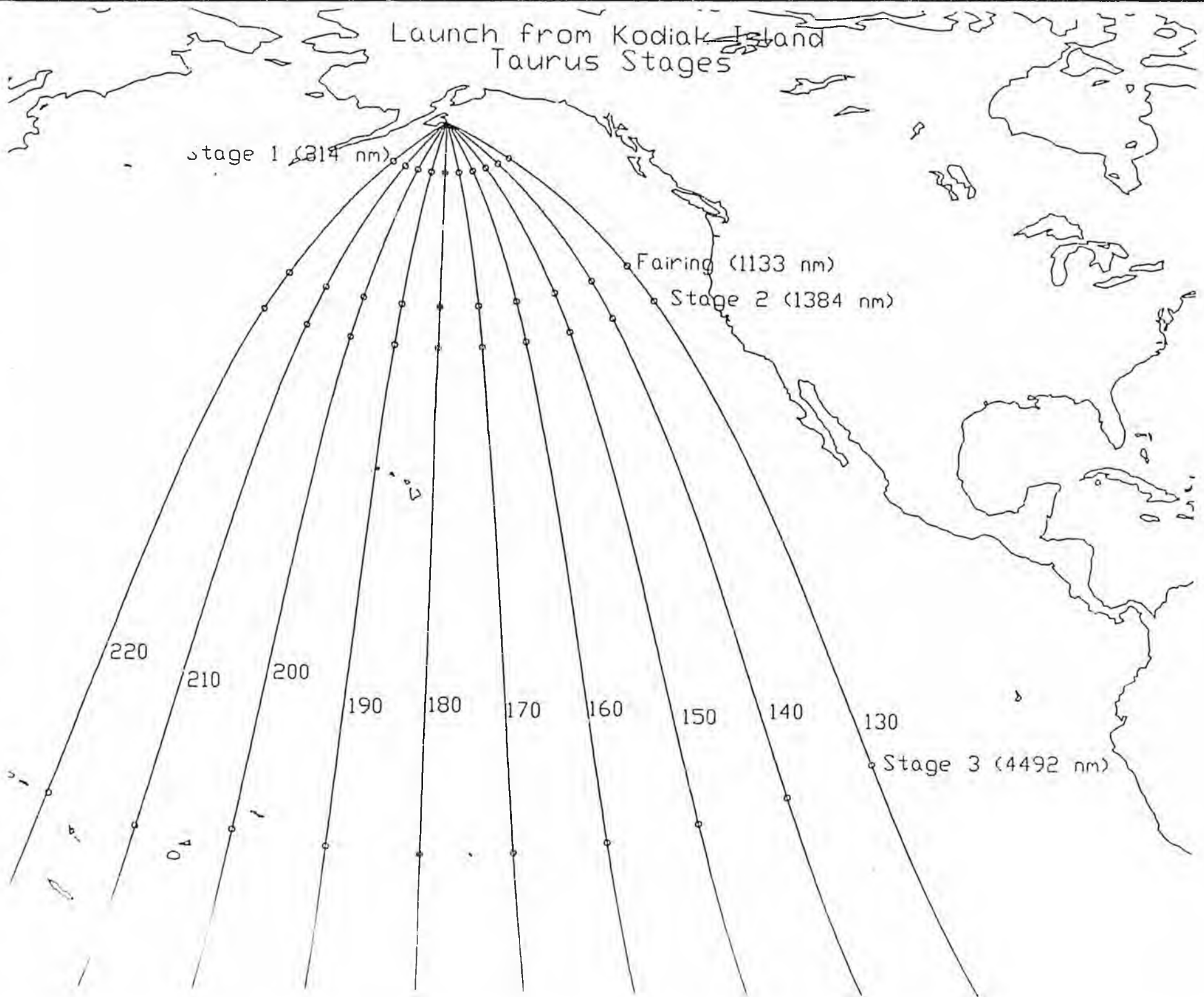


ALASKA LEGISLATURE COMMITTEE FILES 1993-1994 8672

7980 HOUSE LABOR & COMMERCE

245

Launch from Kodiak Island  
Taurus Stages



stage 1 (214 nm)

Fairing (1133 nm)

Stage 2 (1384 nm)

220

210

200

190

180

170

160

150

140

130

Stage 3 (4492 nm)

# SPACE LAUNCH COMPLEX 1

## Castor 120 and Smaller Based Vehicles

LAUNCH OPERATIONS  
& CONTROL CENTER

FUTURE ROCKET  
MOTOR STORAGE

INTEGRATION CHECKOUT &  
ENCAPSULATION FACILITY

LAUNCH  
PAD & SERVICE  
STRUCTURE

SPACECRAFT  
ASSEMBLIES  
TRANSFER FACILITY



ALASKA AEROSPACE DEVELOPMENT CORPORATION



The Alaska Aerospace Development Corporation (AADC) is focused on two major projects: the location of satellite ground stations in the Fairbanks area and the construction of the Alaska Orbital Launch Complex (AOLC) on Kodiak Island. Alaska is a strategic location for aerospace operations and is an intersection to global markets. The aerospace industry being developed by AADC appears to be the answer to commercial exploitation of these advantages.

The aerospace industry and technology that will be brought to Alaska should create a new source of skilled, high-paying jobs, unique educational opportunities for our children, and encourage spin-off industries of direct benefit to a broad range of Alaskans.

All of Alaska will benefit from AADC's activities. The construction of the AOLC and the development of a global ground station center in Fairbanks comes at a crucial time in the emergence of a commercial space industry in the United States. AADC's efforts will enable Alaska to diversify its economy by exploiting one of Alaska's under-used natural resources, its aerospace potential.

#### ALASKA ORBITAL LAUNCH COMPLEX

The market for polar orbit satellites is increasing rapidly, with a number of large constellations currently in development. These range from Iridium's 66 satellite network to Teledesic's 840 satellite network. We expect the market for polar orbit satellites to continue to increase, jeopardizing the ability of American companies to satisfy market demand. Currently Vandenberg AFB is the only launch site in the United States available for polar orbit launches, and even if it were expanded to its maximum capability, Vandenberg AFB cannot support all of the launches required to maintain the planned satellite constellations. Several new launch vehicles are being developed for this market, and the federal government is expected to make excess Minuteman vehicles available for university and Department of Defense launches.

Kodiak Island is an optimal location for the first commercial rocket launch facility in the United States. The location at Narrow Cape AADC boasts unobstructed southern launch paths, safe distances from other development and activities, a minimum of environmental impact, and supportive communities and governments. While the vast number of commercial polar orbit launches are several years away, the commercial sector must be able to plan for those launches now. If launch capability will not be available in the United States, then companies may be forced to look elsewhere, or to scale back their plans. Alaska's plans for the AOLC address the needs of the commercial sector.

## FAIRBANKS GROUND STATIONS

---

The Fairbanks area is an ideal location for polar orbiting satellite ground stations operations. Fairbanks' strategic latitude is complimented with state-of-the-art telecommunications systems, a global reach air transportation system, world-class university faculty and facilities, available skilled employees and contractors, and a warm and receptive community.

Polar orbiting, or near Polar orbiting satellites are best serviced from ground stations located near the Polar regions. The optimal location would also allow an extended North - South horizon to horizon view of the satellite. In both cases, optimal flyover rates and field of view, Fairbanks is arguably one of the best locations on the planet.

Beyond geography, the satellite operator must also consider available infrastructure, local cost of operations, market access (transportation) and community support (tangible and intangible). These things are either already available in Fairbanks or easily developed as part of a strategy to support ground station development.

APR- 8-34 FRI 15:55  
DEC-14-1993

HADC  
16:35 FROM BRPH (407)259-4703

FAX NO. 9075613339

P.02

TO 19075613339 P.07

**COST ESTIMATE SUMMARY**  
**CASTOR 120 BASED VEHICLES**

a)	Launch Pad and Service Structure (SLC 1)	\$2,981,100
b)	Integration, Checkout and Encapsulation Facility (ICE)	\$1,718,600
c)	Spacecraft Assemblies Transfer Building (SCAT)	\$ 563,250
d)	Launch Operations and Control Center (LOCC)	\$ 824,000
e)	Supporting Roads	\$ 500,000
f)	Fiber Optic System - 30 Fiber	\$ 107,500
g)	Power Generation Facility (750 KW, complete)	\$ 175,000
h)	Security	\$ 20,000
i)	Area Lighting, Utilities	\$ 20,000
j)	Engineering, Testing, Administration	<u>\$ 618,258</u>
	<b>Total</b>	<b>\$7,420,218</b>

K Rocket Motor Storage Bldg. \$ 750,000

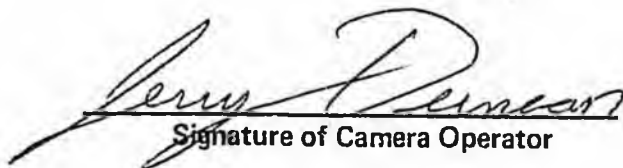
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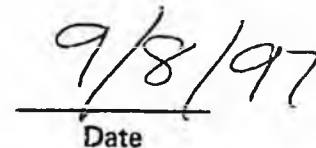


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Signature of Camera Operator

  
Date

HCR

17

# HOUSE COMMITTEE REPORT

(7)

Date Referred: March 24, 1993

FURTHER REFERRALS:

HESS  
Finance

Date of Committee Action: 4/06/93

The LABOR AND COMMERCE Committee considered:

HCR 17

HOUSE CONCURRENT RESOLUTION NO. 17

KENAI PENINSULA INSURANCE POOL

Relating to a health insurance pool established for residents of the Kenai Peninsula Borough.

**RECOMMENDATIONS:**

be replaced with \_\_\_\_\_ [ ] the same title  
[ ] a new title

[ ] have attached amendments(s)

do pass

[ ] do not pass

[ ] no recommendations

[ ] individual recommendations

[ ] additional referral to the \_\_\_\_\_ Committee

ADOPTS: \_\_\_\_\_ letter of Intent

ATTACHES NEW FISCAL NOTE(s): (Dept)

APPROVES PREVIOUS: (Dept/Date)

[ ] fiscal impact \_\_\_\_\_

[ ] fiscal note(s) \_\_\_\_\_

zero fiscal note All Agencies

[ ] zero fiscal note(s) \_\_\_\_\_

SIGNING DO PASS	DP	OTHER RECOMMENDATIONS	DNP	NR	AM
<i>Brian D. Porter</i>	✓				
<i>Jimmy Mel</i>	✓				
<i>Edon W. Hall</i>	✓				
<i>W. J. Williams</i>	✓				
<i>Janet [unclear]</i>	✓				
<i>Bill [unclear]</i>	✓				

*Bill [unclear]*  
CHAIRMAN'S SIGNATURE

Library

# FISCAL NOTE

STATE OF ALASKA  
1993 LEGISLATIVE SESSION

BILL NO. HCR 17

Revision Date: \_\_\_\_\_ Dept. Affected: All Agencies  
 Title: "Relating to a health insurance pool established for residents of the Kenai Pen. Borough." BRU: \_\_\_\_\_  
 Sponsor: REP. GARY DAVIS Component: \_\_\_\_\_  
 Requestor: \_\_\_\_\_ COMPONENT SERIAL NO. \_\_\_\_\_

**Expenditures/Revenues:**

(Thousands of Dollars)

OPERATING	FY94	FY95	FY96	FY97	FY98	FY99
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
<b>TOTAL OPERATING</b>	<b>--0--</b>	<b>-0-</b>	<b>-0-</b>	<b>-0-</b>	<b>-0-</b>	<b>-0-</b>

<b>CAPITAL</b>						
----------------	--	--	--	--	--	--

<b>REVENUE FUND SOURCE:</b>						
-----------------------------	--	--	--	--	--	--

**FUNDING:**

(Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1006 GF/MHTIA						
Other						
<b>TOTAL</b>	<b>-0-</b>	<b>-0-</b>	<b>-0-</b>	<b>-0-</b>	<b>-0-</b>	<b>-0-</b>

**POSITIONS:**

FULL-TIME						
PART-TIME						
TEMPORAR.						

Estimate of current year (FY93) impact: \$ -0-

**ANALYSIS:** (Attach a separate page if necessary)

Prepared by: Lynda Giguere, Aide  
 Division: House Labor and Commerce  
 Approved by Commissioner: Bill Hudson - Chair L+C  
 Agency: \_\_\_\_\_

Phone: 465-6827  
 Date: 4-6-93  
 Date: 4-6-93

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## SPONSOR STATEMENT

### HCR 17

"Relating to a health insurance pool established for residents of the Kenai Peninsula Borough".

The Legislature established a Health Resources and Access Task Force in 1991. That Task Force submitted a final report with recommendations to the Governor and the Legislature in January 1993. The recommendations can be found on page 2 of this resolution.

The Kenai Peninsula Borough Economic Development District has established a Kenai Peninsula Borough Health Care Advisory Council to develop recommendations for a health care plan for the Kenai Peninsula Borough. This plan is a step in the right direction to address health care reform issues. They would like to have the plan implemented as a model for other areas statewide. The Kenai Peninsula Borough Health Care Advisory Council would like to be recognized as a model regional area for pooling insurance requirements, for establishing community rating for insurance premiums, for developing small group insurance regulatory reform measures, and for establishing a health maintenance organization.

HCR 17 requests that the Governor direct the Commissioner of Health and Social Services assist the Kenai Peninsula Borough Health Care Advisory Council in their pursuit of a model region wide health access and basic care program.

**KENAI PENINSULA BOROUGH  
HEALTH CARE ADVISORY COUNCIL**

Lottie Bcgard  
Sterling

Jeanne Berger, M.A., PHN  
Hopa

Brenda O'Brien  
Seward

Margaret French  
Homer

Dr. Jon Godfrey, DC  
Homer

Jerry Near  
Soldotna

Dr. Vickey Hodnik, DDS  
Homer

Dr. John Kobylarz, DDS  
Soldotna

Mike Lockwood  
Soldotna

Dr. James Zirul, DO  
Soldotna

Ken Hepner  
Sterling

Robert Roth  
Kenai

Linda Hutchings  
Soldotna

Judy Charpentier  
Kenai

Ray Zagcrski  
Soldotna

Emery Thibodeau  
Kenai

Jim Heim  
Soldotna

Karen Moore  
Soldotna

Jon McMichael  
Soldotna

Bonnie Heimbuch  
Soldotna

George Carnahan  
Kenai

Burt Anderson  
Homer

Ross Kendall  
Nikiski

James Krasnansky  
Seward

Rich Underkuffler  
Soldotna

Marion Nelson  
Nikiski

Dick Swarner  
Soldotna

Lorin MacKay  
Seward

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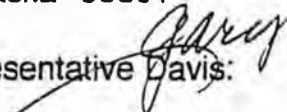
Kenai Peninsula Borough

# Health Care Advisory Council

Kenai Peninsula Borough Economic Development District, Inc. 110 S. Willow St., Suite 106 Kenai, Alaska 99611 (907) 283-3335 Fax: (907) 283-3913

January 25, 1993

Representative Gary Davis  
Alaska Legislature  
Juneau, Alaska 99801

Dear Representative  Davis:

You have undoubtedly heard about the grassroots effort on the Kenai Peninsula to show that local people are willing to take their share of responsibility in the national health care crisis. With a little seed money from the State, local financial participation and a lot of public participation, much ground has been covered in the last year toward establishing a borough-wide health care plan. The Council's mission, as empowered by the Kenai Peninsula Borough Assembly, is to:

**Submit a report to the Borough Assembly making finds and recommendations as to options for the establishment of a Borough-wide insurance program which would make affordable health insurance available to all residents and thereby increase access and utilization of the local health care system.**

Soon, the Council will ask the Legislature to recognize its accomplishments and provide critical financial input. Should our mission be accomplished, we expect our plan to serve the State and Nation as a model for community based health care. Recognizing the impact of such a request, the Council and staff are preparing a formal proposal for consideration by the State as a key local initiative health care demonstration project. Council member Jerry Near has energetically represented the insurance industry on the State's Health Resources and Access Task Force and his meeting this week in Juneau provides a perfect opportunity to introduce the concept of a State demonstration project to you. We will be following up Jerry's remarks with a detailed proposal in just a few weeks.

As a Kenai Peninsula legislator, we know you share our concerns for accessible and affordable health care not only for Peninsula residents, but for all Alaskans. We look forward to working closely with you to achieve that end.

Sincerely

  
Kathleen F. Scott  
Project Manager

Enclosures

## **Kenai Peninsula Borough Health Plan**

### **Operating Principles & Assurances**

**The Kenai Peninsula Health Care Advisory Council has generally operated under these principles and assurances while crafting the draft proposal for a borough-wide health plan. The sponsors commit to:**

- \* Providing health services which meet the needs and expectations of Borough resident.**
- \* Supporting and developing the broadest range of services possible and appropriate in each community of the borough.**
- \* Keeping as much health care as possible and feasible within the borough boundary.**
- \* Developing an organizational framework for the plan's administration that represents all parties sharing responsibility for high quality and cost-effective health services.**
- \* Providing innovative - creative strategies and programs to
  - reduce the cost of health care**
  - support early intervention**
  - emphasize preventive care**
  - reduce unnecessary use of hospitals, emergency rooms and surgery**
  - develop and use case management for complex patients and families**
  - encourage greater responsibility for health choices**
  - effect coordination among providers****
- \* Recognizing that the resources and innovation already exist in our borough to develop a national model health care program.**

**HEALTH CARE ADVISORY COUNCIL  
PROPOSED HEALTH CARE REFORM PROJECT  
Overview**

**KENAI PENINSULA, ALASKA**

February 1993

**Kenai Peninsula Borough Health Care Advisory Council**

**Sponsored by  
Kenai Peninsula Borough Economic Development District, Inc.  
Community Health Services Development Grant  
through the University of Alaska, Fairbanks**

## Introduction

The Kenai Peninsula Health Care Advisory Council, operating under authority of the Kenai Peninsula Borough, is pleased to present this health care reform project proposal for consideration. The solutions offered in this regional initiative address primary health care issues facing the entire nation through

- insurance pooling
- community based, consumer managed health care
- use of a community rating system
- attractive incentives for wellness health care

If this project is modeled, health care becomes accessible to all individuals who qualify for the Alaska Permanent Fund Dividend. Small businesses, large group employers and government employee units are joined together through the establishment of a Health Maintenance Organization (HMO). Already authorized by Title 21 of the Alaska Statutes, the project proposes to demonstrate implementation of a successful consumer governed, community based payer model for adaptation statewide.

## Background

The Kenai Peninsula Borough Assembly authorized the formation of the Kenai Peninsula Health Care Advisory Council to determine the feasibility of a borough-wide health insurance program. The Health Care Advisory Council (HCAC) is composed of nearly thirty peninsula residents representing labor, government, health service providers, health insurance providers, education, small and large businesses, non-profit organizations, clergy, the media and general public. Enabled and established fifteen months ago, the group first adopted the project's developmental phase mission statement.

### Mission Statement

Submit a report to the Kenai Peninsula Borough Assembly making findings and recommendations as to options for the establishment of a borough-wide insurance program which would make affordable health insurance available to all residents and thereby increase access and utilization of the local health care system.

After educating themselves on various existing health care systems and finding none they wished to pattern exclusively, the council set out to design a community based system. The work already accomplished includes:

- conducting a borough-wide health care survey in cooperation with the three Kenai Peninsula hospitals, establishing baseline information and assessing the extent of health care needs for Kenai Peninsula Borough residents. The results showed that our residents' health care needs generally mirror those of the nation and the issues facing national health care reform are the same locally.
- proposing an initial concept of the Kenai Peninsula Health Care Plan for criticism by a group of impartial health care providers, potential consumers and insurance advisors resulting in a series of debates, resolutions, plan drafts and redrafts.
- submitting the proposal for preliminary actuarial review ('reality check'), the results of which will be known next month.
- establishing a work plan, including a proposal to seek voter approval on October 5, 1993, for adding health powers to the Kenai Peninsula Borough's general government provisions.

## Project Description

This project is based on the premise that health care reform sought on a community level, empowers all health care system participants to take responsibility for the survival of the local health care system. The Kenai Peninsula Health Care Project provides regional organization to health care that exists no where else in the nation. Borough residents' health care needs will be addressed through a locally based and recognized consumer/provider cooperative. This demonstration project proposes to model a health care system with potential for application statewide through implementation of the Kenai Peninsula Health Care Plan.

## Problem

The primary factors driving health care costs on the Kenai Peninsula are the same factors driving costs elsewhere. The Kenai Peninsula Health Care Plan addresses specific elements identified as national issues. No other solution currently offered attacks reform issues on a local level where real change can be effected. This proposal provides solutions for -

- the lack of organization and coordination in national, state and local health care systems resulting in over-use and inappropriate utilization of health care

provider services by offering a community based, cooperatively managed system.

- cost accountability through the traditional third party system but with pro-active consumer participation.
- removing the vulnerability of health service providers to medical malpractice suits by establishing arbitration as the means for dispute resolution.
- small business employers who have previously been unable to supply health care benefits because small group exposure increases the underwriter's risk resulting in higher premiums.
- individuals who are self-employed and have no option for health care coverage by providing access to a large pool.
- curbing spiraling government and private enterprise labor costs with reduced premiums by applying a community rating system
- hospital emergency rooms used to deliver clinical health care services at a disproportionate rate for the service needed by charging for inappropriate use.

## Solution

To adequately address Alaska's health care crisis, action must be taken first on a local level. The Kenai Peninsula Health Care Project proposes to deliver health services to Kenai Peninsula Borough residents through a Health Maintenance Organization (HMO) as authorized under Alaska Statutes Title 21. Once health powers are adopted by the Kenai Peninsula Borough, a consumer governing board of not more than nine members will initiate the implementation phase of the project through a contracted insurance partner.

The Kenai Peninsula Health Care Plan proposes benefits parallel to those offered to large group employers like the Kenai Peninsula Borough. Through reduced co-payment percentages, use of local service providers is rewarded. Enrollee cost will vary depending on the level of risk exposure to the plan determined by the participants' selection of variable deductible level. Here are key elements proposed by the Plan:

### Organizational Structure. . .

Effective health care reform occurs through this proposal because costs are controlled at a community level. Only community residents and health professionals have the ability to identify specific barriers to local health delivery system cost containment. The

HMO structure brings together the three essential elements to successful local management of the health care system:

**Consumers  
Providers  
Regulators**

Unlike older, more traditional HMO's, this structure is designed on a fee-for-service basis, using reasonable and customary charges as the basis for allowable costs.

In this project, health care providers and consumers take responsibility for governance of a regional health care delivery system. In addition to a governing board, standing committees for utilization review and ethics work in the sensitive information areas already recognized as the appropriate means for identification, education or redirection of program abuses. Like hospital governing boards, this regional health care organization establishes a system benefitted by self-governance yet retains the professional standards essential to delivery of responsible quality health care and patient privacy.

Once proven, the model for regional managed health care can be replicated for other Alaska communities to diminish costs and increase access to health services. The project is approaching final developmental stages and will undergo implementation in this order:

- 1) establish a Health Maintenance Organization as the recognized regional health care network providing access to health care for Kenai Peninsula Borough residents
- 2) implement the management of the regional managed care system through board governance and professional standards committees
- 3) develop a revised mission statement to address
  - access to the health care system through a basic health plan for individuals who remain uninsured
  - recommendations and guidelines for regionally organized and recognized health care organizations to manage health care services for existing state programs and the uninsured.

### **Managed Care System. . .**

The plan incorporates the abiding principle of prevention and early detection of illnesses supported by financial incentives to subscribers. For example, depending on age, from \$100 to \$300 of wellness benefit is proposed for plan enrollees at no cost to the participant.

The proposal uses the "gatekeeper" concept of managed care where enrollees choose their primary care physician. The physician becomes the manager for the patient's health care on a fee for service basis. Selection of local health care services is rewarded through lower patient co-payment cost. Plan participants may change their selected "gatekeeper" physician at anytime.

All state board certified health care providers on the Kenai Peninsula may participate in the HMO. Access to the system for health service providers outside the Kenai Peninsula Borough will occur through a selection process in which quality of care is stressed over cost. Non-participating provider services may still be used, however co-payment costs are increased to the patient.

The plan charges patients for non-emergency use of hospital emergency rooms.

#### Plan/Project Funding . . .

Payment of premiums by enrollees will fund the plan's operation. For example, an average \$350 per month premium for 4,000 enrollees will generate \$16,800,000 in plan premiums. Preliminary actuarial review comments, due in March, 1993, will provide approximate premium costs for each deductible level as well as estimated losses, administrative costs and claims levels for years one, two and three of the plan. It is our belief that the plan will generate sufficient funds to adequately meet operational costs.

These avenues are actively being pursued for capitalization of the plan:

- 1) Funding based on pre-sold contracts with large group employers like UNOCAL, Tesoro, Homer Electric Association, Kenai Peninsula Borough General Government and School District, Peninsula city governments, and VECO for example.
- 2) Application for government and foundation grants with principle interest in health care reform such as the Ford Foundation, the Robert Wood Johnson Foundation, and the U.S. Department of Health and Social Services Rural Health Outreach Grant Program.
- 3) Establishing the foundation to receive municipal revenue bonds repaid through premium receipts.

Since April 1992, the Kenai Peninsula Borough Economic Development District has sponsored the activities of the council through a small Community Health Services Development grant administered by the University of Alaska, Fairbanks. The grant is nearly exhausted, but has stretched far beyond what was originally planned because the work of the council has been done by volunteers and many expenses have been donated.

The project now needs an increased level of professional services and funds to pay for those services. The Health Care Council has submitted an application to the State of Alaska, Department of Health, Education and Social Services (HESS), through local legislators, for consideration as the state's health care reform demonstration project. State Legislator, Representative Gary Davis, who sits on the HESS budget subcommittee, has agreed to submit the proposal as an amendment to the state operating budget. The demonstration project funding request totals \$290,000 with \$200,000 to be used for local match on foundation and granting agency proposals. The balance of the request is for operating funds until the project is capitalized and begins to receive plan receipts.

Legislators have also been asked to waive the statutorily mandated \$250,000 capitalization reserve required of HMO's in Alaska. Receiving the waiver reduces the project's capitalization expense considerably.

#### **Final Development and Implementation Phase Timeline . . .**

The Kenai Peninsula Health Care Advisory Council plans final development and implementation of the Kenai Peninsula Health Care Plan within the next ten months. The work plan projects active enrollment of plan participants on January 2, 1994. In summary, the work plan provides for . . .

- the Kenai Peninsula Borough to receive an interim report in mid-April.
- an ambitious program of public forums to receive feedback.
- informational meetings, to determine interest level, with key large group employers.
- submittal of a final report to the Kenai Peninsula Borough in June requesting the issue of health powers be placed on the October 1993 municipal election ballot.
- implementation of the plan and seating of the first governing body following the election.
- an active marketing and sales program to ensure strong enrollment in early 1994.

(A detailed work plan is provided with this packet)

## Conclusion

- Will the plan provide affordable and accessible health care to all Kenai Peninsula Borough residents?
- Have we sufficient evidence to establish that a cooperative consumer driven organization applied regionally to the delivery of health care will effect cost containment?
- Will the increased use of local health services stimulate economic growth on a regional and state level?
- Does demonstrating the project, first on a smaller scale, make sense in finding practical solutions to often overwhelming health care reform issues?

The men and women of this community effort, the Kenai Peninsula Health Care Advisory Council, feel this proposal answers these questions and provides effective solutions for local, State and National health care reform.

Will we meet the need of the "gap group" ( those who have no insurance and do not qualify for any state or federal program)? If accessibility is the problem, then undoubtedly this plan is immediately responsive. If affordability is the issue, we will not solve the problem without identifying a funding mechanism to subsidize health care for welfare recipients and the unemployed. This Council stands ready to continue developing effective solutions to health care issues. The reward, of course, is the satisfaction of providing access to quality health care for our residents at an affordable cost.

**Kenai Peninsula Health Care Advisory Council**  
Kenai Peninsula Borough Economic Development District, Inc.  
110 South Willow Street, Suite 106  
Kenai, Alaska 99611  
Phone (907) 283-3335/Fax (907)283-3913  
Project Manager Kathleen Scott  
Phone (907) 283-5130/Fax (907)283-5918

HCR

25

(7)

Date Referred: January 10, 1994

FURTHER REFERRALS:

State Affairs

Date of Committee Action: 1/27/94

The LABOR AND COMMERCE Committee considered:

HCR 25

HOUSE CONCURRENT RESOLUTION NO. 25

STATE INDUSTRIAL MATERIALS EXCHANGE

Relating to a state materials exchange.

RECOMMENDATIONS:

be replaced with CS HCR 25(L+C)

the same title

a new title

have attached amendments(s)

do pass

do not pass

no recommendations

individual recommendations

additional referral to the \_\_\_\_\_ Committee

ADOPTS: \_\_\_\_\_ letter of Intent

ATTACHES NEW FISCAL NOTE(S): (Dept) \_\_\_\_\_

APPROVES PREVIOUS: (Dept/Date) \_\_\_\_\_

fiscal impact \_\_\_\_\_

fiscal note(s) \_\_\_\_\_

zero fiscal note DEC

zero fiscal note(s) \_\_\_\_\_

SIGNING DO PASS	DP	OTHER RECOMMENDATIONS	DNP	NR	AM
<i>Bill Hudson</i>	<input checked="" type="checkbox"/>				
<i>Brian D. Hester</i>	<input checked="" type="checkbox"/>				
<i>Nettie</i>	<input checked="" type="checkbox"/>				
<i>W. K. Williams</i>	<input checked="" type="checkbox"/>				
<i>Greg Hester</i>	<input checked="" type="checkbox"/>				

*Bill Hudson*  
CHAIRMAN'S SIGNATURE

Alaska State Legislature  
House of Representatives

COMMITTEES:  
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& SOCIAL SERVICES  
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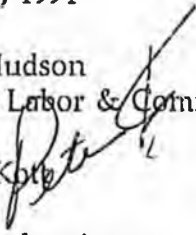
DURING SESSION:  
STATE CAPITOL  
JUNEAU, AK 99811  
PHONE (907) 465-3777

Representative Pete Kott

MEMORANDUM

DATE: January 10, 1994

TO: Rep. Bill Hudson  
Chairman, Labor & Commerce

FROM: Rep. Pete Kott 

RE: Request for hearing  
HCR 25, RELATING TO AN INDUSTRIAL MATERIALS EXCHANGE

Please schedule HCR 25 for a hearing before the Labor & Commerce committee as soon as possible.

HCR 25 asserts the importance of fully utilizing resources by encouraging industry to participate in a materials exchange within the state, and by asking the Governor to proclaim a materials exchange month.

A materials exchange is an information network allowing companies to serve notice of the availability of surplus goods. Arrangements can then be made between companies to transfer surpluses that would otherwise be placed in landfills. BP and Arco have provided seed money for the project and it is being coordinated through the Department of Environmental Conservation's Pollution Prevention office.

The following items are attached:

Sponsor statement  
Sectional analysis

A fiscal note has been requested and will be provided as soon as it is available.

If you have any questions about this resolution, please call me or my Legislative Assistant, Jack Phelps, at 465-3777.



**Alaska State Legislature  
House of Representatives**

COMMITTEES:  
HEALTH, EDUCATION  
& SOCIAL SERVICES  
JUDICIARY  
STATE AFFAIRS

SPECIAL COMMITTEES:  
MILITARY & VETERANS AFFAIRS  
OIL & GAS



INTERIM:  
EAGLE CENTER, SUITE 141  
EAGLE RIVER, AK 99577  
PHONE (907) 694-8944  
FAX 694-8945

SESSION:  
STATE CAPITOL  
JUNEAU, AK 99811  
PHONE (907) 465-3777

**Representative Pete Kott**

**SPONSOR STATEMENT**

**HCR 25 – STATE MATERIALS EXCHANGE**

Every citizen in Alaska has a stake in pollution control. Not only will pollution prevention efforts help preserve the beauty of our great state, some measures can also help Alaskans maintain a healthy economy. One such effort is the new Alaska Materials Exchange.

The Alaska Materials Exchange is a joint effort being developed in a public/private sector partnership. The Support Industry Alliance, BP Exploration, ARCO and DEC's Pollution Prevention Office are some of the participants. The exchange holds great promise for reducing the flow of industrial waste into Alaska landfills.

Across Canada and the Lower 48, there are perhaps two dozen materials exchanges already in operation. They are saving industry approximately \$27 million and the energy equivalent of 100,000 barrels of oil annually. This represents a significant improvement over conventional disposal approaches, and everyone in America benefits—not only from the cost savings but also from reduced pollution.

HCR 25 is an effective way to foster responsible management of available resources in Alaska with minimal cost to the state government.





217 Second Street, Suite 200 ■ Juneau, Alaska 99801 ■ Tel (907) 586-1325, Fax (907) 463-5480

January 25, 1994

**TO:** Representative Bill Williams, Chair  
and Members, House Resource Committee

**FROM:** Kent E. Swisher, Executive Director

**RE:** **HJR 49 - Federal Regulations Under OPA 90**

The Alaska Municipal League supports passage of HJR 49. The League specifically opposes unfunded federal mandates as evidenced by the passage of AML Resolution No. 94-2 at the November 1993 annual meeting (copy attached).

The mandate to require municipalities, businesses, and individuals to obtain \$150 million in liability insurance before they can legally move or store oil products across navigable waters would be devastating. The proposed regulations by the U.S. Minerals Management Service will adversely affect municipalities and cities in Alaska as many of them are surrounded by navigable waters, which includes wetlands.

The Alaska Municipal League supports HJR 49, which urges the clarification of the proposed definition of "offshore facility" in the financial responsibility section so that it will only apply to facilities that are more clearly offshore, as intended by the provisions under the Oil Pollution Act of 1990.

**cc:** Rep. Joe Green  
Chair, House Committee on Oil and Gas

# FISCAL NOTE

STATE OF ALASKA  
1994 LEGISLATIVE SESSION

BILL NO.                      HCR No. 25

Rev. Date: \_\_\_\_\_  
Tide: House Concurrent Resolution No. 25  
Sponsor: Representative Kott  
Requestor: Representative Kott

Department Affected: Environmental Conservation  
BRU: Environmental Quality  
Component: Environmental Quality Director's Office

COMPONENT SERIAL NO. 639

Expenditures/Revenues: (Thousands of Dollars)

OPERATING EXPENDITURES	FY 95	FY 96	FY 97	FY 98	FY 99	FY 00
PERSONAL SERVICES	0.0	0.0	0.0	0.0	0.0	0.0
TRAVEL	0.0	0.0	0.0	0.0	0.0	0.0
CONTRACTUAL	0.0	0.0	0.0	0.0	0.0	0.0
SUPPLIES	0.0	0.0	0.0	0.0	0.0	0.0
EQUIPMENT	0.0	0.0	0.0	0.0	0.0	0.0
LAND & STRUCTURES	0.0	0.0	0.0	0.0	0.0	0.0
GRANTS, CLAIMS	0.0	0.0	0.0	0.0	0.0	0.0
MISCELLANEOUS	0.0	0.0	0.0	0.0	0.0	0.0
<b>TOTAL OPERATING</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

CAPITAL EXPENDITURES	0.0	0.0	0.0	0.0	0.0	0.0
----------------------	-----	-----	-----	-----	-----	-----

CHANGE IN REVENUES ( )	0.0	0.0	0.0	0.0	0.0	0.0
------------------------	-----	-----	-----	-----	-----	-----

**FUND SOURCE**

1002 Federal Receipts	0.0	0.0	0.0	0.0	0.0	0.0
1003 GF Match	0.0	0.0	0.0	0.0	0.0	0.0
1004 GF	0.0	0.0	0.0	0.0	0.0	0.0
1005 G. /Program Receipt	0.0	0.0	0.0	0.0	0.0	0.0
1006 GF/MHTIA	0.0	0.0	0.0	0.0	0.0	0.0
Other	0.0	0.0	0.0	0.0	0.0	0.0
<b>TOTAL</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

Estimate of any current year (FY94) cost: \$0.0

**POSITIONS:**

FULL-TIME	0.0	0.0	0.0	0.0	0.0	0.0
PART-TIME	0.0	0.0	0.0	0.0	0.0	0.0
TEMPORARY	0.0	0.0	0.0	0.0	0.0	0.0

**ANALYSIS:** (Attach a separate page if necessary.)

House Concurrent Resolution No. 25, relating to a state materials exchange, requests that Governor Hickel proclaim March 1994 Alaska Materials Exchange Month. The adoption of this resolution has no effect on the general fund.

Bob Poe, Director <sup>RLP</sup>  
Information and Administrative Services

Phone: 465-5010  
Date: 1/14/94

Approved by Commissioner: [Signature] <sup>For IAS</sup>  
Agency: Department of Environmental Conservation

Date: 1/18/94

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**HCR 25  
SECTIONAL ANALYSIS**

**"Relating to a state materials exchange."**

This resolution simply states the legislature's support for the Alaska materials exchange.

Further, the resolution calls upon Governor Hickel to direct the commissioner of environmental conservation to continue working on the Alaska materials exchange.

Finally, the resolution calls upon Governor Hickel to proclaim March 1994 Alaska Materials Exchange Month.

HCR

34

# HOUSE COMMITTEE REPORT

(7)

Date Referred: April 6, 1994

FURTHER REFERRALS:

Date of Committee Action: 4/12/94

The LABOR AND COMMERCE Committee considered:

HCR 34

HOUSE CONCURRENT RESOLUTION NO. 34

ALASKA GARDEN WEEK

Declaring June 5 - 11, 1994, as Alaska Garden Week.

RECOMMENDATIONS: \_\_\_\_\_ |  the same title  
 be replaced with \_\_\_\_\_ |  a new title

have attached amendments(s)

do pass

do not pass

no recommendations

individual recommendations

additional referral to the \_\_\_\_\_ Committee

ADOPTS: \_\_\_\_\_ letter of Intent

ATTACHES NEW FISCAL NOTE(s): \_\_\_\_\_ (Dept)

APPROVES PREVIOUS: \_\_\_\_\_ (Dept/Date)

fiscal impact \_\_\_\_\_

fiscal note(s) \_\_\_\_\_

zero fiscal note House Labor + Commerce

zero fiscal note(s) \_\_\_\_\_

SIGNING <u>DO</u> PASS	DP	OTHER RECOMMENDATIONS	DNP	NR	AM
<i>Brigance Wortes</i>	✓				
<i>Joe Satter</i>	✓				
<i>W.B. Macellison</i>	✓				
<i>Bill Hudson</i>	✓				

*Bill Hudson*  
 \_\_\_\_\_  
 CHAIRMAN'S SIGNATURE

FISCAL NOTE

REQUEST:

Revision Date: April 12, 1994 Dept. Affected All Agencies

Title: Alaska Garden Week

BRU: \_\_\_\_\_

Sponsor: House Labor & Commerce Committee Components: \_\_\_\_\_

Requestor: \_\_\_\_\_

EXPENDITURES/REVENUES: (THOUSANDS OF DOLLARS)

OPERATING	FY 95	FY 96	FY 97	FY 98	FY 99	FY 00
Personal Services	0.0	0.0	0.0	0.0	0.0	0.0
Travel	0.0	0.0	0.0	0.0	0.0	0.0
Contractual	0.0	0.0	0.0	0.0	0.0	0.0
Supplies	0.0	0.0	0.0	0.0	0.0	0.0
Equipment	0.0	0.0	0.0	0.0	0.0	0.0
Land & Structures	0.0	0.0	0.0	0.0	0.0	0.0
Grants, Claims	0.0	0.0	0.0	0.0	0.0	0.0
Miscellaneous	0.0	0.0	0.0	0.0	0.0	0.0
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0

CAPITAL EXPENDITURES						
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CHANGE IN REVENUES						
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FUNDING: (THOUSANDS OF DOLLARS)

1002 Federal Receipts	0.0	0.0	0.0	0.0	0.0	0.0
1003 GF Match	0.0	0.0	0.0	0.0	0.0	0.0
1004 GF	0.0	0.0	0.0	0.0	0.0	0.0
1005 GF/Program Receipts	0.0	0.0	0.0	0.0	0.0	0.0
1006 GF/MHTIA	0.0	0.0	0.0	0.0	0.0	0.0
Other	0.0	0.0	0.0	0.0	0.0	0.0
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

ESTIMATE OF ANY CURRENT YEAR (FY 94) COST \$ \_\_\_\_\_

POSITIONS:

Full-Time	0	0	0	0	0	0
Part-Time	0	0	0	0	0	0
Temporary	0	0	0	0	0	0

ANALYSIS: (Attach a separate page if necessary)

Prepared By: Chair: Bill Hudson  
 Division: House Labor & Commerce Committee  
 Approved By: \_\_\_\_\_  
 Agency: \_\_\_\_\_

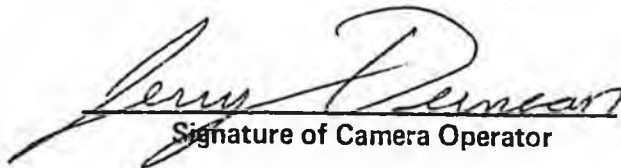
Phone: 465-4954  
 Date: 4/12/94  
 Date: \_\_\_\_\_

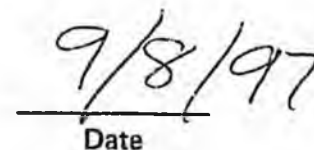


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Signature of Camera Operator

  
Date

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3



# DIVISION OF LEGAL SERVICES

## LEGISLATIVE AFFAIRS AGENCY STATE OF ALASKA

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FAX (907) 465-2029  
Mail Stop 3101

130 Seward Street, Suite 409  
Juneau, Alaska 99801-2105

### MEMORANDUM

February 11, 1994

**SUBJECT:** Procedure for Disapproving an Executive Order

**TO:** Representative Eldon Mulder

**FROM:** Tamara Brandt Cook  
Director *TBC*

You have asked what the procedure is for the disapproval of an executive order. The state constitution contains the requirement that disapproval of an executive order is accomplished ". . . by resolution concurred in by a majority of the members in joint session . . ." (Article III, Section 23) This must be complied with or any attempt by the legislature to disapprove an executive order with probably be held invalid by the court.

In addition to the procedure set out in the constitution, Uniform Rule 49(a)(4) provides

A special concurrent resolution is employed to consider disapproval of an executive order of the governor laid before the legislature under provisions of Sec. 23, Art. III, of the State Constitution. This resolution must be considered by a joint committee and may be adopted by a majority vote of the full membership of the legislature in joint session without recourse to three readings.

Prior to 1981 that same rule in identical language was contained in Uniform Rule 48(d). So, the uniform rule adds the requirement that a joint committee consider each special concurrent resolution before it is adopted in joint session.

Clearly, a joint committee could be established under Uniform Rule 21 for the purpose of considering a resolution disapproving an executive order. However, it has been the position of this office since at least 1981 that, because Uniform Rule 49(a)(4) does not specifically require the establishment of a joint committee under Rule 21, two standing committees meeting jointly would fulfill the requirement of consideration by a joint committee.

Representative Eldon Mulder

February 11, 1994

Page 2

The legislature has not considered a special concurrent resolution very often, and I cannot find a recent example of the legislature appointing a joint committee to do so. In the Twelfth Legislature SSCR1 was only referred to standing committees and never adopted. (Senate Journal, January 26, 1981, page 120) In the Thirteenth Legislature HSCR1, HSCR2, and SSCR1 were referred to standing committees. Ultimately, the Rules Committees met jointly on SSCR1 (disapproving Executive Order No. 53, establishing an office of management and budget) and on HSCR1 (disapproving Executive Order 54, establishing the Department of Corrections). That same day both these resolutions were adopted in joint session. (Senate Journal, March 16, 1983, pages 407-410) This is the only time the legislature has disapproved Executived Orders.

More recently, HSCR1 was referred in the Sixteenth Legislature to standing committees and never adopted. In the Seventeenth Legislature, First Session, Executive Orders No. 78 and 79 were referred to standing and special committees (Senate Journal, January 21, 1991) but no action was taken to reject them. (Senate Journal, March 22, 1991) Executive Order 80 was returned to the governor as defective by the presiding officers. (Senate Journal, January 23, 1991) During the Second Session SSCR 1 disapproving a new Executive Order 80 was introduced and referred to a standing committee. (Senate Journal, January 13, 1992) That Executive Order was withdrawn by the governor. (Senate Journal, January 15, 1992)

TBC:gc

94-118.glc

University of Alaska)

Judiciary (the programs and activities of the Alaska Court System and the Department of Law, and the legal and substantive review of bills referred to it for that purpose)

Labor and Commerce (the programs and activities of the Department of Labor relating to labor-management relations, industrial safety, unemployment compensation, and workers' compensation and the programs and activities of the Department of Commerce and Economic Development)

Community and Regional Affairs (the programs and activities of the Department of Community and Regional Affairs and other matters relating to political subdivisions)

Resources (the programs and activities of the Departments of Fish and Game, Natural Resources, and Environmental Conservation)

Rules (interpretation of the Uniform Rules, calendar, the internal administration of the house and matters pertaining to the management of the legislature as a whole)

State Affairs (programs and activities of the Office of the Governor and the Departments of Administration, Military Affairs and Public Safety, and programs and activities of the Department of Transportation and Public Facilities relating to public facilities)

Transportation (programs and activities of the Department of Transportation and Public Facilities relating to transportation and other legislative matters relating to transportation).

(b) The committee chairmen are authorized to form such subcommittees as they determine to be necessary.

#### SPECIAL AND JOINT COMMITTEES

RULE 21. SPECIAL AND JOINT COMMITTEES. (a) A special committee is a committee of one house. A special committee may be established only by the adoption of a simple resolution. The presiding officer of each house appoints the members of a special committee and designates a member to chair the special committee unless otherwise ordered by the house. The persons who chair like committees of each house may arrange for the committees to meet jointly to receive testimony and deal with other matters which may be expedited by joint committee action.

(b) A joint committee is a committee of both houses. A joint committee may be established only by the adoption of a concurrent resolution. The presiding officer of each house appoints one-half of the members of a joint committee. The persons who co-chair a joint committee shall be chosen in the manner provided by the presiding officers.

(c) A resolution establishing a special or joint

committee shall specify the date or conditions of termination of the committee. A standing committee may meet between sessions. A special or joint committee may meet during the session or between sessions, or both, as authorized by the resolution which establishes the committee. A standing, special, or joint committee which acts between legislative sessions may consider any legislative matter which is consistent with the jurisdiction of the committee. A standing, special, or joint committee which acts between legislative sessions constitutes a subcommittee of the Legislative Council for administrative purposes. A special or joint committee may expend money only in accordance with an appropriation made for the work of the committee.

(d) A committee may not be established unless authorized by law or by the Uniform Rules.

#### OPEN AND EXECUTIVE SESSIONS

RULE 22. OPEN AND EXECUTIVE SESSIONS. (a) All meetings of a legislative body are open to all legislators, whether or not they are members of the particular legislative body that is meeting, and to the general public except as provided in (b) of this rule.

(b) A legislative body may call an executive session at which members of the general public may be excluded for the following reasons:

(1) discussion of matters, the immediate knowledge of which would adversely affect the finances of a government unit;

(2) discussion of subjects that tend to prejudice the reputation and character of a person;

(3) discussion of a matter that may, by law, be required to be confidential.

(c) When a legislative body desires to call an executive session in accordance with (b) of this rule, the body shall first convene as a public meeting and the question of holding an executive session shall be determined by a majority vote of the members present.

(d) The provisions of this rule may not be interpreted as permitting the exclusion of a legislator from an executive session, whether or not the legislator is a member of the body that is meeting. A legislator not a member of the body holding an executive session shall, however, be subject to the same rules of confidentiality and decorum as pertain to regular members of the body.

#### COMMITTEE MEETINGS

RULE 23. COMMITTEE MEETINGS. (a) Written notice of the time, place and subject matter of all meetings of standing, special, and joint committees during a week shall be provided by the person who chairs the committee to the chief clerk or secretary by 4:00 p.m. on the preceding Thursday. The person who chairs the committee to which a bill or resolution is first referred shall provide to the chief clerk or secretary written notice of the time and place of the first

## DISCHARGE OF BILLS FROM COMMITTEE

RULE 48. DISCHARGE OF BILLS FROM COMMITTEE. (a) If the majority of the full membership of a standing, special, or joint committee desire that any legislation pending before the committee be considered, they may present the request, in writing, to the presiding officer. The presiding officer shall sign the request and this action shall be noted in the journal. The committee chair affected shall schedule the specified legislation for consideration within three days after transmittal of the request by the presiding officer to the committee chair.

(b) If the chair does not adhere to the provisions of (a) of this rule, the particular legislation to be scheduled shall automatically be referred to the next committee of reference on the fourth day following the transmittal of the request to the chair.

(c) Bills in the Rules Committee of each house shall be placed on the daily calendar in second reading within three days after receipt of a request signed by a majority of the full membership of the committee and the presiding officer following the procedure provided in (a) of this rule to place a particular item of legislation on the calendar.

(d) Nothing in this rule prevents an oral motion to discharge a bill from committee by any member of the body at any time.

## RESOLUTIONS

RULE 49. RESOLUTIONS. (a) The only type of instrument other than a bill or citation authorized under these Uniform Rules is a resolution. The types and uses of resolutions are as follows:

(1) A simple resolution is a formalized motion passed by one house only and bearing the heading "House Resolution" or "Senate Resolution". It may be used to express the will, wish, view, opinion, sympathy, or request of the house adopting it. The simple resolution shall be used to establish a special committee. It does not require committee referral, three readings, or a roll call vote. Approval of a simple resolution requires a majority vote of the full membership of the house.

(2) A special resolution headed "House Special Resolution" or "Senate Special Resolution" is used only for the purpose of expelling a member under provisions of Sec. 12, Art. II, of the State Constitution. The special resolution requires a referral to the Rules Committee, three readings, and a two-thirds vote of the full membership of the house for approval.

(3) A concurrent resolution is similar to the simple resolution but reflects the will, wish, view or decision of both houses speaking concurrently. It is used particularly to handle the internal business of the legislature, e.g., adjournment of the legislature, suspension and amendment of the Uniform Rules, requesting action of executive agencies and interim

committees, and fixing the time and place for joint assemblies. This resolution is also used for establishing joint committees. This resolution does not require committee referral, three readings, or anything other than approval of a majority vote of the full membership of each house unless otherwise required by the rules.

(4) A special concurrent resolution is employed to consider disapproval of an executive order of the governor laid before the legislature under provisions of Sec. 23, Art. III, of the State Constitution. This resolution must be considered by a joint committee and may be adopted by a majority vote of the full membership of the legislature in joint session without recourse to three readings.

(5) A joint resolution is the most formal type of resolution and is adopted by both houses and then signed by the governor as a ministerial formality. The joint resolution is treated in all respects as a bill but it is not subject to veto. It is usually reserved for addressees outside the state. This resolution is used mainly to express the view or wish of the legislature to the President, the Congress or agencies of the United States Government or the governments of other states. It is required for proposing or ratifying amendments to the U. S. Constitution, proposing amendments to the State Constitution under provisions of Sec. 1, Art. XIII, of the State Constitution, and for disapproval of local government boundary changes recommended by the Local Boundary Commission under provisions of Sec. 12, Art. X, of the State Constitution. Approval of a joint resolution requires a majority vote of the full membership of each house.

(b) All resolutions passed by one or both houses are sent to the governor as a matter of information and for permanent filing with the lieutenant governor. The lieutenant governor sends enrolled copies of joint resolutions to the federal and other state officers, agencies and jurisdictions. The transmittal of copies of all other resolutions to designated addressees is the responsibility of the Legislative Affairs Agency.

#### LEGISLATIVE CITATIONS

RULE 50. LEGISLATIVE CITATIONS. (a) The appropriate instrument for expressing commendation, condolences, appreciation or congratulations to an individual or a group, or to recognize a particular event or occasion, is a "Legislative Citation" approved by both houses. The contents of the citation expressing the sentiment of the legislature will be typed on a special presentation form suitable for framing and bear the signature of the presiding officers.

(b) A member or members may introduce a citation by submitting it to the Rules Committee on a form prescribed in the legislative drafting manual. Unless handled as provided in (c) of this section, the name of the person, group or occasion being noted along with the names of the sponsors will be listed under special business on the daily calendar of the subsequent day and be voted upon by the house. Approval will be noted

Alaska State Legislature  
Representative Carl E. Moses

CHAIRMAN  
HOUSE RULES COMMITTEE

CHAIRMAN  
HOUSE SPECIAL COMMITTEE FISHERIES

MEMBER FINANCE SUBCOMMITTEES ON  
DEPT. OF FISH AND GAME  
DEPT. OF PUBLIC SAFETY



SESSION  
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PHONE: (907) 258-6167  
FAX: (907) 258-8466

MEMORANDUM

**DATE:** March 3, 1994

**TO:** Rep. Bill Hudson, Chairman  
House Labor & Commerce Committee

**FROM:** Rep. Carl E. Moses, Chairman *CEM*  
House Rules Committee

**SUBJ:** Violation of Uniform Rules

The joint meeting of the House and Senate Labor and Commerce Committees today to take up SSHSCR 3, is in violation of Uniform Rules 21 (b) and (d), and Uniform Rule 49 (a) (4), copies attached.

The violation of Rule 49 (a) (4) is that the special concurrent resolution must be considered by a joint committee. The meeting scheduled today is not of a joint committee, but a joint meeting of two committees.

The violation of Rule 21 (b) is that a joint committee has not been formed by means of the adoption of a concurrent resolution. The Rule reads in part: "A joint committee may be established only by the adoption of a concurrent resolution." There has been no such resolution introduced to date.

Further, Rule 21 (d) reads: "A committee may not be established unless authorized by law or by the Uniform Rules." I have found no law or other Uniform Rule which allows the formation of a joint committee other than provided by the above.

I find the literal reading of the Uniform Rules to be precise. The House and Senate, when adopting the current version of the rules, adopted these clear and strict provisions regarding the disapproval of Executive Orders, and I believe they should be taken as written.

I would be pleased to discuss the matter further.

CEM/tb/m13



Official Business

# Alaska State Legislature

## HOUSE OF REPRESENTATIVES

State Capitol  
Juneau, AK 99801-1182

### MEMORANDUM

TO: Representative Richard Foster, Chair  
House Transportation Committee

FROM: Representative Eldon Mulder  
Representative Gary Davis  
Weights and Measures Subcommittee

SUBJ: Proposed Transfer of Weights and Measures from the Department of Commerce to the Department of Transportation

DATE: January 18, 1994


---

After reviewing Executive Order 89 (transferring highway Weights and Measures from the Department of Commerce to the Department of Transportation) and its stated justification, we fail to find sufficient reasoning for the transfer at this time.

In hearings held this fall by the Weights and Measures Subcommittee, we heard testimony that Weights and Measures (W & M) regulations were not being properly enforced. This problem, however, was primarily the short-coming of Public Safety (Alaska State Troopers). Subsequent meetings and corrective actions have largely resolved this problem. No criticism was directed towards the Department of Commerce during these hearings.

Our colleagues have been told that we stand to lose \$20 million in federal funds unless W & M is transferred to DOT. This is not true. Today we received a letter from Mr. Bob Rudy, Regional Director of the Federal Highway Administration, stating that our W & M program has been approved and we are not going to lose the \$20 million.

As you know, W & M operations are funded through general funds. The legislature has consistently under funded this budget and consequently, the scales are not open as many hours as most of us would like. However, this situation will not change if we transfer W & M to DOT—they will still require additional general fund dollars. Additional scale hours will only occur when the legislature appropriates more funds.



In conclusion, we fail to find sufficient justification to warrant transferring W & M to DOT at this time. We oppose this transfer and encourage our colleagues to join us.

FISCAL NOTE

REQUEST:

Revision Date: March 2, 1994 Dept. Affected DOT, Commerce, Public Safety  
Title: Disapproving Executive Order 89.

Sponsor: Reps. Phillips, Vezey, G. Davis,  
Barnes, Brice, Sitton, Mulder  
Requestor: \_\_\_\_\_  
House Labor & Commerce Committee

BRU: \_\_\_\_\_  
Components: \_\_\_\_\_

EXPENDITURES/REVENUES: (THOUSANDS OF DOLLARS)

OPERATING	FY 95	FY 96	FY 97	FY 98	FY 99	FY 00
Personal Services	0.0	0.0	0.0	0.0	0.0	0.0
Travel	0.0	0.0	0.0	0.0	0.0	0.0
Contractual	0.0	0.0	0.0	0.0	0.0	0.0
Supplies	0.0	0.0	0.0	0.0	0.0	0.0
Equipment	0.0	0.0	0.0	0.0	0.0	0.0
Land & Structures	0.0	0.0	0.0	0.0	0.0	0.0
Grants, Claims	0.0	0.0	0.0	0.0	0.0	0.0
Miscellaneous	0.0	0.0	0.0	0.0	0.0	0.0
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0

CAPITAL EXPENDITURES						
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CHANGE IN REVENUES						
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FUNDING: (THOUSANDS OF DOLLARS)

1002 Federal Receipts	0.0	0.0	0.0	0.0	0.0	0.0
1003 GF Match	0.0	0.0	0.0	0.0	0.0	0.0
1004 GF	0.0	0.0	0.0	0.0	0.0	0.0
1005 GF/Program Receipts	0.0	0.0	0.0	0.0	0.0	0.0
1006 GF/MHTIA	0.0	0.0	0.0	0.0	0.0	0.0
Other	0.0	0.0	0.0	0.0	0.0	0.0
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

ESTIMATE OF ANY CURRENT YEAR (FY 94) COST \$ \_\_\_\_\_

POSITIONS:

Full-Time	0	0	0	0	0	0
Part-Time	0	0	0	0	0	0
Temporary	0	0	0	0	0	0

ANALYSIS: (Attach a separate page if necessary)

Prepared By: Lynda Giguere, Aide Lynda Giguere  
Division: House Labor & Commerce Committee  
Approved By: Representative Bill Hudson, Chair  
Agency: House Labor & Commerce Committee

Phone: 465-6827  
Date: March 2, 1994  
Date: March 2, 1994

WALTER J. HICKEL  
GOVERNOR



P. O. Box 110001  
Juneau, Alaska 99811-0001  
(907) 465-3500

STATE OF ALASKA  
OFFICE OF THE GOVERNOR  
JUNEAU

February 8, 1994

The Honorable Bill Hudson  
Alaska State Legislature  
State Capitol, Room 108  
Juneau, AK 99801-1182

Dear Representative <sup>Bill</sup> Hudson:

The administration has prepared the attached information regarding Executive Order 89 (Transferring Highway Truck Scales) for your consideration. This material was compiled to provide accurate, concise information regarding the reasoning behind the submission of EO 89. I hope it will answer any questions you may have.

We appreciate your thoughtful evaluation of the merits of this proposal. Please do not hesitate to let me know if I can be of further assistance.

Sincerely,

A handwritten signature in cursive script that reads "Raga".

Raga S. Elim  
Legislative Liaison

Enclosure

## Sponsor Statement

### HOUSE SPECIAL CONCURRENT RESOLUTION NO. 3

Executive Order 89 by Governor Hickel recommends that Weights and Measures (W & M) be transferred from the Department of Commerce and Economic Development (DCED) to the Department of Transportation (DOT). After reviewing this Order, the House Transportation's, Weights and Measures Subcommittee, failed to find sufficient reasoning for this transfer. House Special Concurrent Resolution 3 disapproves of the transfer and reflects the findings of the W & M Subcommittee.

Hearings held in the fall of 1993 by the Weights and Measures Subcommittee found that some regulations were not being properly enforced, but these problems were mostly due to a lack of enforcement by the Department of Public Safety (Alaska State Troopers). Most of these problems have since been corrected, but at no time during these hearings was any criticism directed at DCED.

What the Subcommittee did find was that W & M has been consistently underfunded by the legislature. Due to this underfunding W & M has not had the weigh stations open as often as desired. This situation will only be changed when the legislature appropriates more funds to W & M, not by transferring it to DOT.

Finally, we have been told that the State is in a position to lose \$20 million in federal funding if W & M is not transferred to DOT. This is not true. In your packets you will find a copy of the FHWA Office of Motor Carrier evaluation report. After reviewing this report carefully I could not find any real concerns or major problems in our state's size and weight enforcement program. I reviewed the information provided on Oregon and Idaho's trucking enforcement programs and I feel that Alaska's program better complies with federal standards. It is important to note that it is rare that any state meets all of the requirements set out by US DOT. According to Mr. Max Piper, Director, Office of Motor Carrier in Washington D.C. our W & M program has been approved by the US DOT. He stated that Alaska is NOT in any danger of losing any ISTEA funding. He also went on to say that Alaska complies to federal standards better than most other states. I feel the information provided to you will back up this statement. I do not see any need or reason to transfer this program to DOT. HSCR 3 will keep W & M under the supervision of DCED where it continues to work efficiently and up to federal requirements.

<sup>Chairman</sup>  
Mr. ~~Speaker~~, Members of the Committee

Good afternoon.

My name is Mark Foster. I served as a Commissioner on the Alaska Public Utilities Commission until October 1993. During that time I also had the privilege to serve as the President of the Western Conference of Utility Commissioners (Regional Organization representing 13 Western States and Guam); Chairman of the Western Conference Telecommunications Committee, and as a member of the National Association's Finance & Technology Committee.

Based on my experiences in those capacities, I fully endorse the concept of a Citizens Utility Board. It provides utility consumers, generally taxpaying constituents, a more effective voice for focused advocacy and expertise on utility issues.

What have your constituents told you about working with the Utility Commission? My experience is that it is legalistic, technical, and specialized. For effective participation, consumers need a focused and experienced voice. Without it, they <sup>public</sup> will continue to be frustrated by the highly specialized process and issues.

Today as we speak, significant utility issues are moving rapidly. Among them...

1) Landmark rewrites of the Federal Communications Act are underway (among them S. 1822, co-sponsored by Senator Stevens) which will effect telephone, cable and possibly even electric utilities.

2) Chugach Electric Association has proposed to acquire Matanuska Electric Association (a transaction that will effect thousands of consumers).

In these times it is vital that state and federal utility commissions, and state and federal lawmakers have a focused, expert Alaskan consumer viewpoint represented before them.

Thank you for the opportunity to testify. I would be happy to answer any questions you may have.

WALTER J. HICKEL  
GOVERNOR



P. O. Box 110001  
Juneau, Alaska 99811-0001  
(907) 465-3500

STATE OF ALASKA  
OFFICE OF THE GOVERNOR  
JUNEAU

February 8, 1994

The Honorable Bill Hudson  
Alaska State Legislature  
State Capitol, Room 108  
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Dear Representative <sup>Bill</sup> Hudson:

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We appreciate your thoughtful evaluation of the merits of this proposal. Please do not hesitate to let me know if I can be of further assistance.

Sincerely,

A handwritten signature in cursive script that reads "Raga".

Raga S. Elim  
Legislative Liaison

Enclosure

## SENATE

Introduced: 1/10/94  
 Referred: L&C, TRA

## HOUSE

Introduced: 1/10/94  
 Referred: TRA

## EXECUTIVE ORDER NO. 89

1 Under the authority of art. III, sec. 23, of the Alaska Constitution, and in accordance  
 2 with AS 24.08.210, I order the following:

3 \* **Section 1. FINDINGS.** As governor, I find that it would be in the best interests of  
 4 efficient administration to move the enforcement of size, weight, and load standards for  
 5 vehicles operating on the state highway system, and the authority to issue overweight and  
 6 oversize permits for vehicles operating on the state highway system, from the Department of  
 7 Commerce and Economic Development to the Department of Transportation and Public  
 8 Facilities. Vehicular size, weight, and load standards are enforced, in part, through fixed  
 9 weighing stations placed at strategic locations on the state highway system. Permits are  
 10 issued to allow vehicles to carry loads on the state highway system that cannot be reduced  
 11 to legal size and weight. Vehicular size, weight, and load standards are established by the  
 12 Department of Transportation and Public Facilities. Overweight and oversize vehicle permits  
 13 are issued by the Department of Commerce and Economic Development. Because the  
 14 enforcement of these standards and the issuance of those permits directly impact the operation  
 15 and maintenance of the state highway system, consolidating these two functions under the  
 16 Department of Transportation and Public Facilities will improve the state highway system.

17 \* **Sec. 2.** AS 19.05.020 is amended by adding a new subsection to read:

18 (b) In accordance with the Administrative Procedure Act (AS 44.62), the  
 19 department specifically shall adopt regulations for the implementation and  
 20 enforcement of AS 19.10.060(b). These have the effect of law. The regulations may  
 21 include provisions governing the size, weight, and load limitations established under  
 22 AS 19.10.060(~~...~~ ); the issuance of permits for overweight and oversize vehicles; and  
 23 the operation of weighing stations.

1 \* Sec. 3. AS 19.10.060 is amended by adding a new subsection to read:

2 (b) The department shall operate motor vehicle weighing stations, issue  
3 special written permits authorizing the operation of overweight and oversize vehicles,  
4 establish fees for the overweight and oversize vehicle special permits, enforce the size,  
5 weight, and load limitations adopted by the department under (a) of this section, and  
6 adopt regulations relating to pilot car services and the enforcement of the size, weight,  
7 and load limitations adopted under (a) of this section.

8 \* Sec. 4. AS 19.10 is amended by adding new sections to read:

9 Sec. 19.10.061 ISSUANCE OF CITATIONS. (a) A peace officer or an  
10 employee of the department who is authorized by the commissioner to enforce the  
11 size, weight, and load limitations adopted under AS 19.10.060 may issue a citation  
12 to a person who violates

13 (1) a weight, size, or load limitation;

14 (2) the terms of an overweight or oversize vehicle permit issued under  
15 AS 19.10.060(b); or

16 (3) a regulation adopted under AS 28.05.011(2) or under  
17 AS 19.05.020(b) or AS 19.10.060(b).

18 (b) A citation issued under this section must be in writing. A person  
19 receiving the citation is not required to sign a promise to appear in court.

20 (c) The time specified in the notice to appear on a citation issued under this  
21 section must be at least 15 days after the issuance of the citation, unless the person  
22 cited requests an earlier hearing.

23 (d) The commissioner of public safety is responsible for the issuance of books  
24 containing appropriate citations and shall maintain a record of each book and each  
25 citation contained in it. The commissioner of public safety shall require and retain  
26 a receipt for every book issued to an employee of the Department of Transportation  
27 and Public Facilities designated by the commissioner of transportation and public  
28 facilities to provide investigative services to enforce provisions of this chapter.

29 (e) A peace officer or an employee who issues a citation under this section  
30 shall deposit the original or a copy of the citation with a court having jurisdiction over  
31 the alleged offense. Upon its deposit with the court, the citation may be disposed of

1 only by trial in the court or other official action taken by the magistrate, judge, or  
2 prosecutor. The peace officer or employee who issued the citation may not dispose  
3 of it or copies of it or of the record of its issuance except as required under this  
4 subsection and (f) of this section.

5 (f) The commissioner of public safety shall require the return of a copy of  
6 every citation issued under this section and of all copies of every citation that has  
7 been spoiled or on which an entry has been made and not issued to an alleged  
8 violator. The commissioner of public safety shall also maintain in connection with  
9 every citation issued a record of the disposition of the charge by the court in which  
10 the original or copy of the citation was deposited.

11 (g) If the form of citation issued under this section includes the essential facts  
12 constituting the offense charged and is sworn to as required under the laws of this  
13 state for a complaint charging commission of the offense alleged in the citation, the  
14 citation when filed with a court having jurisdiction is considered to be a lawful  
15 complaint for the purpose of prosecution.

16 (h) Unless the citation has been voided or otherwise dismissed by the  
17 magistrate, judge, or prosecutor, or bail has been forfeited under AS 19.10.062, a  
18 person who fails to appear in court to answer a citation issued under this section,  
19 regardless of the disposition of the charge for which the citation was issued, is guilty  
20 of a class B misdemeanor.

21 Sec. 19.10.062. BAIL FORFEITURE. (a) The supreme court shall specify  
22 by rule or order those violations that are appropriate for disposition without court  
23 appearance, and shall establish a schedule of bail amounts. The maximum bail  
24 forfeiture amount for an offense may not exceed the maximum fine specified by law  
25 for that offense. If the person who has been cited can dispose of the violation without  
26 court appearance, the issuing peace officer or employee shall write on the citation the  
27 amount of bail forfeiture applicable to the violation.

28 (b) A person cited for a violation for which a bail forfeiture amount has been  
29 established under (a) of this section may, within 15 days after the date of the citation,  
30 mail or personally deliver to the clerk of the court in which the citation is filed by the  
31 employee

1 (1) the amount of bail indicated on the citation for that offense; and  
2 (2) a copy of the citation indicating that the right to an appearance is  
3 waived, a plea of no contest is entered, and the bail is forfeited.

4 (c) If the cited person has forfeited bail under (b) of this section, the court  
5 shall enter a judgment of conviction. Forfeiture of bail is a complete satisfaction for  
6 the violation. The clerk of the court accepting the bail forfeiture shall provide the  
7 offender with a receipt stating that fact.

8 (d) A cited person who fails to pay the bail forfeiture amount established  
9 under (a) of this section or to appear in court as required is guilty of a class B  
10 misdemeanor.

11 (e) Notwithstanding other provisions of law, if a person cited for a violation  
12 for which a bail forfeiture amount has been established under (a) of this section  
13 appears in court and is found guilty, the court may not impose a penalty that exceeds  
14 the bail forfeiture amount for that offense established under (a) of this section.

15 Sec. 19.10.063. OFFENSES AND PENALTIES. (a) A person commits a  
16 violation subject to the penalty specified in AS 12.55.035(b)(5) if the person does one  
17 or more of the following acts:

18 (1) violates a provision of an overweight or oversize vehicle permit  
19 issued under AS 19.10.060(b);

20 (2) violates a weight, load, or size limitation established under  
21 AS 19.10.060 or a regulation adopted under AS 19.05.020 or AS 19.10.060(b).

22 (b) Notwithstanding the maximum fine for a violation provided under (a) of  
23 this section, a person who violates a regulation or special permit governing the weight  
24 limit of a motor vehicle shall pay a penalty of \$.05 for each pound of weight over the  
25 authorized weight limit for the vehicle.

26 \* Sec. 5. AS 44.33.020(25); AS 45.75.050(b)(5), 45.75.131, 45.75.133, and  
27 45.75.380(a)(10), 45.75.380(a)(11), and 45.75.380(b) are repealed.

28 \* Sec. 6. TRANSITION. (a) Litigation, hearings, investigations, and other proceedings  
29 pending under a law amended or repealed by the Order, or in connection with functions  
30 transferred by this Order, continue in effect and may be continued and completed  
31 notwithstanding a transfer or amendment or repeal provided for in this Order.

1 (b) Contracts, rights, liabilities, and obligations created by or under a law amended  
2 or repealed by this Order, and in effect on March 11, 1994, remain in effect notwithstanding  
3 this Order's taking effect. Records, equipment, appropriations, and other property of the  
4 agency of the state whose functions are transferred under this Order shall be transferred to  
5 implement the provisions of this Order.

6 (c) Regulations adopted by the Department of Commerce and Economic Development  
7 under the authority of former AS 44.33.020(25) or former AS 45.75.050(b)(5) before  
8 March 12, 1994, remain in effect until regulations are adopted under AS 19.05.020(b) or  
9 AS 19.10.060(b) by the Department of Transportation and Public Facilities, and take effect.  
10 The Department of Transportation and Public Facilities may enforce the regulations adopted  
11 under former AS 44.33.020(25) or former AS 45.75.050(b)(5) until its own take effect.

12 \* Sec. 7. This Order takes effect March 12, 1994.

DATED: \_\_\_\_\_

\_\_\_\_\_  
Walter J. Hickel  
Governor

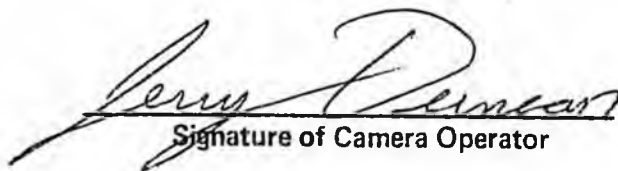


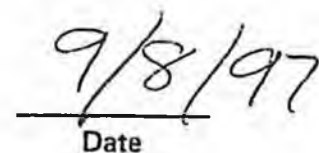
# RECORDS



# CERTIFICATION

I, the undersigned, an employee of the State of Alaska, do hereby certify that the microfilm images on this microform are accurate reproductions of the original records of the State of Alaska as accumulated during the regular course of business, and that it is the established policy and practice of this State to microfilm its records and to dispose of the original records after microfilm reproductions have been made.

  
Signature of Camera Operator

  
Date

HJR

33

(7)

Date Referred: March 8, 1993

FURTHER REFERRALS:

Date of Committee Action: 3/09/93

The LABOR AND COMMERCE Committee considered:

SSHJR 33

SPON. SUB. FOR HOUSE JOINT RESOLUTION NO. 33 FEDERAL FISHING VESSEL SAFETY RULES

Relating to United States Coast Guard commercial fishing vessel safety regulations.

RECOMMENDATIONS:  the same title  
 be replaced with \_\_\_\_\_  a new title

have attached amendments(s)

do pass

do not pass

no recommendations

individual recommendations

additional referral to the \_\_\_\_\_ Committee

ADOPTS: \_\_\_\_\_ letter of Intent

ATTACHES NEW FISCAL NOTE(s): (Dept)

APPROVES PREVIOUS: (Dept/Date)

fiscal impact \_\_\_\_\_

fiscal note(s) \_\_\_\_\_

zero fiscal note \_\_\_\_\_

zero fiscal note(s) \_\_\_\_\_

SIGNING <u>DO</u> PASS	DP	OTHER RECOMMENDATIONS	DNP	NR	AM
<i>Brian D. Porter</i>	✓				
<i>J. Sutton</i>	✓				
<i>Rich Williams</i>	✓				
<i>Samy Markin</i>	✓				
<i>James H. Perry</i>	✓				
<i>Bill Gardner</i>	✓				
<i>Ellen A. Hill</i>	✓				

*Bill Hudson*  
 CHAIRMAN'S SIGNATURE

# ALASKA STATE LEGISLATURE

Delta Junction Office:  
P.O. Box 1189  
Delta Junction, AK 99737-1189  
907-895-4236

While in Juneau:  
State Capitol, Room 110  
Juneau, AK 99801  
907-465-4859



Representative Harley Olberg

## SPONSOR STATEMENT

HJR 33

The U.S. Coast Guard recently announced new commercial vessel safety regulations for all commercial fishing boats which the fishing industry finds extremely difficult to understand, excessive and financially burdensome.

These new commercial vessel safety regulations were brought to my attention by Cordova District Fishermen United. Since that time, I have learned that many commercial fishing organizations, as well as Pacific Fisheries Legislative Task Force, have sent objections to the Coast Guard. Senator Jacko and I introduced companion legislation to add the legislative voice for the second largest industry in the State.

This resolution is requesting that the Coast Guard hold public hearings and extend the comment period on the Commercial Fishing Industry Vessel Regulations and respond to fishermen's suggestions and suggestions made by naval architects not employed by the Coast Guard.

It also requests that a separate set of regulations for commercial fishing vessels under 79 feet be proposed, as boats less than 79 feet historically have had a class and regulations of their own.

It further asks that the effective date of the regulations be delayed for a minimum of one year in order for the industry to prepare for the new regulations.

The potential magnitude and impact of these regulations on the Alaska fleet must be fully understood and ample opportunity for comment must be provided. This resolution seeks to ensure that process.



**UCIDA**

**UNITED COOK INLET DRIFT ASSOCIATION**

P.O. Box 389 • Kenai, Alaska 99611 - 0389

(907) 283-3600 • FAX (907) 283-3306

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March 6, 1993

To: UFA  
From: Theo Matthews, Administrative Assistant, UCIDA  
Subject: HJR No.33

Please be advised that UCIDA endorses HJR No.33. We appreciate Representative Olberg's efforts to extend the public comment period and require public hearings on the proposed USCG commercial fishing vessel safety regulations.

While commercial fishermen were successful in having the initial comment period extended, the Coast Guard has not been successful in clarifying the meaning of many sections of the proposed rule. This is especially true with respect to stability requirements for smaller vessels and alterations to existing vessels.

UCIDA has received differing "expert" opinions as to the meaning of these proposed regulations. Clearly, if the "experts" cannot agree on the meaning of the regulations, our membership would be best served if more time was allowed for comment and better communication was established between the Coast Guard and the commercial fishing fleet.

Sincerely,

Theo Matthews  
Administrative Assistant

Bristol Bay Driftnetters' Association, Inc.

P.O. Box 21951

Juneau, AK 99802

Phone (907) 463-4970 • FAX (907) 586-1001

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February 26, 1993

U.S. Coast Guard Marine Safety Council  
2100 Second Street, S.W.  
Washington, DC 20593-000

Ladies and Gentlemen:

I am writing in regard to the recently proposed Fishing Industry Vessel Regulations, and wish to place a number of comments on the record in behalf of those members of the industry who belong to this association.

Bristol Bay Driftnetters Association, Inc. has been actively participating in the review of those regulations which have been implemented to date. We recognize that reasonable regulations are desirable for the well-being of the industry. It is our intention that those comments which follow be regarded by you as an effort to deal with the mandate given you under the act in a positive and constructive manner.

We recognize that the Coast Guard is entering new territory with some of the issues addressed under the present set of proposals. This is especially true in regard to stability requirements for vessels under 79 feet in length. Because of the far-reaching implications of your possible actions in this area, we would urge that the process of arriving at your final regulatory action be a very careful one. We are not marine architects, but we are cognizant of the caveats which they have raised on this issue. Accordingly, we would suggest that a process be established for arriving at guidelines. We believe that, in addition to Coast Guard personnel, recognized marine architects and experienced small-boat operators be included in a working group. Presently proposed requirements for stability tests and letters of attestation should be dropped at this time.

It is our observation that most (though admittedly not all) hull types presently utilized in the fishery have evolved over the course of decades, and even centuries. They have stood the test of time. For this reason, we feel that attention is more profitably directed toward new construction.

Requirements centering upon modification of existing hulls do not appear to us to be the most fertile field for improvement. Proposed installation of additional bulkheads constitutes both an engineering and economic nightmare in most cases. Benefits which might accrue are highly tentative at best.

We believe that inflatable boats should be allowed and included under the requirement for buoyant apparatus and inflatable buoyant apparatus in many cases, particularly in vessels under 36 feet in length.

U.S. Coast Guard Marine Safety Council  
February 26, 1993  
Page 2

We are very concerned about the rather loose guidelines suggested under which the "termination of voyage" power may be exercised. We would also note that the proposals do not clearly specify under what conditions a voyage may be resumed. As presently proposed, we can envision the development of unacceptably arbitrary enforcement practices which are not in the tradition and spirit of the service.

The fact that many terms in the proposed regulatory package are not well defined is a matter of serious concern. This is again true in the matter of a vessel owner's ability to make changes to his vessel. The past history of government behavior in such regulatory initiatives where the extent of what is and is not allowable is not clearly specified renders this proposal unacceptable. When dealing with small boats, the level of government oversight implied in these proposals is both oppressive and unnecessary.

We are commercial fishermen. The requirements of this industry are far from static. We need to be able to make modifications to our vessels due to changing requirements for landing and handling our catch. In the Bristol Bay fishery in which we participate (currently approximately 1900 vessels which are 32 feet in length or less), I know of no instance of either loss or swamping attributable to alteration of basic vessel plan. My association with this fishery covers a period of 37 years. The present proposals can create a major problem where one does not now exist.

While we appreciate the convenience of being able to register our comments through your 800 number, you should be aware that the existence of this present round of regulatory proposals is just now making itself felt within the commercial fishing community in Alaska. We are experiencing regulatory overload (and apparently will continue to experience it for some time yet!). If the agency really wants to see a workable set of regulations emerge from this exercise in the future, we would urge (1) an initial comment period of at least 120 days, and (2) public hearings.

The commercial fishing media has taken an unusually long period of time to translate the Federal Register into something more easily understandable. Consequently, the present process has largely been denied the participation of many of the very people (fishermen, among others) who can best make a worthwhile contribution.

We want to thank you for your consideration of our thoughts. I want to refer in closing to the old question which I fear may have application here. "How come we never have time to do it right the first time, but we always have time to do it over?"

Sincerely,



Bristol Bay Driftnetters Association, Inc.  
Dean Paddock, Executive Director



**Alaska  
Trollers  
Association**

130 Seward St., No. 213  
Juneau, Alaska 99801  
(907) 586-9400

February 27, 1993

Executive Secretary  
Marine Safety Council (G-LRA-2/3406)(CGD 88-079a)  
U.S. Coast Guard Headquarters  
2100 Second Street, SW  
Washington, D.C. 20593-0001

Dear Sirs:

On behalf of the Alaska Trollers Association I am responding to your call for comment on Federal Register Vol. 57, No. 208, Commercial Fishing Industry Vessel Regulations; Proposed Rule.

First, the time-frame for comment has been short and under-publicized. You should note that most fishermen do not receive the Federal Register by mail and had no way of knowing that the Coast Guard was asking for their input. The fleet that I represent conducts a winter fishery from October 11 through April 14. The regulations were not even received in my office until a few days before Thanksgiving. How were people supposed to find out about this? From my perspective, the Coast Guard has not gone out of its way to solicit comment from those who would be most critically impacted by these regulations.

Second, I would like to point out that these proposed regulations are very poorly written and difficult to understand. Contradictions abound within this very confusing document and I have been unable to find anyone, including your own 13th & 17th districts staff, that has a good enough grasp on the proposals to articulate them to the fleet. How can we, the general public, be expected to provide meaningful comment on something we can't even understand?

**Subpart C**

**Section 28.60 Exemption Letter**

ATA does not support time limitations on exemptions for classes of vessels.

**Section 28.65 Termination of Unsafe Operations**

In this section the Coast Guard's options to terminate a commercial fishing operation are spelled out, but what is the process to allow the operator to continue once the hazardous condition is corrected? Must the Coast Guard re-inspect the vessel? This item is unclear.

**Section 28.120 Survival Craft**

ATA prefers that the Coast Guard reinstate the existing Section 28.120(b), which exempts a vessel with less than four individuals on board which operates within 12 miles of the coastline from the requirement for survival craft.

Another alternative for vessels with less than four individuals on board operating within 12 miles of the coastline, would be to allow a Zodiac (or similar quality) inflatable raft to be substituted for an inflatable buoyant apparatus or buoyant apparatus.

The inflatable buoyant apparatus (IBA) is a large (10-12 people), costly (up to \$2500 - not \$1400 as stated) means to accomplish what many fishermen are already doing - carrying a raft to get the crew out of the water in case of emergency. My understanding is that the IBA was designed for use on inside waters, so what makes it appropriate for Alaska?

A buoyant apparatus doesn't even appear to address the Coast Guard's stated intent "...to extend the survival time of individuals who would otherwise be in the water."

ATA has been generally supportive of the Commercial Fishing Safety Act of 1988, but we cannot support additional regulation that burdens our fleet financially yet does little to improve safety. Requiring good quality inflatable rafts, like the Zodiac, makes much more sense.

**Subpart C**

**Section 28.300 Applicability**

Paragraph (a) is an unfair and burdensome requirement. Why would the Coast Guard require that any vessel built or undergoing conversion prior to a final rule come under the terms of that rule? The costs associated with this requirement would be substantial to the owner of the vessel. If the goal is for the industry to build safer vessels based on improved standards, then the effective date should be set for some period after any new standards are in place and should be based on the date the contract is signed, not the date the keel is laid.

**Section 28.275 Acceptance Criteria for Instructors and Course Curricula**

Operators should not be mandated to acquire expensive training and licenses for which they have no need. In Alaska, this would often mean traveling a great distance

in addition to the course expense. There is already a network through which the Coast Guard could work to establish meaningful curriculum for operators and crew. We would encourage the Coast Guard to accept the alternative of low-cost port training, similar to that being offered by many groups already working with the commercial fishing industry.

#### Subpart E -- Stability

ATA does not support the proposed stability requirements or letters of attestation for boats under 79 feet, and requests an exemption for boats under 79 feet from Subpart E.

The stability requirements outlined are unreadable and contrary. Just when you think a boat under 50 feet is exempt, another item springs up that suggests that it really isn't.

For example, the proposal states that owners of boats 50 feet and under are excluded from the majority of Subpart E if they get stability instruction from a "qualified" individual, and sign a letter of attestation stating that they accept and understand this "instruction". Who is a "qualified" individual and is there one in each port? And, has the Coast Guard considered how the "qualified" individual will ascertain the performance of a boat under various load conditions without testing it? As for the letter of attestation, who would sign such a letter of liability without substantial information and documentation? This takes, at minimum, a drawing of the boat. Most owners of older boats, which make up a significant portion of the troll fleet, do not have line drawings of their boats. This means that the "qualified" person would have to pull the boat out of the water and make the drawings at a cost of about \$5000. In addition, to cover themselves, any truly "qualified" person is going to want to run a few tests, which average \$3000 - \$5000. [We aren't even sure which tests will be appropriate since there is no current international IMO model for vessels under 79 feet.]

Then there is the "significant alteration" item. Many of our small boat operators have diversified into other fisheries. Do they need a stability test and letter of attestation each time they add a bait shack and/or a halibut reel? Will the addition of new safety equipment require a stability test? Where do you draw the line?

Major conversions of vessels looks to be problematic as well. A significant issue for the troll fleet will be that people could avoid doing the necessary work to extend the

life or improve the safety of their boats, simply because they can't afford the stability testing.

Are boats 50 foot and under really exempt from any part of Subpart E? After many phone calls to whom we believe to be "qualified" individuals, it appears that no one is exempt under the proposed regulations, and worse yet, *most of our fleet will probably fail to meet the stated criteria.*

The most ridiculous part is what could be required without any regard to the Coast Guard's own statement on p. 48678 of the proposed regulations that:

The Coast Guard is actively pursuing the development and use of advanced methods for evaluating small vessel stability, particularly for commercial fishing industry vessels....The research being conducted throughout the U.S. and in other countries is still mainly in the theoretical stage. However, a greater level of effort and coordination is being provided by the Coast Guard, which in time, will lead to practical solutions.

Why does the Coast Guard seek to implement costly, unproven, THEORY in lieu of practical solutions? If there are no practical standards for stability for small commercial fishing vessels, then there is no rationale for the Coast Guard to take its proposed action at this time.

Out of curiosity, how many trollers capsize? ATA would be interested in examining information that demonstrates this to be a problem in the troll fleet.

#### Small Entities

Our association represents the commercial troll fleet which is made up of many small business people, many of whom fish within 12 miles of the coast. In fact, most of Alaska's 2500 troll permit holders will be substantially impacted if these regulations are implemented.

Since the implementation of the Commercial Fishing Industry Vessel Safety Act of 1988, trollers have made significant investments in newly required safety gear. I would guess that many of our members are still paying off the last round of requirements and will be hard-pressed to comply with the latest proposals.

For example, consider a troller that fishes a 46 foot boat within 12 miles who has just paid for a few of the more expensive safety items: EPIRB (\$2500), 2 survival suits

(\$400 each), IBA (\$2500), and stability standards (\$8000). For this short list, the individual spent a minimum of \$13,800. In 1990, the average Alaska powertroller earned \$32,000 (The McDowell Group, 1992). This makes the \$13,800 safety bill 43 percent of our sample troller's annual earnings.

The troller who fishes a 52 foot boat beyond 12 miles added another \$2000 for a life raft (difference between the IBA and life raft), and spend the equivalent of 49 percent of his or her annual earnings.

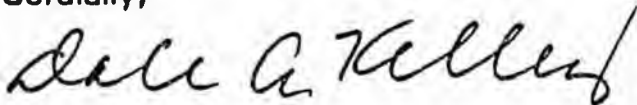
Remember, the above estimates do not consider all of the safety gear, training, modifications, or maintenance that may be necessary to fulfill all of the obligations of the existing or proposed safety regulations. Nor was there any mention of the other costs associated with the business of being a fishermen or providing for themselves or their families.

Safety regulations are already placing a significant economic burden on the troll fleet. ATA considers the proposed regulations ineffective, unreasonable, and financially crippling for small boat operators.

The proposed regulations are untenable as they do not reflect technical or economic reality for our vessels or fishermen. ATA recommends that the Coast Guard withdraw the proposed regulations until such time as it can achieve the goals of reasonable, achievable, economical, readily understood standards of safety, which will be mandatory for industry compliance. Future proposals should provide a minimum comment period of 120 days and include a high level of interaction between the affected fishermen and Coast Guard personnel.

In closing, I suggest that the Coast Guard spend ample time reviewing existing and proposed safety regulations with its staff, so that each district has the same information and can get that information out to the public. This step could go a long way toward increasing the public's confidence in the regulatory process.

Cordially,



Dale A. Kelley  
Executive Director



# UNITED FISHERMEN OF ALASKA

February 26, 1993

211 Fourth Street, Suite  
Juneau, Alaska 99601  
907/586-2820  
Fax 907/463-2545

FAXED TO 202/267-4163 on February 26, 1993  
HARD COPY TO FOLLOW.

Executive Secretary  
Marine Safety Council  
(G-LRA-2/3406) (CGD88-079a)  
U.S. Coast Guard Headquarters  
2100 Second Street, S.W.  
Washington, D.C. 10593-0001

Dear Marine Safety Council Members:

United Fishermen of Alaska wishes to submit the following comments and suggestions pertinent to the proposed Fishing Industry Vessel Regulations (Federal Register/Vol. 57, No. 208/October 27, 1992/ Proposed Rules) 46 CFR Part 28 [CGD 88-079a].

The regulations propose that vessels undergoing a "major conversion" (Page 48670) or "substantial alteration" (Page 48671) will be required to comply with stability rules.

We ask that fishing industry participants be selected to work with government officials and clearly define "major conversion" and "substantial alteration."

On Page 48673, authority is granted to enforcement officials to terminate a voyage "when an operation is considered to be life threatening or to have the possibility of leading to a serious injury."

We insist that the language, "the possibility of leading to a serious injury" be removed from the proposed regulations. Our industry is, by nature, risky and dangerous. Conscientious operators do all they can not to subject their crews to excessive risk. The threat or risk of serious injury cannot be regulated out of the fishing industry. Authority granted here is arbitrary and ambiguous.

Before the Coast Guard adopts the "A.S.T.M. F-1321-90" standard guide for conducting a stability test (Page 48572), we would ask for adequate assessment and review of the information by fishing industry participants. Please note that the Federal Register stated on Page 48678, "The research being conducted throughout the U.S. and in other countries is still mainly in the theoretical stage."

#### MEMBER ORGANIZATIONS

Alaska Crab Coalition • Alaska Independent Fishermen's Marketing Association • Alaska Longline Fisherman's Association  
Alaska Trollers Association • Area K Seiners Association • Bering Sea Fishermen's Association • Bristol Bay Driftnetters Association  
Concerned Area "M" Fishermen • Cook Inlet Aquaculture Association • Cordova District Fishermen United • Kenai Peninsula Fishermen's Association  
North Pacific Fisheries Association • Northern Southeast Regional Aquaculture Association • Peninsula Marketing Association  
Petersburg Vessel Owners Association • Prince William Sound Aquaculture Corporation • Seafood Producers Cooperative • Southeast Alaska Seiners  
Southern Southeast Regional Aquaculture Association • United Cook Inlet Drift Association • Western Alaska Cooperative Marketing Association

Marine Safety Council, USCG  
February 26, 1993  
Page Two

On Page 48675, in subpart E, "The Coast Guard's position is that the operational stability of smaller commercial fishing industry vessels is clearly of major concern and must be addressed." We suggest that compliance to stability standards is most easily achievable in the design of new commercial fishing vessels. In light of the mandate that "The Coast Guard consider the economics of the operations and the character, design and construction of commercial fishing industry vessels," United Fishermen of Alaska feels that imposing new and costly vessel stability requirements on the time tested variety of vessels present in our fisheries (Page 48671) is unnecessary, especially when applied to smaller vessels, whose owners and operators are still struggling physically and financially to comply with the previously imposed set of vessel safety and safety equipment requirements.

The language in Section 28.520, "The alternate simplified stability test for small vessels" needs simplification and clear explanation.

In Section 28.565, reference to "proposed intact lighting energy criteria" is made. Please detail this criteria since it isn't present in the proposed regulations. Section 28.565 states "Required stability information developed by the 'qualified individual' should be sufficient." We ask for the criteria that the Coast Guard will apply to determine the "qualified individual."

We request that individuals from our industry work intimately with the Coast Guard, through the Intergovernmental Personnel Act, if possible.

We appreciate the Coast Guard's concern for safety in our industry, but we believe the proposed regulations do not achieve that goal efficiently and effectively. We would like a larger role in crafting vessel stability regulations.

We believe it is essential that broad response to these proposed rules be generated. These proposed rules have not reached the circulation level that the previous ones did. These regulations are particularly difficult to understand. In that light, we request an extension of the public comment period for the benefit of the fishing industry participants who do not understand or are not yet exposed to the Coast Guard's most recent proposed rules.

We appreciate your consideration of our requests and look forward to your response.

Sincerely,



Rich Davis, Chairman  
Coast Guard Regulations Committee  
UNITED FISHERMEN OF ALASKA

cc: The Honorable Ted Stevens, United States Senate  
The Honorable Frank Murkowski, United States Senate  
The Honorable Don Young, United States House of Representatives

# UNITED FISHERMEN OF ALASKA

211 Fourth Street, Suite 112  
Juneau, Alaska 99801  
FAX Number: 907/463-2545

## FAX COVER LETTER

TO: Amy Daughtery

ORGANIZATION: Representative Harley Olberg's Office

FROM: Phyllis H. Larson, Office Manager

DATE: March 3, 1993

NUMBER OF PAGES (including cover sheet): 3

### MESSAGE:

I have called Bristol Bay Driftnetters Association (Juneau). I  
know they sent a letter. Have left message on their machine to  
get in touch with you or to FAX you a copy.

If you still need to talk to Jerry McCune (UFA President) he can  
be reached in Seattle in the evening at 206/321-5567. Otherwise,  
he will be in Juneau on Sunday and through the rest of session.

If you receive only part of this transmission  
or have a transmission failure,  
please call UFA (907/586-2820).

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## CORDOVA DISTRICT FISHERMEN UNITED

Post-It brand fax transmittal memo 7671		# of pages » 2
To <i>Paul Colberg</i>	From <i>Mary McHenry</i>	
Co	Co	
Dept.	Phone # <i>424-3447</i>	
Fax # <i>424-3447</i>	Fax # <i>424-3447</i>	

February 26, 1983

Executive Secretary,  
Marine Safety Council  
U.S. Coast Guard Headquarters  
2100 Second Street, SW  
Washington, D.C. 20593-0001

Dear Sir:

Cordova District Fishermen United (CDFU) was established in 1936 and is the oldest commercial fishing organization in Alaska. We represent approximately 300 fishermen who participate in seine and gillnet fisheries in Prince William Sound and the Copper River Delta. CDFU supports the Coast Guard and its objectives to promote safety at sea; however, we have some concerns regarding the supplemental notice of proposed rulemaking for the Commercial Fishing Industry Vessel Regulations.

To begin with, the proposed rules are difficult to understand, particularly those sections related to stability. As a lay reader, I'm at a loss to figure out what these regulations really mean and how they will affect existing fishing vessels. For those portions that I do understand, it is evident that these new regulations will make it extremely expensive for vessel owners to bring their boats into compliance.

In addition, there appears to be a great deal of confusion over how these regulations will be implemented and how they are to be interpreted by marine architects and the fishing industry. Since these proposed regulations are so technical and unclear, CDFU urges the Coast Guard to re-evaluate the need for making such sweeping changes and to actively solicit and incorporate suggestions from commercial marine architects and professionals in the commercial fishing industry. This is one area where the IPA (Intergovernmental Personnel Act) or a private contractor might effectively be used to provide practical feedback.

CDFU is also concerned that the definition of "substantial change" is too broad. Under the proposed definition, a new or existing vessel is "substantially altered" if the modification adds 3% or more to its weight, increases the vessel's windage or changes the way the vessel catches, lands or processes fish. If an existing vessel undergoes a conversion that falls under these new criteria, it will have to meet the new vessel standards for stability which are virtually impossible to meet on most existing fishing vessels. A modification as basic as

adding a radio antennae could be interpreted as affecting a vessel's windage and would be treated as a substantial alteration.

It appears that the Coast Guard has greatly under-estimated the cost to fishermen that these new regulations will impose. For example, the regulations will require that watertight bulkheads be maintained around the engine room, the lazarets, the fish holds, and any other space with a non-watertight closure on the main deck. In addition, each bulkhead space will be required to have its own dewatering system. If the space is a bilge area subject to flooding from seawater piping, has a through-hull fitting below waterline, or has a non-watertight closure on the main deck, it will have to be equipped with a high water alarm. These new requirements quickly add up to a great deal of money and will make compliance extremely expensive for existing vessels.

Many of our fishermen work outside the boundary line on the Copper River Flats. The new regulations require that vessels fishing outside the boundary line have a buoyant apparatus on board. Boats over 36 feet in length, must be equipped with an inflatable buoyant apparatus and boats under 36 feet must have a regular buoyant apparatus. As well-intended as this requirement may be, most gillnetters on the Copper River Flats are one-person operations and a buoyant apparatus would not be of use in a man-overboard situation. Commercial fishing vessels are already required to carry a Coast Guard approved life ring which is adequate. We suggest inflatable rafts such as Zodiacs and Avons be allowed as acceptable substitutes for the buoyant apparatus and inflatable buoyant apparatus requirements.

Finally, we request that the Coast Guard hold regional hearings on the proposed regulations. The 800 number is a nice idea, but public hearings are essential and the most effective way to get feedback from fishermen on how these regulations, when applied, will affect their fishing vessels. CDFU urges the Coast Guard to reconsider its implementation of the new stability and safety regulations and work more closely with boatbuilders, marine architects and commercial fishermen before publishing the final rule.

Sincerely,  
CORDOVA DISTRICT FISHERMEN UNITED

  
Mary L. McBurney, Executive Director

cc: Senator Ted Stevens  
Senator Frank Murkowski  
Congressman Don Young

# **federal register**

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**Tuesday**  
**October 27, 1992**

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**Part IV**

**Department of  
Transportation**

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**Coast Guard**

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**46 CFR Part 28**  
**Commercial Fishing Industry Vessel  
Regulations; Proposed Rule**

## DEPARTMENT OF TRANSPORTATION

## Coast Guard

## 46 CFR Part 28

(CGD 88-079a)

RIN 2115-AD12

## Commercial Fishing Industry Vessel Regulations

AGENCY: Coast Guard, DOT.

ACTION: Supplemental notice of proposed rulemaking.

**SUMMARY:** The Coast Guard is proposing regulations for U.S. Commercial Fishing Industry Vessels on topics that were separated from the final rules, published in the Federal Register on August 14, 1991 (56 FR 40364). These topics generated the most public concern and were separated from the Final Rules in order for them to be adequately addressed. These topics include: stability for fishing vessels less than 79 feet in length; requirements for survival craft on fishing vessels carrying less than four individuals on board, operating within 12 miles of the Coastline and outside the Boundary Line; and administration of exemptions authorized by 46 U.S.C. 4506 in relationship to high vessel density and limited duration fisheries.

Additionally, these proposed regulations address four other topics, two of which were specifically mentioned in the preamble to the Final Rule as topics that would be addressed in this supplemental rulemaking. The additional topics addressed are: the Aleutian Trade Act; acceptance criteria for instructors and course curricula; termination of unsafe operations; and stability for Load Line assignment.

These proposed regulations are intended to improve the overall safety of commercial fishing industry vessels.

**DATES:** Comments must be received on or before December 28, 1992.

**ADDRESSES:** Comments may be mailed to the Executive Secretary, Marine Safety Council (G-LRA-2/3000) (CGD 88-079a), U.S. Coast Guard Headquarters, 2100 Second Street, SW., Washington, DC 20593-0001, or may be delivered to room 3408 at the above address between 8 a.m. and 3 p.m., Monday through Friday, except holidays. The telephone number is (202) 267-1477 for further information.

The Executive Secretary maintains the public docket for this rulemaking. Comments will become part of this docket and will be available for inspection or copying at room 3408, U.S. Coast Guard Headquarters. A copy of

the material listed in "Incorporation by Reference" of this preamble is available for inspection at Room 1308 U.S. Coast Guard Headquarters.

**FOR FURTHER INFORMATION CONTACT:** Lieutenant Commander Tim Skuby, Office of Marine Safety, Security and Environmental Protection (G-MVI-4), room 1405, U.S. Coast Guard Headquarters, Washington, DC 20593-0001, (202) 267-2307.

**SUPPLEMENTARY INFORMATION:****Request for Comments**

The Coast Guard encourages interested persons to participate in this rulemaking by submitting written data, views, or arguments. Persons submitting comments should include their name and address, identify this rulemaking (CGD 88-079a) and the specific section of this proposal to which each comment applies, and give a reason for each comment. Persons wanting acknowledgment of receipt of comments should enclose a stamped, self-addressed postcard or envelope.

The Coast Guard will consider all comments received during the comment period. It may change this proposal in view of the comments.

**Public Hearings**

The Coast Guard plans no public hearing. Persons may request a public hearing by writing to the Marine Safety Council at the address under "ADDRESSES." If it determines that the opportunity for oral presentations will aid this rulemaking, the Coast Guard will hold a public hearing at a time and place announced by a later notice in the Federal Register.

**Drafting Information**

The principal persons involved in drafting this document are Lieutenant Commander Tim Skuby, Office of Marine Safety, Security and Environmental Protection and Lieutenant Ralph L. Hetzel, Project Counsel, Office of Chief Counsel.

**Background and Purpose****Commercial Fishing Industry Vessel Safety Act of 1988**

On September 9, 1988, title 46 United States Code (U.S.C.), was amended in chapter 45 (Uninspected Commercial Fishing Industry Vessels, Sections 4501 through 4506) by the Commercial Fishing Industry Vessel Safety Act of 1988, Public Law 100-424 ("the Act"). This chapter, as amended, is applicable to all U.S. uninspected commercial fishing vessels, fish processing vessels, and fish tender vessels. Fish processing vessels of more than 5,000 gross tons and fish

tender vessels of more than 500 gross tons are not affected, since they are subject to inspection under 46 U.S.C. 3301(11) and (12). Also, it does not apply to vessels engaged solely in sport fishing that are subject to inspection under 46 U.S.C. 3301(8) as small passenger vessels and are regulated under 46 CFR subchapter T, or to vessels carrying 6 or less passengers which operate as uninspected passenger vessels regulated under 46 CFR subchapter C. Vessels that alternate between commercial and sport fishing must comply with the requirements for the service in which are engaged.

The Act requires the Secretary of Transportation to prescribe regulations for certain safety equipment and vessel operating procedures. The Act also requires the reporting of casualties to commercial fishing industry vessels by insurers, reporting of injuries by seamen on board commercial fishing industry vessels, and collection of casualty information by the Secretary.

The Act calls for regulations concerning the following equipment:

1. *For all vessels. The regulations developed for this class of vessels should concern:*

- (a) Fire extinguishing equipment.
- (b) Life preservers.
- (c) Backfire flame arrestors for gasoline engines.
- (d) Ventilation of enclosed spaces.
- (e) Visual distress signals.
- (f) Buoyant apparatus.
- (g) Alerting and locating equipment, including emergency position indicating radio beacons (EPIRBs).
- (h) Placards informing seamen of the duty to report injuries.

2. *For vessels which are documented and operate beyond the Boundary Lines described in 46 CFR part 7 or are documented and operated with more than 16 individuals on board. The regulations developed for this class of vessels should also concern:*

- (a) Alerting and locating equipment including EPIRBs.
- (b) Lifeboats or liferafts.
- (c) An immersion suit for each individual on board.
- (d) Radio communication equipment.
- (e) Navigation equipment including compasses, radar reflectors, nautical charts, and anchors.
- (f) First aid equipment.
- (g) Any other equipment required to minimize the risk of injury.

3. *For vessels which are built after, or which undergo a major conversion completed after, the effective date of the regulations and operate with more than 16 individuals on board. The regulati*

developed for this class of vessels should also concern:

- (a) Navigation equipment, including radars and fathometers.
- (b) Life saving equipment, immersion suits, signaling devices, bilge alarms, bilge pumps, life rails, and grab rails.
- (c) Fire protection and firefighting equipment.
- (d) Use and installation of insulation material.
- (e) Storage of flammable and combustible material.
- (f) Fuel, ventilation, and electrical equipment.

The Act also addresses a major operational problem encountered by commercial fishing industry vessels by requiring regulations for operational stability. The Act states that those regulations are to apply to all vessels which are built, or which are substantially altered in a manner that affects operational stability, after December 31, 1989.

The Act requires that in the regulations the Coast Guard—

- (1) Consider the specialized nature and economics of the operations and the character, design, and construction of commercial fishing industry vessels; and
- (2) Not require the alteration of a vessel or associated equipment that was constructed or manufactured before the effective date of the regulations.

Concern for the size and complexity of fish processing vessels is recognized by the Act. All fish processing vessels are to be examined at least once every two years to ensure compliance with the regulations developed in response to the Act. Further, fish processing vessels which are built after, or which undergo a major conversion completed after, July 27, 1990, must meet the survey requirements of, and be classed by, the American Bureau of Shipping or another similarly qualified organization accepted by the Coast Guard for that purpose.

#### Advance Notice of Proposed Rulemaking

An Advance Notice of Proposed Rulemaking (ANPRM) was published in the Federal Register on December 29, 1988 (53 FR 52735), addressing potential requirements for uninspected fishing, fish processing, and fish tender vessels. In response to that ANPRM nearly 200 comment letters were received. Each of the comment letters was considered in developing the Notice of Proposed Rulemaking (NPRM).

#### Notice of Proposed Rulemaking

A Notice of Proposed Rulemaking (NPRM) was published in the Federal

Register on April 19, 1990 (55 FR 14924), addressing proposed requirements for uninspected fishing, fish processing, and fish tender vessels. In response to that NPRM, nearly 500 comment letters were received. Due to the numerous comment letters and the comments presented at the public hearings concerning application of the proposed requirements to fishing vessels less than 79 feet (24 meters) in length, a notice of intent to publish a Supplemental Notice of Proposed Rulemaking (SNPRM) appeared in the Federal Register on August 30, 1990 (55 FR 35694). Each of the comment letters was considered in developing the Final Rules that were published in the Federal Register on August 14, 1991 (56 FR 40364) and this SNPRM.

#### The Aleutian Trade Act of 1990

On November 16, 1990, the President signed Pub. L. 101-595, The Aleutian Trade Act of 1990 ("the ATA"). The ATA provides for continued cargo service to remote communities in Alaska while ensuring increased safety standards for fish tender vessels operating in the Aleutian trade. "Aleutian trade" is defined as the transportation of cargo (including fishery related products) for hire on board a fish tender vessel to or from a place in Alaska west of 153° West longitude and east of 172° East longitude, if that place receives weekly common carrier service by water, to or from a place in the United States (except a place in Alaska).

In general terms, a fish tender vessel may be engaged in carrying cargo. If the service is only to remote places that do not receive regular cargo vessel service, then these vessels need only meet the applicable requirements imposed under the CFTVSA (46 U.S.C. 4502 (a) & (b)) and need not meet any inspection, construction, manning, or loadline requirements. If a fish tender vessel carrying cargo competes with a weekly cargo vessel service in the Aleutian Trade, it must meet the safety standards in 46 U.S.C. 4502 (a), (b), and (c) in addition to the applicable inspection, manning, and loadline requirements.

The ATA also provided for a transition period for certain fish tender vessels already in, or committed to, service in the Aleutian trade. These "qualified vessels" are those engaged in the Aleutian trade which entered the Aleutian trade before September 8, 1990 or were purchased before September 8, 1990 to be used in the Aleutian trade and enter into such service before June 1, 1992. Further, these vessels must not have undergone a major conversion. A detailed explanation of the ATA and its

relationship to other marine safety laws and regulations follows. The Coast Guard has identified a firm number of "qualified vessels" that are affected by the transition period.

The ATA amends certain provisions of the Commercial Fishing Industry Vessel Safety Act of 1968. The amendments require fish tender vessels in the Aleutian trade to be subject to the provisions of 46 U.S.C. 4502(b), the same as documented fishing industry vessels which operate beyond the Boundary Lines or which operate with more than 16 individuals on board. It is unlikely that this amendment will affect any "qualified vessel" currently in the Aleutian Trade. They are documented vessels that necessarily cross the Boundary Lines defined in 46 CFR part 7 during each voyage and are already subject to 46 U.S.C. 4502(b).

The ATA also amends 46 U.S.C. 4502(c) to treat fish tender vessels in the Aleutian trade in a similar manner as vessels which are built or complete a major conversion after December 31, 1988, and which operate with more than 16 individuals on board. These vessels may be required to meet additional safety standards. The regulations developed in response to 46 U.S.C. 4502(c) are contained in 46 CFR part 28, subpart D. Inasmuch as 46 U.S.C. 4502(c) continues to state that the Secretary may (emphasis added) prescribe regulations, the Coast Guard's position is that Congress intended for the Coast Guard to decide whether these standards are appropriate for fish tender vessels in the Aleutian trade.

It should be noted that a conflict exists concerning 46 U.S.C. 4502(e)(2), which states that the Secretary may not require the alteration of a vessel or associated equipment that was constructed or manufactured before the effective date of the regulation. One interpretation is that since the ATA did not amend 46 U.S.C. 4502(e), this section should not apply to the "qualified vessels".

Another interpretation is that it was Congress' intent to upgrade the safety of all fish tender vessels operating in the Aleutian trade to a level equivalent to vessels carrying cargo for hire in the Aleutians. Thus, under this interpretation, the intent of the ATA was to require all new and existing fish tender vessels engaged in the Aleutian trade to meet the safety standards under 46 U.S.C. 4502(c). This interpretation further supposes that since Congress provided a delayed implementation period, until January 1, 1993, for the "qualified vessels", that it was clearly their intent to require these vessels to

the significant economic issue identified in the Regulatory Evaluation for the Commercial Fishing Industry Vessel Final Rule (CGD 88-079), while still increasing the safety of the industry. The additional cost for these vessels is estimated to be between \$500 and \$1,400, the estimated cost of a buoyant apparatus and an inflatable buoyant apparatus, respectively.

In addition to removing the above mentioned exemption and modifying the survival craft tables, the Coast Guard proposes another change to the survival craft tables. This change would require commercial fishing industry vessels less than 36 feet (11 meters) in length which operate inside the Boundary Line in cold waters to be required to have at least a buoyant apparatus on board.

Section 46 U.S.C. 4506(b) exempts commercial fishing industry vessels that are less than 36 feet (11 meters) in length and that do not operate beyond the Boundary Lines from 46 U.S.C. 4502(b)(2), which concerns lifeboat and liferaft requirements. The Coast Guard's position is that while these commercial fishing industry vessels are exempt from carrying lifeboats and liferafts, this exemption does not preclude the Coast Guard from requiring some type of survival craft on these commercial fishing industry vessels. Under the authority of 46 USC 4502(a)(8), this section gives the Coast Guard authority to require a buoyant apparatus on any commercial fishing industry vessel.

Several comment letters stated that most of the commercial fishing industry vessels less than 36 feet (11 meters) in length operate approximately 3-4 miles offshore. However, operations inside the Boundary Line can be as far offshore as 12 miles. The Coast Guard's position is that every commercial fishing industry vessel operating in cold water should carry a survival craft. The intent of requiring survival craft is to extend the survival time of individuals who would otherwise be in the water. The Coast Guard's position is that, at a minimum, a buoyant apparatus is necessary on this class of vessel. This is consistent with the cost of the survival craft and the space necessary for storage.

Several comment letters also suggested that individuals operating "day boats" be exempted from any requirement to carry survival craft. "Day boats" traditionally operate during daylight hours only, in groups, in fair weather, and normally inside the Boundary Line. Operating under these parameters, if a commercial fishing industry vessel capsizes for instance, one of the other vessels in the group will provide assistance. They rely on each other and argue that survival craft are

not a necessity. The Coast Guard disagrees.

Day boat operations may be relatively safe under ideal conditions. However, if weather conditions worsen, the advantage of day boat operations, such as the proximity of other vessels, may be lost. For this reason, operation of a vessel in cold water without a survival craft on board is considered to be an unnecessary risk.

**Subpart C—Requirements for Documented Vessels That Operate Beyond the Boundary Lines or With More Than 16 Individuals on Board, or for Fish Tender Vessels Engaged in the Aleutian Trade**

*Section 28.200 Applicability*

This section describes the revised applicability proposed for this subpart. This section implements 46 U.S.C. 4502(b) of the Act as amended by the ATA. The requirements of this subpart would be in addition to the requirements in 46 CFR part 28, subparts A and B. The requirements would apply to all documented vessels that operate beyond the Boundary Lines; all documented vessels that operate with more than 16 individuals on board; and all fish tender vessels engaged in the Aleutian trade. The Boundary Lines are described in 46 CFR part 7, and the rules for documenting vessels are contained in 46 CFR subchapter G. "Aleutian trade" is defined in 46 CFR 28.50.

*Section 28.275 Acceptance Criteria for Instructors and Course Curricula*

Section 28.270 requires the master or individual in charge of a commercial fishing industry vessel to ensure that drills are conducted and instruction is given to each individual on board at least once a month and that each individual knows how to respond to certain contingencies. Subparagraph (c) of that section states that no individual may conduct the drills or provide the instruction unless that individual has been "trained in the proper procedures for conducting the activity."

In the preamble to the Final Rule (56 FR 40764, August 14, 1991) the Coast Guard recognized a need to establish standards and procedures for accepting instructors as qualified to conduct drills and perform instruction as required by § 28.270. The Coast Guard is now proposing a procedure for the acceptance of such instructors and curricula which is intended to be administratively efficient and flexible, but effective in ensuring that the Coast Guard accepted instructors, in fact, meet minimum standards of qualification, and

the curricula are evaluated for content and consistency.

The Coast Guard proposes to authorize the Officer in Charge, Marine Inspection (OCMI), in whose zone the training and instruction will take place, to issue a letter stating that the addressee is accepted as qualified under § 28.270(c) to conduct the drills and perform the instruction required by § 28.270(a), if the individual submits a written request and provides valid documents establishing the following facts to the OCMI's satisfaction. The individual:

1. Is licensed for operation of inspected vessels of 100 gross tons or more; or

2. Has at least one year (360 days) of underway, seagoing experience as a seaman on a U.S. documented commercial fishing industry vessel within five years prior to submitting the request, has not been denied a Coast Guard license or had a license suspended or revoked, and also meets one of the following criteria:

(a) Has been employed for at least one academic year as an instructor of seamanship, survival at sea, or other maritime safety related subject in a Coast Guard approved training course;

(b) Is certified as an instructor by the Coast Guard Auxiliary;

(c) Is certified as an instructor by the American Red Cross, American Heart Association, or the National Association of Underwater Instructors;

(d) Is certified as a firefighter with special training or unique experience in shipboard firefighting; or

(e) Is certified as a police officer with special training or experience in marine law enforcement; and

3. Has provided to the satisfaction of the OCMI, a detailed course summary outlining the curriculum of contingencies of § 28.270(a) required to be demonstrated, and the methods of instruction to be utilized.

An individual who is not able to qualify as an instructor under the above criteria would be permitted to request Coast Guard acceptance on the basis of documentation which establishes to the OCMI's satisfaction that the individual has received recent, specialized, professional training or experience which relate directly to the contingencies listed in § 28.270(a).

The Coast Guard would issue a letter of acceptance to any qualified individual. Each OCMI would maintain a list of accepted instructors in their zone. Letters of acceptance would be valid for a period of five years. Coast Guard accepted instructors would be permitted to issue documents which