IN THE BOARD OF COMMISSIONERS

FOR THE PORT OF ASTORIA

ORDINANCE NO. 2009-02	)	AN ORDINANCE ESTABLISHING POLICY AND PROCEDURES FOR SUPPLYING FUEL AT PORT OF ASTORIA PIER FACILITIES AND REPEALING ORDINANCE 90-01

The Board of Commissioners of the Port of Astoria ordains as follows:

SECTION 1. SHORT TITLE

This ordinance shall be entitled and shall be known as the "Ordinance Establishing Policy and Procedures for Supplying Fuel at Port Pier Facilities".

SECTION 2. PURPOSE

The purpose of this ordinance is to establish policy and procedures for fueling of vessels by truck at Port deep-water piers facilities. This ordinance will set forth the rules governing the public's use of Port docking facilities for fueling vessels, and establish user fees for fueling at Port pier facilities.

SECTION 3. CONFORMANCE OF STATE LAW

This ordinance shall not substitute for nor eliminate the necessity for conformity with any and all laws or rules of the State of Oregon, or its agencies, or any ordinance, rule, or regulation of the Port of Astoria, Terminal Tariff #10, or subsequent adopted Terminal Tariffs.

SECTION 4. INCONSISTENT PROVISIONS

This ordinance shall supersede, control and repeal any inconsistent provision of any Port of Astoria ordinance as amended or any other regulations made by the Port of Astoria. Ordinance 90-01 is repealed.

SECTION 5. SEPARABILITY

If any section, subsection, sentence, clause, phrase or portion of this ordinance is for any reason held invalid or unconstitutional by a Court of competent jurisdiction, such portion shall be deemed a separate, distinct and independent provision and such holding shall not effect the validity of the remaining portions of this ordinance.

SECTION 6. AUTHORITY

This ordinance is adopted pursuant to ORS 777.120 and ORS 198.510 et seq.

SECTION 7. EFFECTIVE DATE

This ordinance shall take effect on the 30th day following adoption by the Board of Port Commissioners as provided in ORS 198.570.

SECTION 8.

The Board of Commissioners of the Port of Astoria hereby adopts the Fueling Procedures attached as Exhibit A hereto and by this reference made a part of this ordinance in its entirety.

BOARD OF PORT COMMISSIONERS FOR
THE PORT OF ASTORIA

Effective date: 12-17-09

By: _____
President

Approved as to form:

_____
Attorney

Exhibit A
Fueling Procedures

1. **Applicability.** These fueling regulations and procedures shall apply to any person, corporation, partnership or any other entity (hereinafter referred to as "Supplier") that engages in the provision of marine fuel on property of the Port of Astoria.

2. **Compliance with all Applicable Statutes, Codes and Regulations.** Each Supplier shall comply in all respects with all applicable Federal and State law and regulations, including but not limited to environmental regulations and laws.

3. **Trained Personnel.** Supplier shall only use personnel that are properly trained and have all the necessary certifications to fuel marine vessels.

4. **Operations Manual, Contingency and Spill Prevention Plans.** Supplier shall have, as part of its current and updated Operations Manual, Contingency Plans and Spill Prevention Plans (collectively referred to as the "Plans"), including sections relating to the fueling of marine vessels. The Plans will, at a minimum, provide a means and method of containing any fuel spill at the Port. In this regard, Supplier will be responsible for developing the Plans that are required of the "owner or operator of a facility" under applicable statutes and regulations.

5. **Inspection and Approval of Certifications and Plans by the Port.** The right to fuel marine vessels shall be subject to the right of the Port to inspect and approve Supplier's applicable certifications and Plans. Supplier shall promptly provide copies of the certifications, plans and other documentation to the Port at the Port's request.

6. **Delivery in Approved Trucks.** All Suppliers may provide fueling services only from vehicles specifically designed for and licensed for the transportation of bulk fuel.

7. **Notification to the Port of Any Release or Discharge of Petroleum.** A Supplier shall immediately notify the Port of any release or discharge of any petroleum product of one quart U.S. or greater, onto any Port property or into the waters adjacent thereto. The notification will include: (a) the date and time of the release; (b) the exact location of the release; (c) the estimated amount of the release (d) the type of product released; (e) and the steps taken to mitigate the release.

7.1 **Further Cooperation.** Supplier shall further cooperate with the Port by providing such other information as the Port may reasonably request concerning the release.

7.2 **Mitigation of Release.** Use of dispersants, such as liquid soaps, are STRICTLY PROHIBITED.

8. **Hold Harmless Agreement.** Each Supplier shall indemnify, release, defend and hold harmless the Port, its commissioners and employees from any and all claims, demands, damages and fines related to or arising from: (i) a violation of environmental laws; (ii) the release of any Hazardous Substance by Supplier on Port Property or into the waters adjacent thereto; or (iii) any and all losses, claims, demands, liability, damages or fines related to or arising from a violation of this Ordinance, and (iv) any and all claims, demands, damages or fines relating to or arising from fueling activities conducted on Port property. Without limiting the foregoing, the above shall extend to the reasonable costs incurred by the Port in investigating, documenting, mitigating or otherwise responding to any release of petroleum products caused by Supplier. The term "Hazardous Substance," as used herein, shall mean any substance heretofore or hereafter designated as hazardous under environmental laws. No Supplier shall deliver or provide fuel on Port of Astoria property unless the Supplier has executed the Release and Hold Harmless Agreement attached and incorporated as Exhibit A.

9. **Insurance.** Each Supplier shall maintain the following insurance coverage with at least the stated dollar coverage per occurrence:

a. Commercial General Liability Insurance		$ 2,000,000
b. Pollution Insurance for fuel spills resulting from The loading or unloading of petroleum products In the amount of		$ 2,000,000
c. Deductible	No more than	$ 25,000

Prior to commencing fueling activities on Port property, Supplier shall provide the Port with a Certificate of Insurance showing the foregoing policies, the amount of the insurance and the Port named as additional insured. Port shall be entitled to 45 days notice of cancellation, amendment or change of insurance. At the request of the Port, Supplier shall provide the actual insurance policy for review and approval by the Port. No Supplier shall supply fuel on Port property without the aforementioned insurance in full force and effect.