

**ALASKA STATE LEGISLATURE  
HOUSE RULES STANDING COMMITTEE**

April 6, 2005

8:39 a.m.

**MEMBERS PRESENT**

Representative Norman Rokeberg, Chair  
Representative John Coghill, Vice Chair  
Representative John Harris  
Representative Vic Kohring  
Representative Lesil McGuire  
Representative Ethan Berkowitz  
Representative Beth Kerttula

**MEMBERS ABSENT**

All members present

**COMMITTEE CALENDAR**

HOUSE BILL NO. 35

"An Act extending the termination date of the State Board of Registration for Architects, Engineers, and Land Surveyors; and providing for an effective date."

- MOVED HB 35 OUT OF COMMITTEE

HOUSE BILL NO. 197

"An Act exempting certain natural gas exploration and production facilities from oil discharge prevention and contingency plans and proof of financial responsibility, and amending the powers and duties of the Alaska Oil and Gas Conservation Commission with respect to those plans; and providing for an effective date."

- MOVED CSHB 197(RLS) OUT OF COMMITTEE

**PREVIOUS COMMITTEE ACTION**

BILL: HB 35

SHORT TITLE: EXTEND BD ARCHITECTS/ENGINEERS/SURVEYORS

SPONSOR(S): REPRESENTATIVE(S) KOHRING

01/10/05	(H)	PREFILE RELEASED 12/30/04
01/10/05	(H)	READ THE FIRST TIME - REFERRALS
01/10/05	(H)	L&C, FIN

01/26/05 (H) L&C AT 3:15 PM CAPITOL 17  
 01/26/05 (H) Scheduled But Not Heard  
 01/31/05 (H) L&C AT 3:15 PM CAPITOL 17  
 01/31/05 (H) Moved Out of Committee  
 01/31/05 (H) MINUTE(L&C)  
 02/02/05 (H) L&C RPT 6DP  
 02/02/05 (H) DP: LYNN, KOTT, LEDOUX, GUTTENBERG,  
 ROKEBERG, ANDERSON  
 02/28/05 (H) FIN AT 1:30 PM HOUSE FINANCE 519  
 02/28/05 (H) Heard & Held  
 02/28/05 (H) MINUTE(FIN)  
 03/01/05 (H) FIN AT 1:30 PM HOUSE FINANCE 519  
 03/01/05 (H) Moved CSHB 35(FIN) Out of Committee  
 03/01/05 (H) MINUTE(FIN)  
 03/02/05 (H) FIN RPT CS(FIN) NT 4DP 1DNP 4NR  
 03/02/05 (H) DP: HAWKER, FOSTER, MOSES, CROFT;  
 03/02/05 (H) DNP: STOLTZE;  
 03/02/05 (H) NR: JOULE, WEYHRAUCH, MEYER, CHENAULT  
 04/06/05 (H) RLS AT 8:30 AM CAPITOL 106

BILL: HB 197

SHORT TITLE: OIL SPILL EXEMPTIONS FOR GAS WELLS

SPONSOR(S): OIL & GAS

03/03/05 (H) READ THE FIRST TIME - REFERRALS  
 03/03/05 (H) O&G, RES  
 03/15/05 (H) O&G AT 5:00 PM CAPITOL 124  
 03/15/05 (H) Moved Out of Committee  
 03/15/05 (H) MINUTE(O&G)  
 03/16/05 (H) O&G RPT 5DP 1NR  
 03/16/05 (H) DP: SAMUELS, GARDNER, DAHLSTROM,  
 ROKEBERG, KOHRING;  
 03/16/05 (H) NR: KERTTULA  
 03/21/05 (H) RES AT 1:00 PM CAPITOL 124  
 03/21/05 (H) Heard & Held  
 03/21/05 (H) MINUTE(RES)  
 03/23/05 (H) RES AT 1:00 PM CAPITOL 124  
 03/23/05 (H) Moved CSHB 197(RES) Out of Committee  
 03/23/05 (H) MINUTE(RES)  
 03/29/05 (H) RES RPT CS(RES) 2DP 3NR 2AM  
 03/29/05 (H) DP: ELKINS, SEATON;  
 03/29/05 (H) NR: OLSON, KAPSNER, LEDOUX;  
 03/29/05 (H) AM: GATTO, SAMUELS  
 04/06/05 (H) RLS AT 8:30 AM CAPITOL 106

**WITNESS REGISTER**

LARRY DIETRICK, Director  
Division of Spill Prevention & Response  
Department of Environmental Conservation (DEC)  
Juneau, Alaska

POSITION STATEMENT: During discussion of HB 197, answered questions.

**ACTION NARRATIVE**

**CHAIR NORMAN ROKEBERG** called the House Rules Standing Committee meeting to order at [8:39:22 AM](#). Representatives Rokeberg, Harris, Coghill, Kohring, and McGuire were present at the call to order. Representative Berkowitz arrived as the meeting was in progress.

HB 35-EXTEND BD ARCHITECTS/ENGINEERS/SURVEYORS

[8:39:46 AM](#)

CHAIR ROKEBERG announced that the first order of business would be HOUSE BILL NO. 35, "An Act extending the termination date of the State Board of Registration for Architects, Engineers, and Land Surveyors; and providing for an effective date."

[8:39:50 AM](#)

REPRESENTATIVE KOHRING explained that HB 35 extends the State Board of Registration for Architects, Engineers, and Land Surveyors to 2009. Based on a recent audit from the Legislative Audit Division there is a compelling reason to extend this board. In the House Finance Committee, the position landscape architect was added as a voting member upon the request of the [board]. However, since that time [the board] has decided to return to the current statute, which specifies 10 members and doesn't allow the landscape architect to vote. The feeling was that there aren't enough landscape architects in the state to warrant full voting membership.

[8:41:57 AM](#)

REPRESENTATIVE HARRIS asked if Representative Kohring was offering an amendment to that effect.

REPRESENTATIVE KOHRING said that he would be happy to offer the amendment at the appropriate time.

[8:42:15 AM](#)

REPRESENTATIVE COGHILL inquired as to why landscape architects were included as a voting member.

REPRESENTATIVE KOHRING recalled that in the House Finance Committee it was felt that the landscape architect industry has evolved to the point at which there are enough people in the industry to be a player in the process, and therefore have an equivalent position as other members on the board. However, there was testimony, including from Representative Holm who is in the industry, that there aren't enough landscape architects in the industry to be a full voting member of the board.

[8:43:45 AM](#)

CHAIR ROKEBERG recalled that about six to eight years ago, landscape architects were added to the board and there was a substantial controversy at that time. The legislature allowed the landscape architects to be a nonvoting member of the board. This has been an ongoing controversy, he noted.

[8:44:46 AM](#)

REPRESENTATIVE KOHRING moved that the committee adopt Amendment 1, labeled 24-LS0273\G.1, Bannister, 4/2/05, which read:

Page 1, lines 2 - 3:

Delete "**relating to the membership of the State Board of Registration for Architects, Engineers, and Land Surveyors;**"

Page 1, line 9, through page 2, line 17:

Delete all material.

Renumber the following bill section accordingly.

REPRESENTATIVE HARRIS objected.

REPRESENTATIVE KOHRING specified that Amendment 1 would allow the landscape architect to remain on the board, although it would remove the landscape architect's voting ability.

[8:45:40 AM](#)

REPRESENTATIVE KOHRING withdrew his motion to adopt Amendment 1.

[8:45:58 AM](#)

REPRESENTATIVE KOHRING moved to adopt HB 35, Version 24-LS0273\A as the working document.

REPRESENTATIVE MCGUIRE objected, and requested that someone from the State Board of Registration for Architects, Engineers, and Land Surveyors come by to discuss this more. She then withdrew her objection.

REPRESENTATIVE KOHRING said he would make arrangements for such a visit with a member of the board.

REPRESENTATIVE ROKEBERG requested that Representative Kohring obtain a letter from the Professional Design Council in order to allay concerns.

REPRESENTATIVE HARRIS requested a letter from the landscape architects because audit recommendation 3 specifies that the legislature should consider making the landscape architect member a voting member.

[Although it was not formally announced, the committee treated HB 35 as adopted and before it.]

The committee took an at-ease from 8:48 a.m. to 8:49 a.m.

[8:50:15 AM](#)

REPRESENTATIVE HARRIS moved to report HB 35, Version 24-LS0273\A, out of committee with individual recommendations and the accompanying fiscal notes. There being no objection, HB 35 was reported from the House Rules Standing Committee.

#### HB 197-OIL SPILL EXEMPTIONS FOR GAS WELLS

CHAIR ROKEBERG announced that the final order of business would be HOUSE BILL NO. 197, "An Act exempting certain natural gas exploration and production facilities from oil discharge prevention and contingency plans and proof of financial responsibility, and amending the powers and duties of the Alaska Oil and Gas Conservation Commission with respect to those plans; and providing for an effective date."

[8:50:28 AM](#)

REPRESENTATIVE KOHRING related that HB 197 is supported by the administration as well as the oil and gas industry. This legislation, he explained, provides an exemption for oil spill contingency plans (C-Plan) for natural gas exploration or development facilities. The aforementioned facilities are exempt from putting forth C-Plans, which can be expensive and time consuming, when there is no potential for oil to be found during the drilling of natural gas. However, he recalled that in the House Resources Standing Committee there was the desire to provide greater clarity with the legislation's language in order to focus on exploration facilities that relate only to natural gas. Therefore, the added language [on lines 14-15] of page 3 of the proposed committee substitute (CS) provides that desired clarification.

[8:52:09 AM](#)

REPRESENTATIVE KOHRING moved to adopt CSHB 197, Version 24-LS0664\Y, Chenoweth, 3/31/05, as the working document.

REPRESENTATIVES MCGUIRE and HARRIS objected.

REPRESENTATIVE KOHRING, in response to Chair Rokeberg, specified that Version Y includes the language of the version reported from the House Resources Standing Committee with the additional clarification [provided on page 3, lines 14-15].

[8:54:01 AM](#)

REPRESENTATIVE HARRIS requested that Mr. Dietrick review the changes from the House Resources Standing Committee's version and Version Y.

[8:54:27 AM](#)

LARRY DIETRICK, Director, Division of Spill Prevention & Response, Department of Environmental Conservation (DEC), explained that on page 3, line 13, of CSHB 197(RES) referred to "refined petroleum products", which was deleted in the last amendment. However, the definition of crude oil is also used on line 20. The effect of taking "refined petroleum products" out of the definition, but leaving it on line 20, basically lowers the threshold for when oil terminal facilities would have to obtain a C-Plan from the current 10,000 barrels to any amount. The aforementioned is not the intent. Therefore, Version Y eliminates both definitions and makes it clear that the exemption only applies to natural gas facilities.

REPRESENTATIVE HARRIS surmised then that this legislation does not impact any crude oil facility.

MR. DIETRICK replied yes, and opined that Section 4 of Version Y makes it clear by eliminating the definitions for crude oil and refined natural gas. He highlighted page 3, line 14, where it says "mean a platform, facility, or structure that, except for storage of refined petroleum products in a quantity that does not exceed 10,000 barrels,". Therefore, the exemptions [in Version Y] only apply to natural gas.

REPRESENTATIVE HARRIS requested a description of a 10,000 barrel refinery in Alaska.

MR. DIETRICK specified that the definition is for an oil terminal, for which a C-Plan is required when the combined storage at the oil terminal is over 10,000 barrels, which amounts to 420,000 gallons. Such facilities are large facilities and wouldn't include most of the smaller facilities in rural Alaska.

[8:57:29 AM](#)

CHAIR ROKEBERG surmised then that the 10,000 barrel threshold is currently in law. He further surmised that this legislation is intended for any facility that has refined products for use on its site.

MR. DIETRICK agreed. He reiterated that [CSHB 197(RES)] would've effectively lowered the threshold "from 10,000 barrels for any amount" and thus a C-Plan would be required. The aforementioned wasn't the department's intent, he said.

[8:59:21 AM](#)

REPRESENTATIVE BERKOWITZ inquired as to the break point for the number of platforms, facilities, or structures that are impacted by increasing the threshold to 10,000 barrels.

MR. DIETRICK informed the committee that current statute requires that oil terminals with storage volume of over 5,000 barrels of crude are required to have a C-Plan and those oil facilities with over 10,000 barrels of crude are required to have a C-Plan. This legislation wouldn't change the aforementioned.

REPRESENTATIVE BERKOWITZ inquired as to how many facilities are impacted by this proposed change in statute.

MR. DIETRICK answered that he doesn't believe this legislation will impact any existing facilities. This legislation merely ensures that gas drilling in the future that doesn't encounter oil, as determined by Alaska Oil and Gas Conservation Commission (AOGCC), isn't required to have C-Plans unless the facilities are also storing refined products over 10,000 barrels.

[9:01:13 AM](#)

REPRESENTATIVE BERKOWITZ commented that 10,000 barrels is a lot. He opined that no matter what type of facility, any facility with over 10,000 barrels needs a spill plan.

MR. DIETRICK reiterated that facilities with over 10,000 barrels have to have a C-Plan and that will not change under this legislation.

REPRESENTATIVE BERKOWITZ surmised that a facility with 5,000 barrels, which is a lot of oil, wouldn't have to have a C-Plan.

MR. DIETRICK agreed.

[9:01:49 AM](#)

CHAIR ROKEBERG inquired as to how this legislation would impact a Cook Inlet gas platform.

MR. DIETRICK answered that he didn't believe it would impact such facilities at all. He specified that it would impact future drilling for gas. The legislation clarified that if an entity is drilling for gas and upon review and evaluation by the AOGCC, it determines no oil will be associated with that drilling, then no contingency plan is required. However, if the AOGCC determines that oil is likely to be encountered during that drilling such that the well will include oil and gas, then a C-Plan will be required.

CHAIR ROKEBERG asked if a gas production platform in Cook Inlet would have less than 10,000 barrels of refined product.

MR. DIETRICK replied yes, most platforms in the Inlet do have less than 10,000 barrels. In further response to Chair Rokeberg, Mr. Dietrick explained that when an operator applies to drill, the operator must apply for a permit from the AOGCC.

If, upon AOGCC's review of a proposed gas well, it's determined that no oil will be encountered, no contingency plan will be required. However, if the well was being drilled for crude oil or if AOGCC determines an operator will encounter crude oil, then a contingency plan would be required.

CHAIR ROKEBERG inquired as to what would occur if it's a wildcat driller or frontier exploration. He asked if [AOGCC] is only reviewing seismic data when obtaining permits.

MR. DIETRICK specified that AOGCC has the expertise, with its reservoir engineers, and the technical capability to make the assessment whether oil will be present. Mr. Dietrick said that he couldn't think of a case in which the AOGCC missed the mark on that. However, if the AOGCC missed the mark and oil was found, a contingency plan would be required, albeit later in the process.

[9:05:20 AM](#)

REPRESENTATIVE BERKOWITZ commented that he wasn't sure whether, even if the full strictures of a C-Plan are removed, there's still some oversight for a facility with 9,000 barrels on site.

MR. DIETRICK explained that current statutes define the threshold at which facilities have to have contingency plans for exploration and gas facilities, pipelines, railroad, tank vessels, oil barges, and oil terminals. In the case of oil terminals, the threshold is that which has been under discussion today. The notion is that entities above the specified threshold have to take steps to prepare a plan so that there is certainty that the entity has the resources and equipment to be able to respond and contain.

REPRESENTATIVE BERKOWITZ asked if there is any treatment plan or requirement for handling and storage of [crude oil].

MR. DIETRICK informed the committee that there is an Environmental Protection Agency (EPA) spill prevention, containment, and counter measure plan that may impose some requirements. In further response to Representative Berkowitz, Mr. Dietrick confirmed that there are federal requirements for facilities storing less than 10,000 barrels on site. He explained that the federal requirements basically require that a plan for containment/control be prepared and signed by a registered engineer, although it's not required to be submitted to the federal government for review and approval.

[9:08:04 AM](#)

REPRESENTATIVE COGHILL recalled setting up small fuel facilities in which there was between 500-500,000 gallon capacity. He further recalled setting up containment barriers and signing off on an action plan for spills. Therefore, he recalled that there was some regulation on both the state and federal government side.

MR. DIETRICK stated that from the perspective of the state and Title 46, an entity wouldn't be required to do [secondary containment]. However, the federal EPA Spill Prevention, Control and Countermeasures Plan (SPCC) does apply and require secondary containment. Furthermore, it isn't uncommon for oil and gas lease sales or other operators using state or federal lands to have similar requirements as land use stipulations to the operations being conducted on public lands.

[9:09:23 AM](#)

CHAIR ROKEBERG surmised that the intent of this legislation is to correct a situation in which [House Bill 531 of the Twenty-Third Alaska State Legislature] made an error in defining to what these plans apply. Therefore, this legislation basically returns to the status quo prior to [House Bill 531].

REPRESENTATIVE KOHRING replied yes.

CHAIR ROKEBERG related his understanding that if it's the type of well or formation for which the AOGCC is suspicious that oil would be encountered, a [C-Plan] would be required. However, if [the AOGCC] determines that no oil will be encountered, then no [C-Plan] will be required.

MR. DIETRICK agreed with Chair Rokeberg's understanding, and added that there was no intent to change the thresholds for any other facilities. The legislation simply clarifies that a pure gas well wouldn't require a C-Plan. This legislation doesn't adjust any of the other thresholds in any way, shape, or form.

[9:11:50 AM](#)

REPRESENTATIVE BERKOWITZ surmised that he could store 10,000 barrels in his backyard and there would be no requirements beyond the federal requirements.

MR. DIETRICK replied yes. He related that when the thresholds were set, the state was looking to require preparedness and contingency planning of large facilities because the legislature at the time was concerned with the possibility of large spills. To date, the [legislature] hasn't opted to target smaller facilities and place the burden on those smaller operators in the state.

[9:12:56 AM](#)

CHAIR ROKEBERG asked if DEC looks at gas service stations.

MR. DIETRICK recalled in 1988 the EPA passed requirements to remove underground storage tanks that were larger than 660 gallons, which were largely associated with service stations. The 10-year timeframe for which all leaky underground storage tanks had to be upgraded, removed, or pulled ended in 1998. The legislature recognized the burden and passed a financial assistance program. He informed the committee that originally there were about 7,000 underground storage tanks subject to the federal requirements in 1988. About 6,000 have been removed, upgraded, or closed, and are now in compliance with the federal rules.

[9:14:18 AM](#)

REPRESENTATIVE MCGUIRE pointed out that at times when the legislature attempts to correct a portion of statute, the underlying statute is brought to attention. She characterized the aforementioned as a good thing because it forces the legislature to reflect on past decisions. Representative McGuire inquired as to whether there have been any documented spills [at facilities] below the 10,000 barrel threshold. She also inquired as to whether the department has reviewed the possibility of smaller facilities having perhaps a modified contingency plan that would be less onerous.

MR. DIETRICK informed the committee that the predominant number of spills are from smaller facilities without contingency plans. The department receives approximately 2,000 spill reports a year. With regard to those facilities that are regulated and are required to have state C-Plans, there has been an approximately 33 percent reduction in the number of spills from facilities with contingency plans. He characterized the aforementioned as a credit to the large operators. With regard to whether these smaller facilities should be addressed, he reminded the committee of the leaky underground storage tank,

land use stipulations, and EPA SPCC rules that can apply to these smaller facilities. Furthermore, fire prevention rules often impact how smaller facilities are designed or operated. Mr. Dietrick said that whether the legislature wants to lower the C-Plan regulation or have an intermediate plan [for the smaller facilities] is a policy call.

REPRESENTATIVE MCGUIRE related her belief that the 33 percent reduction in the number of spills of those required to have a C-Plan seems to illustrate that some part of the aforementioned is working. Furthermore, the leaking underground storage tank rules seem to deal with the location of the tank. However, she expressed interest in how to contain a spill quickly while having the least impact on the environment.

MR. DIETRICK explained that if there is a spill in a facility without a contingency plan, separate statutes impose responsibility on any operator of a facility that has a spill to immediately contain, control, and remove the spill. For such situations there was the adoption, in the earlier 1990s, of an incident command system. Therefore, when there is a spill at a facility without a C-Plan, the Coast Guard, the EPA, and the state is ramped up and provides the capability to immediately respond and assist the operator. Furthermore, the legislature has established a \$50 million spill response account as a cash reserve for assistance in the aforementioned type of situations. However, the spiller still remains financially responsible.

[9:20:38 AM](#)

CHAIR ROKEBERG pointed out that many villages in Alaska have fuel storage tank farms, and asked whether those tank farms are required to have spill contingency plans.

MR. DIETRICK replied that the EPA SPCC Plan is the primary plan that applies to these tank farms; most tank farms in rural Alaska are below the 10,000 barrel threshold set by the state. He noted that there is a cost component to C-Plans, which is probably why the state volume thresholds were set at the current level.

CHAIR ROKEBERG asked if DEC enforces the EPA standards.

MR. DIETRICK responded that the SPCC Plan is not one of the federal programs that has been delegated to DEC. He remarked that the EPA will occasionally hire a contractor to check facilities to ensure that they have SPCC Plans.

[9:22:34 AM](#)

REPRESENTATIVE HARRIS commented that the tanks he has seen in rural Alaska either are double-walled tanks or are located within a containment area, although there may not be an actual written C-Plan for the facility.

MR. DIETRICK replied that this is correct. He stated:

Virtually all new facilities are being built to new standards now, so even the ones that the Denali Commission is working on [are] being built to standards now that require secondary containment.... There's corrosion control, leak detection, welding requirements, all kinds of specifications now that new facilities are built to. Even the underground storage tanks [UST] are built now to new standards. ... They have both design requirements and monitoring and inspection now the service station operators have to carry out.

[9:24:01 AM](#)

REPRESENTATIVE BERKOWITZ commented that perhaps the state should assert primacy over the smaller facilities.

[9:24:34 AM](#)

CHAIR ROKEBERG asked how much it would cost to develop a C-Plan.

MR. DIETRICK answered that the cost depends upon the size and complexity of the facility. He estimated that typically it would cost \$5,000 to secure a consultant to put together a C-Plan. However, beyond those preparation costs are the additional costs from associated operations and inspections, which are ongoing operating costs.

[9:25:16 AM](#)

REPRESENTATIVE COGHILL remarked that the storage facilities are usually near water, so the Corps of Engineers and the EPA are both involved. He asked, "What type of facility under 10,000 barrels that's drilling for gas would anticipate keeping a storage anywhere near 10,000 barrels on a continuing basis?"

MR. DIETRICK replied that it would be the exception to have an oil and gas drilling operation that would also have on-site storage of over 10,000 barrels [of petroleum]; he surmised that there are probably none. He noted that the stored petroleum is usually refined product that is used to run diesel generators.

REPRESENTATIVE COGHILL commented that gas-drilling operators would probably try to move the gas off site even if they had the storage capability on site. He opined that [10,000 barrels] is a good size limit for drilling operations.

[9:27:41 AM](#)

CHAIR ROKEBERG remarked, "As a commercial real estate broker and as a member of the Alaskan business community, I don't believe that we are short on enforcing spill cleanups." He surmised that the intention of state and federal requirements are not to put undue burden [on industry] but to make sure that large project activities are duly permitted.

[9:28:22 AM](#)

REPRESENTATIVE COGHILL moved to report CSHB 197, Version 24-LS0664\Y, Chenoweth, 3/31/05, out of committee with individual recommendations and the accompanying fiscal notes. There being no objection, CSHB 197(RLS) was reported from the House Rules Standing Committee.

#### **ADJOURNMENT**

There being no further business before the committee, the House Rules Standing Committee meeting was adjourned at [9:28:44 AM](#).