUTES
POSSIBLE.*

*AGAINST-AMENDMENT: THE COMPACT IS GIVING UP AUTHORITY TO
REGULATE AND SPECIFY ROUTES FOR THE TRANSSHIPMENT OF OIL AND
MAY BE REDUCING SOME OF ITS ABILITY TO PROTECT THE COMMON
RESOURCES.*

SB 500-4 (PART TWO)

ACTION: AMEND THE BILL TO SPECIFY THAT NOTHING IN THE COMPACT IS INTENDED TO LIMIT THE LOCAL AUTHORITY OF PARTY TO ESTABLISH PILOTAGE, NAVIGATION OR SHIP ASSISTANCE REQUIREMENTS FOR HARBORS, BAYS OR RIVERS.

POLICY IMPLICATION: DOES THE COMPACT WANT TO CONTINUE TO ALLOW LOCAL AUTHORITIES THE ABILITY TO REGULATE PILOTAGE, NAVIGATION OR SHIP REQUIREMENTS WITHIN HARBORS, PORTS, BAYS, AND RIVERS WHILE RETAINING COMPACT AUTHORITY OVER CREWS, VESSELS, AND EQUIPMENT WITHIN THOSE AREAS.

PRO-AMENDMENT: THE AMENDED LANGUAGE WOULD PRESERVE THE INTEGRITY OF LOCAL CONTROL, AND TRUST THAT LOCAL AUTHORITIES HAVE THE BEST JUDGEMENT AND ABILITY TO REGULATE VESSELS WITHIN THE PORTS, BAYS AND RIVERS OF THE STATE ABOUT WHICH THE LOCAL AUTHORITIES ARE MOST KNOWLEDGEABLE.

AGAINST-AMENDMENT: THE COMPACT WOULD BE GIVING UP SOME AUTHORITY WITHIN THESE AREAS AND POSSIBLY LEAVING SOME BAYS OR HARBORS WITHOUT ADEQUATE PROTECTION AGAINST OIL SPILLS.