

**SENATE BILL NO. 273**

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-FIRST LEGISLATURE - SECOND SESSION

BY SENATOR PEARCE

Introduced: 2/15/00

Referred: Resources, Finance

**A BILL**

**FOR AN ACT ENTITLED**

1 "An Act requiring oil discharge prevention and contingency plans and proof of  
2 financial responsibility for nontank vessels and railroad tank cars; authorizing  
3 inspection of nontank vessels and trains; and providing for an effective date."

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

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

9 (1) effective June 1, 2001, an oil discharge prevention and contingency  
10 plan has been approved by the department and the person is in compliance with the  
11 plan; a plan under this paragraph is subject to the requirements of AS 46.04.030; and

12 (2) the person has furnished to the department and the department has  
13 approved proof of financial ability to respond to damages meeting the requirements of  
14 AS 46.04.040; proof of financial responsibility required under this paragraph is subject

1 to adjustment of dollar amounts under AS 46.04.045 and is established, for a nontank  
2 vessel that carries

3 (A) persistent product as fuel or in bulk, at \$300 per incident  
4 for each barrel of persistent product storage capacity or \$5,000,000, whichever  
5 is greater; and

6 (B) nonpersistent product, at \$100 per incident for each barrel  
7 of nonpersistent product storage capacity or \$1,000,000, whichever is greater.

8 (b) A person may not transport oil by railroad tank car or cause or permit the  
9 transfer of oil to or from a railroad tank car unless

10 (1) effective June 1, 2001, an oil discharge prevention and contingency  
11 plan has been approved by the department and the person is in compliance with the  
12 plan; a plan under this paragraph is subject to the requirements of AS 46.04.030; and

13 (2) the person has furnished to the department and the department has  
14 approved proof of financial ability to respond to damages meeting the requirements of  
15 AS 46.04.040; proof of financial responsibility required under this paragraph is subject  
16 to adjustment of dollar amounts under AS 46.04.045 and is established at

17 (A) \$300 per incident for each barrel of persistent product based  
18 on the maximum amount of persistent product storage capacity of any train on  
19 the railroad; and

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

23 (c) Effective June 1, 2001, for purposes of AS 46.04.030(k), response planning  
24 standards apply to nontank vessels and railroad tank cars as follows:

25 (1) for a nontank vessel contingency plan required by (a)(1) of this  
26 section,

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

29 (B) cleanup of the discharge within the shortest possible time  
30 consistent with minimizing damage to the environment;

31 (2) for a railroad tank car contingency plan required by (b)(1) of this

1 section,

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

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

6 (d) In place of the requirements of (a)(1) and (b)(1) of this section, the  
7 department may adopt regulations by negotiated regulation making under AS 44.62.710  
8 - 44.62.800 to provide for alternative means to obtain equivalent levels of spill  
9 prevention and response.

10 \* **Sec. 2.** AS 46.04.060 is amended to read:

11 **Sec. 46.04.060. Inspections.** (a) In addition to other rights of access or  
12 inspection conferred upon the department by law or otherwise, the department may at  
13 reasonable times and in a safe manner enter and inspect oil terminal facilities,  
14 pipelines, exploration and production facilities, tank vessels, nontank vessels, trains,  
15 and oil barges in order to

16 (1) ensure compliance with the provisions of this chapter; or

17 (2) participate in an examination of the structural integrity and the  
18 operating and mechanical systems of those vessels, barges, trains, pipelines, and  
19 facilities by federal and state agencies with jurisdiction.

20 (b) When the department determines that no federal or state agencies with  
21 jurisdiction are performing timely and adequate inspections of an oil terminal facility,  
22 pipeline, exploration or production facility, tank vessel, nontank vessel, train, or oil  
23 barge, it may perform its own inspection of the structural integrity and operating and  
24 mechanical systems of a facility, pipeline, tank vessel, nontank vessel, train, or oil  
25 barge by using personnel with qualifications in the areas being inspected.

26 \* **Sec. 3.** AS 46.04.060 is amended by adding a new subsection to read:

27 (c) For purposes of this section, "train" includes tracks, associated facilities,  
28 and operations.

29 \* **Sec. 4.** AS 46.04.900(12) is amended to read:

30 (12) "oil terminal facility" means an onshore or offshore facility of any  
31 kind, and related appurtenances, including but not limited to a deepwater port, bulk

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

7 \* **Sec. 5.** AS 46.04.900(21) is amended to read:

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

10 \* **Sec. 6.** AS 46.04.900 is amended to add new paragraphs to read:

11 (24) "nonpersistent product" means oil that is not a persistent product;

12 (25) "nontank vessel" means any watercraft of 300 gross registered tons  
 13 or greater that has an oil storage capacity of greater than 6,000 gallons of oil; in this  
 14 paragraph, "watercraft" includes commercial fish processor vessels, passenger vessels,  
 15 and cargo vessels, but does not include a tank vessel, oil barge, or public vessel;

16 (26) "persistent product" means

17 (A) crude oil;

18 (B) a refined oil product with a common name such as bunker  
 19 C, number 6, Chevron residual, or lube oil; or

20 (C) other oil with similar viscosity, degradability, and  
 21 dispersability;

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

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

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

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

1           TRANSITIONAL PROVISIONS: REGULATIONS. The Department of Environmental  
2 Conservation may proceed to adopt regulations necessary to implement the changes made by  
3 this Act. The regulations take effect under AS 44.62 (Administrative Procedure Act), but not  
4 before the effective date of secs. 1 - 6 of this Act.

5       \* **Sec. 8.** Section 7 of this Act takes effect immediately under AS 01.10.070(c).

6       \* **Sec. 9.** Except as provided in sec. 8 of this Act, this Act takes effect September 1, 2000.