

# Preventing oil spills

## Washington State's environmental tanker programme

### Captain Laura Stratton MNI

**T**he risk of major oil spills in Washington State waters is real and ever present. Washington is a major oil-refining centre: more than 15 billion gallons of oil and nearly 11,000 ocean-going ships moved through the Strait of Juan de Fuca in 2003; and these numbers are expected to increase. US Coast Guard (USCG) studies predict that the risk of vessel oil spills greater than 10,000 gallons will increase 28 per cent over the next 25 years, which amounts to one spill every 3.6 years.

In the early 1990s, after the tragic *Exxon Valdez* crude oil spill in Alaska, Washington State responded to the risk of a spill of similar magnitude in its own waters by creating its Office of Marine Safety (OMS). In collaboration between its own staff, including professional mariners, and mariners and executives from tanker-operating companies, OMS created 'best achievable protection' (BAP) mandatory standards for tankers and tank barges. It also developed marine oil spill prevention programmes for cargo, passenger and fishing vessels.

However, this state regulatory agency, which was funded by a tax on oil transported by tanker into Washington state, was opposed by many in the shipping industry, notably Intertanko. A powerful international consortium of tanker owners, Intertanko sued Washington on the grounds that regulating tank vessels is the job of the federal government, through the US Coast Guard, not an individual state. The case went as far as the US Supreme Court which, in 2000, ruled in favour of Intertanko. The grounds were that some of Washington's BAP standards were, indeed, pre-empted by federal maritime law; meanwhile the remaining ones were remanded to a lower court, to test them against the standards 'peculiar' to Washington State waters. In

response, the Washington Department of Ecology, which had taken over OMS responsibilities in 1997, repealed WAC 317-21, the mandatory code.

### Life after the lawsuit

In the years following the repeal of the BAP standards, the Department of Ecology has continued to operate a number of successful oil spill prevention programmes, including a voluntary programme. Washington's 'voluntary best achievable protection' (VBAP) programme for tankers gives safety-minded tanker owners and operators the chance to meet Washington's BAP standards *voluntarily*, and in doing so, significantly reduce the probability of an oil spill in Washington waters.

VBAP has a lot in common with the Rotterdam-based Green Award scheme. It gives companies with strong environmental and safety programmes the opportunity to make a clear statement that they are willing to meet the most stringent standards in environmental safety. The programme is considered an important risk management strategy by the Department of Ecology and a satisfactory, although not perfect, answer to the repeal of the state law requiring the stringent standards.

### VBAP

At the time when enforcement of WAC 317-21 was suspended, in 2000, 135 tanker owner/operators had submitted mandatory oil spill prevention plans to the Washington State Department of Ecology. After the Intertanko ruling, these companies no longer had to meet BAP standards. However by June 2001, 34 of the 135 (30 tanker companies and four tank barge companies) had officially enrolled in Washington's VBAP voluntary programme. These 34 owner/operators represented approximately 25 per cent of the tanker owner/operators trading in state waters.

The fact that they enrolled voluntarily suggests that they agree that these standards represent some of the best marine safety and environmental protection practices found on tank vessels today.

Washington State feels strongly that these participating companies deserve to be publicly recognised for their willingness to work with the state to continually enhance their vessels' environmental safety programmes. Their names and details are posted on the VBAP list at the 'Spills Program' website <[www.ecy.wa.gov/programs/spills/spills.html](http://www.ecy.wa.gov/programs/spills/spills.html)> which is visited 3,000 to 5,000 times a month by a diverse array of people and organisations,



▲ In 1999 Sea River Maritime Inc became the first company to satisfy the ECOPRO standards. Pictured left to right: Captain Richard Knoop (Master of the *S/R Baytown*) retired; Captain Laura Stratton MNI; Lori Crews, Stan Norman MNI, Captain John Karakoulakis, Chief Engineer Kevin McGeary, Chief Engineer John Botte, Captain Guy Grayson MNI.

including oil shippers, veters, and charterers.

The programme grants companies associate member status on the VBAP list after a review of their oil spill prevention plan indicates they are meeting the best achievable protection standards. The plans provide supporting evidence, such as excerpts from safety management systems to verify that the company's policies and procedures meet the standards.

An inspection of the company's vessels by Department of Ecology inspectors (who are all licenced unlimited tonnage deck officers or unlimited horsepower engineers) is performed to confirm that they are operating according to the standards. The company is then granted full member status. To maintain active membership status, companies keep their prevention plans complete and up-to-date and inspectors board and inspect their vessels every three years to renew their membership.

Some companies have such strong environmental safety cultures that they want to do even more than meet Washington's VBAP standards. For these companies, there is the 'exceptional compliance programme' (ECOPRO) for tankers. ECOPRO standards exceed VBAP, further increasing the level of marine safety on board tank vessels enrolled in the programme.

## VBAP and ECOPRO

VBAP and ECOPRO standards are organised into four categories: operating procedures, personnel policies, management practices, and marine safety technology. These were written before the ISM Code was implemented and reflect Washington's philosophy that human error and management issues are the root causes for most oil spills. A vessel which has a good ISM safety management system in place is usually able to meet Washington's additional standards without too much difficulty.

The VBAP standards are designed to fill important safety gaps which Washington State has identified as critical for our waters. An example of this is the VBAP standard for anchor watch, in which a licenced deck officer or other qualified person maintains a watch *on the bridge* at all times while the tanker is at anchor; the position of the vessel at anchor is continuously monitored; and the ship's position is recorded manually or electronically at least once each hour.

Neither the ISM Code nor STCW requires this level of vigilance while at

anchor. The anchor watch standard was derived from lessons learnt from not uncommon anchor dragging incidents in Washington State waters, usually due to strong currents and sudden high winds.

Another example of filling a gap left open by international and federal regulatory regimes is Washington State's requirement for written emergency procedures; for example outlining preparations for emergency towing. While the ISM Code requires companies to address emergency procedures, VBAP standards list specific emergencies for which procedures must be drawn up and encourage companies to focus on emergency procedures they feel are particularly relevant to their vessels.

To examine each of the VBAP and ECOPRO standards for tank vessels in detail, and to view the list of companies currently participating, please visit [www.ecy.wa.gov/programs/spills/prevention/bap/bapbase.htm](http://www.ecy.wa.gov/programs/spills/prevention/bap/bapbase.htm)

## Successful programme

To date, four companies have earned ECOPRO full member status, meaning that not only have their ECOPRO prevention plans been approved, but their tankers have passed ECOPRO inspections to verify they are actually doing everything they say in their plans.

Of these four ECOPRO full-member companies, two – SeaRiver Maritime Inc and Alaska Tanker Company, LLC – participate in the Trans Alaska Pipeline System (TAPS) trade, in which they transport oil from Valdez, Alaska, to U.S. west coast ports. These are two of the three major companies that participate in the TAPS trade. The third, Polar Tankers, (which is owned by ConocoPhillips) has not yet enrolled in Washington's voluntary programme for tankers, but the state has been lobbying it to join for some time.

The other two ECOPRO full members, MTM Ship Management of Singapore and Thenamaris Ships Management of Athens, do not participate in the TAPS trade because US law forbids a non-US registered ship to move cargo or passengers between two US ports (Jones Act of 1926).

This ECOPRO membership represents approximately 60 per cent of crude oil tanker entries into Washington State waters during 2003. Currently two tank barge companies, one US and one Canadian, are pursuing upgrades from VBAP to ECOPRO. One of these companies exclusively operates articulated tug barges (ATBs) and the other company operates a combination of ATBs and conventional

tank barges. They are expected to be the first tank barge companies to achieve this honour.

Although it cannot be unequivocally proven that prevention programmes have prevented oil spills, data comparing tanker transits and the number of marine casualties and spills before and after the inception of this programme strongly suggests that it has helped significantly in reducing the number of spills and the volume of oil spilled. Spills have dropped from about 640,000 gallons in 1991 to 11,000 gallons in 2003, according to a *Seattle Post-Intelligencer* analysis. In addition, a number of key people in the oil transportation business have positive things to say about Washington's VBAP and ECOPRO programmes. For example,

- 'The ECOPRO Award means that SeaRiver is achieving best-of-industry performance and is working in harmony with Washington State to achieve operational excellence goals': *Gus Elmer, Former President of SeaRiver Maritime, Inc.*

- 'Our crews have learned a lot from Washington's ECOPRO programme and are using this in similarly sensitive waters around the world. Implementing the ECOPRO standards and pursuing excellence in our daily activities has made us a better organisation overall': *Executive director of a major Greek tanker company*

- 'Washington's regulations were remarkably well thought out and, without a doubt, effectively reduced the risk of a serious oil spill in the Pacific Northwest. Intertanko and the oil companies should now voluntarily comply with these reasonable requirements and demonstrate their commitment to prevention, which everyone agrees is far cheaper than clean up': *Maritime Executive Magazine*

Now in its fifth year of operation, our voluntary programme continues to thrive. Companies are realising benefits beyond reducing the probability of oil spills. Several have reported significant savings in insurance claims and premiums, due at least in part, to their participation in these programmes. The highly motivated, proactive companies enrolled in VBAP or ECOPRO have shown that in their view, money and effort spent on marine safety and reducing the risk of marine casualties and oil spills is money and effort well spent.