



LAWS OF ALASKA

2000

Source

HCS CSSB 273(WTR)

Chapter No.

128

AN ACT

Regarding oil discharge prevention, and relating to contingency plans and proof of financial responsibility for all self-propelled nontank vessels exceeding 400 gross registered tonnage and for railroad tank cars; and providing for an effective date.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:

THE ACT FOLLOWS ON PAGE 1

Approved by the Governor: June 6, 2000

Actual Effective Date: Section 5 and 6 take effect June 7, 2000; remainder of Act takes effect September 1, 2000

AN ACT

1 Regarding oil discharge prevention, and relating to contingency plans and proof of financial
2 responsibility for all self-propelled nontank vessels exceeding 400 gross registered tonnage and
3 for railroad tank cars; and providing for an effective date.

4

5 * **Section 1.** AS 46.04 is amended by adding a new section to read:

6 **Sec. 46.04.055. Nontank vessels and railroad tank cars.** (a) A person may
7 not cause or permit the operation of a nontank vessel within the waters of the state or
8 cause or permit the transfer of oil to or from a nontank vessel unless the person has
9 furnished to the department and the department has approved proof of financial ability
10 to respond to damages meeting the requirements of AS 46.04.040. Proof of financial
11 responsibility required under this subsection is subject to adjustment of dollar amounts
12 under AS 46.04.045 and is established, for a nontank vessel that carries

13 (1) predominantly persistent product, at \$300 per incident for each

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1 barrel of oil storage capacity on the vessel or \$5,000,000, whichever is greater; and

2 (2) predominantly nonpersistent product, at \$100 per incident for each
3 barrel of oil storage capacity on the vessel or \$1,000,000, whichever is greater.

4 (b) A person may not transport oil by railroad tank car or cause or permit the
5 transfer of oil to or from a railroad tank car unless the person has furnished to the
6 department and the department has approved proof of financial ability to respond to
7 damages meeting the requirements of AS 46.04.040. Proof of financial responsibility
8 required under this subsection is subject to adjustment of dollar amounts under
9 AS 46.04.045 and is established at

10 (1) \$300 per incident for each barrel of persistent product based on the
11 maximum amount of persistent product storage capacity of any train on the railroad;
12 and

13 (2) \$100 per incident for each barrel of nonpersistent product based
14 upon the maximum amount of nonpersistent product storage capacity of any train on
15 the railroad or \$1,000,000, whichever is greater.

16 (c) For purposes of AS 46.04.030(k), response planning standards apply to
17 nontank vessels and railroad tank cars as follows:

18 (1) for a nontank vessel,

19 (A) containment and control of 15 percent of the maximum oil
20 capacity of the nontank vessel within 48 hours; and

21 (B) cleanup of the discharge within the shortest possible time
22 consistent with minimizing damage to the environment; and

23 (2) for a railroad tank car,

24 (A) containment and control of 15 percent of the maximum oil
25 capacity of a train on the railroad within 48 hours; and

26 (B) cleanup of the discharge within the shortest possible time
27 consistent with minimizing damage to the environment.

28 (d) Notwithstanding the requirements of AS 46.04.040(e) and (l) and
29 46.04.047, for purposes of (a) of this section, an applicant may provide evidence of
30 financial responsibility by proof of entry of the nontank vessel in a protection and
31 indemnity association or proof of coverage with another insurer that

1 (1) is financially solvent and has a favorable history of claim handling;

2 (2) provides coverage against pollution risks in at least the amount of
3 the financial responsibility required under (a) of this section without any requirement
4 for a special endorsement;

5 (3) does not agree to be subject to direct action in court or to
6 appointment of an agent for service of process; and

7 (4) in the case of a protection and indemnity association or group of
8 insureds, is not authorized by the Department of Community and Economic
9 Development to sell insurance in the state so long as it is not listed by the Department
10 of Community and Economic Development as being disapproved for use in the state.

11 (e) The requirements of (a) - (d) of this section do not apply to a nontank
12 vessel operating in the waters of the state if the nontank vessel

13 (1) is engaged in innocent passage; for purposes of this paragraph, a
14 nontank vessel is engaged in innocent passage if its operation in state waters,
15 irrespective of whether it is a United States or foreign-flag vessel, would constitute
16 innocent passage under the Convention on the Territorial Sea and the Contiguous Zone,
17 April 29, 1958, 15 U.S.T. 1606, or the United Nations Convention on the Law of the
18 Sea 1982, December 10, 1982, U.N. Publication No. E 83.V.5, 21 I.L.M. 1261 (1982),
19 were the vessel a foreign-flag vessel;

20 (2) enters state waters because of imminent danger to the crew, or in
21 an effort to prevent an oil spill or other harm to public safety or the environment, and
22 are inapplicable only until the vessel is able to leave state waters as soon as it may do
23 so without imminent risk of harm to the crew, public safety, or the environment; or

24 (3) enters state waters after the United States Coast Guard has
25 determined that the vessel is in distress, and are inapplicable only until the vessel is
26 able to leave state waters as soon as it may do so without imminent risk of harm to
27 the crew, public safety, or the environment.

28 * Sec. 2. AS 46.04.900(12) is amended to read:

29 (12) "oil terminal facility" means an onshore or offshore facility of any
30 kind, and related appurtenances, including but not limited to a deepwater port, bulk
31 storage facility, or marina, located in, on, or under the surface of the land or waters

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1 of the state, including tide and submerged land, that [WHICH] is used for the purpose
2 of transferring, processing, refining, or storing oil; a vessel, other than a nontank
3 vessel, is considered an oil terminal facility only when it is used to make a ship-to-ship
4 transfer of oil, and when it is traveling between the place of the ship-to-ship transfer
5 of oil and an oil terminal facility;

6 * Sec. 3. AS 46.04.900(21) is amended to read:

7 (21) "vessel" includes tank vessels, [AND] oil barges, and nontank
8 vessels;

9 * Sec. 4. AS 46.04.900 is amended by adding new paragraphs to read:

10 (24) "nonpersistent product" has the meaning given to "non-persistent
11 or Group I oil" in 33 C.F.R. 155.1020;

12 (25) "nontank vessel" means a self-propelled watercraft of more than
13 400 gross registered tons; in this paragraph, "watercraft" includes commercial fishing
14 vessels, commercial fish processor vessels, passenger vessels, and cargo vessels, but
15 does not include a tank vessel, oil barge, or public vessel;

16 (26) "persistent product" has the meaning given to "persistent oil" in
17 33 C.F.R. 155.1020;

18 (27) "public vessel" means a vessel that is operated by and is either
19 owned or bareboat chartered by the United States, a state or a political subdivision of
20 that state, or a foreign nation, except when the vessel is engaged in commerce;

21 (28) "railroad tank car" means rolling stock used to transport oil in bulk
22 as cargo by rail;

23 (29) "train" means connected rolling stock operated as a single moving
24 vehicle on rails; for purposes of this paragraph, "connected rolling stock" includes
25 railroad tank cars.

26 * Sec. 5. The uncodified law of the State of Alaska is amended by adding a new section
27 to read:

28 TASK FORCE ON MOTORIZED OIL TRANSPORT. (a) There is established a Task
29 Force on Motorized Oil Transport within the Department of Environmental Conservation.

30 (b) The Task Force on Motorized Oil Transport shall

31 (1) determine how to implement the response planning standards set out in

1 AS 46.04.055(c), added by sec. 1 of this Act, for nontank vessel and railroad tank car
2 contingency plans; and

3 (2) deliver a report to the Twenty-Second Alaska State Legislature on or before
4 the first day the legislature convenes that contains its recommendations with respect to
5 implementation of the response planning standards set out in AS 46.04.055.

6 * Sec. 6. The uncodified law of the State of Alaska is amended by adding a new section
7 to read:

8 REGULATIONS. The Department of Environmental Conservation shall proceed to
9 adopt regulations necessary to implement the changes made by this Act. The regulations take
10 effect under AS 44.62 (Administrative Procedure Act), but not before the effective date of
11 secs. 1 - 4 of this Act.

12 * Sec. 7. Sections 5 and 6 of this Act take effect immediately under AS 01.10.070(c).

13 * Sec. 8. Except as provided in sec. 7 of this Act, this Act takes effect September 1, 2000.