

Original sponsor(s): Rules/Governor

1 IN THE HOUSE BY THE FINANCE COMMITTEE  
2 CS FOR HOUSE BILL NO. 567 (Finance)  
3 IN THE LEGISLATURE OF THE STATE OF ALASKA  
4 SIXTEENTH LEGISLATURE - SECOND SESSION

5 A BILL

6 For an Act entitled: "An Act relating to oil discharge prevention and  
7 contingency plan requirements, financial respon-  
8 sibility requirements related to oil, civil penalties  
9 for discharges of crude oil, and inspection authority  
10 of the Department of Environmental Conservation; au-  
11 thORIZING certain additional uses of the oil and  
12 hazardous substance release response fund and re-  
13 stricting use of the fund for municipal grants and  
14 reimbursable service agreements; authorizing the  
15 Department of Environmental Conservation and munic-  
16 ipalities to enter into agreements pertaining to  
17 vessel traffic control and monitoring systems; relat-  
18 ing to reporting requirements; and providing for an  
19 effective date."

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

21 \* Section 1. AS 29.35.020 is amended by adding a new subsection to  
22 read:

23 (d) A municipality may enter into agreements with the United  
24 States Coast Guard, the United States Environmental Protection Agency,  
25 and other persons relating to development and enforcement of vessel  
26 traffic control and monitoring systems for oil barges and tank vessels  
27 carrying oil operating in or near the waters of the state.

28 \* Sec. 2. AS 46.03.759(c) is amended to read:

29 (c) Subject to the \$500,000,000 maximum set under (a) of this

1 section the court shall assess five [FOUR] times the penalty set out  
2 in (a) of this section if the court finds

3 (1) the discharge was caused by the gross negligence or  
4 intentional act of the defendant;

5 (2) the defendant did not take reasonable measures to  
6 contain and clean up the discharged oil; or

7 (3) the defendant did not act or respond in accordance with  
8 an approved oil discharge prevention and contingency plan.

9 \* Sec. 3. AS 46.04.020(e) is amended to read:

10 (e) The department shall enter into negotiations for memoranda  
11 of understanding or cooperative agreements with the United States  
12 Coast Guard, the United States Environmental Protection Agency, and  
13 other persons in order to

14 (1) facilitate coordinated and effective oil prevention and  
15 discharge response in the state, including agreements relating to  
16 development and enforcement of vessel traffic control and monitoring  
17 systems for tank vessels and oil barges operating in or near the  
18 waters of the state;

19 (2) provide for cooperative review of oil discharge preven-  
20 tion and contingency plans submitted to the department under AS 46.-  
21 04.030;

22 (3) provide for cooperative inspections of oil terminal  
23 facilities by the department and the United States Coast Guard or  
24 United States Environmental Protection Agency; and

25 (4) provide for cooperative oil discharge notification  
26 procedures.

27 \* Sec. 4. AS 46.04.030 is amended to read:

28 Sec. 46.04.030. OIL DISCHARGE PREVENTION AND CONTINGENCY PLANS.

29 (a) A person may not cause or permit the operation of an oil terminal

1 facility in the state unless an oil discharge prevention and contin-  
2 gency plan for the facility has been approved by the department and  
3 has been properly implemented [. THE DEPARTMENT IS THE ONLY STATE  
4 AGENCY WHICH HAS THE POWER TO APPROVE AN OIL DISCHARGE CONTINGENCY  
5 PLAN FOR THE PURPOSES OF THIS SECTION].

6 (b) A [AFTER JANUARY 1, 1981, A] person may not cause or permit  
7 the operation of an [OFFSHORE] exploration or production facility in  
8 the state unless an oil discharge prevention and contingency plan for  
9 the facility has been approved by the department and has been properly  
10 implemented.

11 (c) A person may not operate a tank vessel or an oil barge  
12 within the waters of the state, or cause or permit the transfer of oil  
13 to or from a tank vessel or [, OR, AFTER JANUARY 1, 1981, TO OR FROM]  
14 an oil barge, unless an oil discharge prevention and contingency plan  
15 for the tank vessel or oil barge has been approved by the department  
16 and has been properly implemented [EXCEPT FOR PROSECUTIONS UNDER  
17 AS 46.03.790(b), IT IS NOT A DEFENSE TO AN ACTION BROUGHT FOR VIOLA-  
18 TION OF THIS SUBSECTION THAT THE PERSON CHARGED BELIEVED THAT A CUR-  
19 RENT OIL DISCHARGE CONTINGENCY PLAN FOR THE TANK VESSEL OR OIL BARGE  
20 HAD BEEN APPROVED BY THE DEPARTMENT].

21 (d) A [AN OIL DISCHARGE] contingency plan must be renewed at  
22 least every three years.

23 (e) The department may attach reasonable terms and conditions to  
24 its approval or modification of a [AN OIL DISCHARGE] contingency plan  
25 that the department [WHICH IT] determines are necessary to ensure  
26 [INSURE] that the applicant for a [AN OIL DISCHARGE] contingency plan  
27 has access to sufficient resources to protect environmentally sensi-  
28 tive areas and to contain, clean up, and mitigate potential oil dis-  
29 charges at or from the facility or vessel as provided in (j) of this

1 section, and to ensure that the applicant properly implements the  
2 contingency plan [WITHIN THE SHORTEST FEASIBLE TIME]. The [OIL DIS-  
3 CHARGE] contingency plan must provide for the use [OF THE BEST AVAIL-  
4 ABLE TECHNOLOGY] by the applicant of the best technology that was  
5 available at the time the contingency plan was submitted or renewed.  
6 The department may require an applicant or holder of an approved  
7 contingency plan to take steps necessary to demonstrate its ability to  
8 carry out the contingency plan, including

9 (1) periodic training;

10 (2) response team exercises; and

11 (3) verifying access to inventories of available equipment,  
12 supplies, and personnel.

13 (f) Upon request of a plan holder or on the department's own  
14 initiative, the [THE] department, after notice and opportunity for  
15 hearing, may modify its approval of a [AN OIL DISCHARGE] contingency  
16 plan if the department [IT] determines that a change has occurred in  
17 the operation of a facility [, MARINA] or vessel necessitating an  
18 amended or supplemented plan, or the operator's discharge experience  
19 demonstrates a necessity for modification. The department, after  
20 notice and opportunity for hearing, may revoke its approval of a [AN  
21 OIL DISCHARGE] contingency plan if the department [IT] determines that

22 (1) approval was obtained by fraud or misrepresentation;

23 (2) the operator does not have access to the quality or  
24 quantity of resources identified in the plan; [OR]

25 (3) a term or condition of approval or modification has  
26 been violated; or

27 (4) the plan has not been properly implemented and the  
28 deficiency materially affects the plan holder's response capability.

29 (g) Failure of a holder of an approved or modified [OIL

1 DISCHARGE] contingency plan to properly implement the plan, or to have  
2 access to the quality or quantity of resources identified in the plan  
3 or [AND, IN THE EVENT OF A SPILL,] to respond with those resources  
4 within the shortest possible [FEASIBLE] time in the event of a spill  
5 is a violation of this chapter for purposes of AS 46.03.760(a),  
6 46.03.765, 46.03.790, and any other applicable law. If the holder of  
7 an approved or modified [OIL DISCHARGE] contingency plan fails to  
8 respond to and conduct cleanup operations of an unpermitted discharge  
9 of crude oil with the quality and quantity of resources identified in  
10 the plan and in a manner required under the plan, the holder is  
11 strictly liable, jointly and severally, for the civil penalty assessed  
12 under AS 46.03.758, 46.03.759, or 46.03.760 against any other person  
13 for that discharge.

14 \* Sec. 5. AS 46.04.030 is amended by adding new subsections to read:

15 (h) The department is the only state agency that has the power  
16 to approve, modify, or revoke a contingency plan for the purposes of  
17 this section. The department shall exercise its power under this  
18 section in a timely manner. Except for prosecutions under AS 46.03.-  
19 790(b), it is not a defense to an action brought for a violation of  
20 (a) - (c) of this section that the person charged believed that a  
21 current contingency plan had been approved by the department.

22 (i) Before the department approves or modifies a contingency  
23 plan under this section, the department shall provide a copy of the  
24 contingency plan to the Department of Fish and Game and to the Depart-  
25 ment of Natural Resources for their review. The department shall by  
26 regulation establish the procedures and time limits applicable to  
27 agency review of contingency plans.

28 (j) Except as provided in (1) of this section, the holder of an  
29 approved contingency plan required under this section shall maintain

1 in its region of operation, singly or in conjunction with other opera-  
2 tors in its region of operation, sufficient oil discharge containment,  
3 storage, transfer, and removal equipment, personnel, and resources to  
4 rapidly contain a

5 (1) realistic maximum oil discharge and to remove that  
6 discharge within 72 hours if the contingency plan is for an explora-  
7 tion or production facility;

8 (2) discharge in an amount equal to the capacity of the  
9 largest oil storage tank at the facility and to remove that discharge  
10 within 72 hours if the contingency plan is for an oil terminal facil-  
11 ity; if the department determines that the oil terminal facility is  
12 located in an area of high risk because of natural or manmade condi-  
13 tions outside of the facility, the department may increase the volume  
14 requirement under this paragraph so that the contingency plan must be  
15 designed for response to a discharge that is greater in amount than  
16 the capacity of the largest oil storage tank at the facility;

17 (3) discharge of oil in an amount equal to the maximum  
18 capacity of the vessel or barge and to remove that discharge within 72  
19 hours if the contingency plan is for a tank vessel or oil barge.

20 (k) Notwithstanding (j) of this section, failure to remove a  
21 discharge within 72 hours does not constitute failure to properly  
22 implement a contingency plan for purposes of (g) of this section.

23 (l) Notwithstanding (j) of this section, the department may  
24 approve a contingency plan for a noncrude oil terminal facility or for  
25 a tank vessel or barge carrying noncrude oil that provides for the  
26 holder of the plan to maintain the equipment, personnel, and resources  
27 required under (j) of this section outside the holder's region of  
28 operation upon a showing satisfactory to the department that the  
29 planning requirements of (j) of this section are otherwise satisfied.

1 (m) In this section

2 (1) "contingency plan" means an oil discharge prevention  
3 and contingency plan required under this section;

4 (2) "properly implement" means, with respect to a contin-  
5 gency plan, to

6 (A) establish and carry out procedures identified in  
7 the plan as being the responsibility of the holder of the plan;

8 (B) have access to and have on hand the quantity and  
9 quality of equipment, personnel, and other resources identified  
10 as being accessible or on hand in the plan;

11 (C) fulfill the assurances espoused in the plan in the  
12 manner described in the plan;

13 (D) comply with terms and conditions attached to the  
14 plan by the department under the authority of (e) of this sec-  
15 tion; and

16 (E) successfully demonstrate the ability to carry out  
17 the plan when required by the department under (e) of this sec-  
18 tion;

19 (3) "realistic maximum oil discharge" means the maximum and  
20 most damaging oil discharge that the department estimates could occur  
21 during the lifetime of the facility based on the size, location, and  
22 capacity of the facility; on the department's knowledge and experience  
23 with the facility or with similar facilities; and on the department's  
24 analysis of possible mishaps at the facility or at similar facilities;

25 (4) "region of operation," with respect to the holder of a  
26 contingency plan, means the area where the operations of the holder  
27 that require a contingency plan are located, the boundaries of which  
28 correspond to the regional boundaries established by the commissioner  
29 for regional master planning purposes under AS 46.04.210.

1 \* Sec. 6. AS 46.04.040(a) is amended to read:

2 (a) A person may not cause or permit the operation of an oil  
3 terminal facility in the state unless the person has furnished to the  
4 department, and the department has approved, proof of financial abil-  
5 ity to respond in damages. Proof of financial responsibility for a  
6 crude oil terminal may not be less than \$50,000,000 per incident.  
7 Proof of financial responsibility for a noncrude oil terminal may not  
8 be less than \$25, per incident, for each barrel of total noncrude oil  
9 storage capacity at the terminal or [WHICH HAS BEEN ACCEPTED BY THE  
10 DEPARTMENT. ABILITY TO RESPOND IN DAMAGES NEED NOT EXCEED \$50,000,000  
11 BUT MUST BE IN AN AMOUNT (1) NOT LESS THAN \$10, PER INCIDENT, FOR EACH  
12 BARREL OF STORAGE CAPACITY AT THE OIL TERMINAL FACILITY: OR (2)]  
13 \$1,000,000, whichever is greater, subject to a maximum of \$50,000,000.  
14 For purposes of this subsection, an oil terminal facility that stores  
15 both crude oil and noncrude oil is subject to the financial responsi-  
16 bility requirements applicable to the type of facility that corre-  
17 sponds to the type of oil storage that predominates at the facility.  
18 However, if the facility stores more noncrude oil than crude oil, the  
19 \$25 per incident, per barrel requirement of this subsection applies to  
20 each barrel of oil storage capacity at the facility.

21 \* Sec. 7. AS 46.04.040(b) is amended to read:

22 (b) A [AFTER JULY 1, 1981, A] person may not cause or permit the  
23 operation of an [OFFSHORE] exploration or production facility in the  
24 state unless the person has furnished to the department, and the  
25 department has approved, proof of financial ability to respond in  
26 damages [HAS BEEN ACCEPTED BY THE DEPARTMENT]. Proof of financial  
27 responsibility for an offshore exploration or production facility may  
28 not be less than \$50,000,000 [\$35,000,000] per incident. Proof of  
29 financial responsibility for an onshore exploration or production

1 facility may not be less than \$20,000,000 per incident.

2 \* Sec. 8. AS 46.04.040(c) is amended to read:

3 (c) A person may not operate a tank vessel or an oil barge  
4 within the waters of the state, or cause or permit the transfer of oil  
5 to or from a tank vessel [,] or [, AFTER JANUARY 1, 1981, TO OR FROM]  
6 an oil barge, unless the person operating the tank vessel or oil barge  
7 has furnished to the department, and the department has approved,  
8 proof of financial ability to respond in damages. Proof of financial  
9 responsibility under this subsection may not be less than

10 (1) \$300, per incident, for each barrel of storage capacity  
11 or \$100,000,000, whichever is greater, for a tank vessel or barge  
12 carrying crude oil;

13 (2) \$100, per incident, for each barrel of storage capacity  
14 or \$1,000,000, whichever is greater, subject to a maximum of  
15 \$35,000,000, for a tank vessel or barge carrying noncrude oil in an  
16 amount of 5,000 barrels or more [RESPONSIBILITY FOR THE TANK VESSEL OR  
17 BARGE HAS BEEN ACCEPTED BY THE DEPARTMENT. FINANCIAL RESPONSIBILITY  
18 UNDER THIS SUBSECTION SHALL BE IN THE FOLLOWING AMOUNTS:

19 (1) FOR A TANK VESSEL OR OIL BARGE INVOLVED IN THE TRANS-  
20 PORTATION OF TRANS-ALASKA PIPELINE OIL, THE AMOUNT REQUIRED BY THE  
21 FEDERAL MARITIME COMMISSION UNDER 43 U.S.C. 1653(c)(3) (SEC. 204  
22 (c)(3), TRANS-ALASKA PIPELINE AUTHORIZATION ACT);

23 (2) FOR ANY OTHER OIL BARGE, THE AMOUNT REQUIRED BY  
24 SEC. 311(p)(1) OF THE CLEAN WATER ACT, OR \$1,000,000, WHICHEVER IS  
25 GREATER;

26 (3) FOR ANY OTHER TANK VESSELS, THE AMOUNT REQUIRED BY  
27 SEC. 311(p)(1) OF THE CLEAN WATER ACT, OR \$20,000,000, WHICHEVER IS  
28 GREATER].

29 \* Sec. 9. AS 46.04.040(d) is amended to read:

1 (d) Except for prosecutions under AS 46.03.790(b), it is not a  
2 defense to an action brought for violation of (a) - (c) [(c)] of this  
3 section that the person charged believed in good faith that proof of  
4 financial ability to respond in damages had been furnished to, and  
5 approved by, the department [THE VESSEL OPERATOR POSSESSED PROOF OF  
6 FINANCIAL RESPONSIBILITY ACCEPTED BY THE DEPARTMENT].

7 \* Sec. 10. AS 46.04.040(e) is amended to read:

8 (e) Financial responsibility may be demonstrated by (1) self-  
9 insurance, (2) insurance, (3) surety, (4) [OR] guarantee, (5) letter  
10 of credit approved by the department, or (6) other proof of financial  
11 responsibility approved by the department, including proof of finan-  
12 cial responsibility provided by a group of insureds who have agreed to  
13 cover pollution risks of members of the group under terms the depart-  
14 ment may prescribe. An action brought under AS 46.03.758, 46.03.759,  
15 46.03.760(a) or (e), 46.03.822, or AS 46.04.030(g) [OR TO COLLECT  
16 PENALTIES IMPOSED UNDER AS 46.03.759] may be brought in a state court  
17 directly against the insurer, the group, or another person providing  
18 evidence of financial responsibility. The applicant, and an insurer,  
19 surety, [OR] guarantor, person furnishing an approved letter of cred-  
20 it, or other group or person providing proof of financial respon-  
21 sibility approved by the department shall appoint an agent for service  
22 of process in the state. For purposes of this subsection, an [AN]  
23 insurer, other than a group of insureds whose agreement has been  
24 approved by the department, must either be authorized by the Depart-  
25 ment of Commerce and Economic Development to sell insurance in the  
26 state or be an unauthorized insurer listed by the Department of Com-  
27 merce and Economic Development as not disapproved for use in the  
28 state.

29 \* Sec. 11. AS 46.04.040(f) is amended to read:

1 (f) Acceptance of proof of financial responsibility expires  
2 (1) one year from its issuance for self-insurance;  
3 (2) on the effective date of a change in the surety bond,  
4 guarantee, [OR] insurance agreement, letter of credit, or other proof  
5 of financial responsibility; or  
6 (3) on the expiration or cancellation of the surety bond,  
7 guarantee, [OR] insurance agreement, letter of credit, or other proof  
8 of financial responsibility.

9 \* Sec. 12. AS 46.04.040(g) is amended to read:

10 (g) The person whose proof of financial responsibility is ac-  
11 cepted by the department under this section shall notify the depart-  
12 ment at least 30 days before the effective date of a change, expira-  
13 tion or cancellation in the surety bond, guarantee, [OR] insurance  
14 agreement, letter of credit, or other proof of financial responsibil-  
15 ity. Application for renewal of acceptance of proof of financial  
16 responsibility under this section must be filed at least 30 days  
17 before the date of expiration.

18 \* Sec. 13. AS 46.04.040 is amended by adding new subsections to read:

19 (j) Upon acceptance and approval of proof of financial responsi-  
20 bility under this section, the department shall issue to the applicant  
21 a certificate stating that the state's financial responsibility re-  
22 quirements have been satisfied. The certificate must include the name  
23 of the facility, tank vessel, or barge for which it is issued and the  
24 expiration date of the certificate.

25 (k) Notwithstanding the requirements of (e) of this section, the  
26 applicant may provide evidence of financial responsibility provided by  
27 an insurer or other person who does not agree to be subject to direct  
28 action in state courts or to appoint an agent for service of process  
29 if

1           (1) the department is satisfied that the insurance or other  
2 form of financial responsibility covers judgments under the statutes  
3 listed in (e) of this section;

4           (2) proof of at least \$50,000,000, or the amount required  
5 by (a) - (c) of this section, whichever is less, in insurance or other  
6 form of financial responsibility that meets the requirements of (e) of  
7 this section is provided; and

8           (3) the applicant provides a sworn statement or affidavit  
9 that insurance or other form of financial responsibility that meets  
10 the requirements of (e) of this section is not available in greater  
11 amounts.

12 \* Sec. 14. AS 46.04 is amended by adding a new section to read:

13           Sec. 46.04.045. ADJUSTMENT OF DOLLAR AMOUNTS. (a) The dollar  
14 amounts in AS 46.04.040 change, as provided in this section, according  
15 to and to the extent of changes in the Consumer Price Index for all  
16 urban consumers for the Anchorage metropolitan area compiled by the  
17 Bureau of Labor Statistics, United States Department of Labor (the  
18 index). The index for January of the year in which this section  
19 becomes effective is the reference base index.

20           (b) The dollar amounts change on October 1 of each third year  
21 according to the percentage change between the index for January of  
22 that year and the most recent index used to determine whether to  
23 change the dollar amounts. After calculation of the new amounts, the  
24 resulting amounts shall be rounded to the nearest cent.

25           (c) If the index is revised, the percentage of change is cal-  
26 culated on the basis of the revised index. If a revision of the index  
27 changes the reference base index, a revised reference base index is  
28 determined by multiplying the reference base index applicable by the  
29 rebasing factor furnished by the United States Bureau of Labor

1        Statistics. If the index is superseded, the index referred to in this  
2        section is the one represented by the Bureau of Labor Statistics as  
3        reflecting most accurately changes in the purchasing power of the  
4        dollar for Alaskan consumers.

5            (d) The department shall adopt a regulation announcing

6                    (1) on or before June 30 of each third year, the changes in  
7        dollar amounts required by (b) of this section; and

8                    (2) promptly after the changes occur, changes in the index  
9        required by (c) of this section, including, if applicable, the numer-  
10       ical equivalent of the reference base index under a revised reference  
11       base index and the designation or title of any index superseding the  
12       index.

13            (e) The department shall also provide notification of a change  
14        in dollar amounts required under (b) of this section to the clerks of  
15        court in each judicial district of the state.

16        \* Sec. 15. AS 46.04.050 is amended to read:

17            Sec. 46.04.050. EXEMPTIONS. The provisions of [BECAUSE OF THE  
18        RESTRICTED NATURE OF THE OPERATIONS AND THE MINIMAL DANGER TO THE  
19        ENVIRONMENT POSED BY THE ACTIVITIES,] AS 46.04.030, 46.04.040, and  
20        46.04.060 do not apply to an oil terminal facility that has an effec-  
21        tive storage capacity of less than 5,000 [10,000] barrels of crude oil  
22        or less than 10,000 barrels of noncrude oil.

23        \* Sec. 16. AS 46.04.060 is amended to read:

24            Sec. 46.04.060. INSPECTIONS. In addition to other rights of  
25        access or inspection conferred upon the department by law or other-  
26        wise, the department may at reasonable times enter and inspect oil  
27        [OIL] terminal facilities, [OFFSHORE] exploration and production  
28        facilities, tank vessels, and oil barges within the territorial juris-  
29        isdiction of the state in order [ARE SUBJECT TO INSPECTION BY THE

1 DEPARTMENT] to

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

3 (2) examine the structural integrity of tank vessels, oil  
4 barges, oil terminal facilities, oil exploration and production facil-  
5 ities, pipelines, and other facilities related to the exploration,  
6 production, storage, and transportation of oil; or

7 (3) participate in an examination of the structural integ-  
8 riety of tank vessels and oil barges by the United States Coast Guard.

9 \* Sec. 17. AS 46.04.200 is amended to read:

10 Sec. 46.04.200. STATE MASTER PLAN. (a) The department shall  
11 prepare and annually review and revise a statewide master oil and  
12 hazardous substance discharge [AND] prevention and contingency plan.

13 (b) The state master plan prepared under this section must

14 (1) take into consideration the elements of an oil dis-  
15 charge prevention and contingency plan approved or submitted for  
16 approval under AS 46.04.030;

17 (2) clarify and specify the respective responsibilities of  
18 each of the following in the assessment, containment, and cleanup of a  
19 catastrophic oil discharge or of a significant discharge of a hazard-  
20 ous substance into the environment of the state:

21 (A) agencies of the state;

22 (B) municipalities of the state;

23 (C) appropriate federal agencies;

24 (D) operators of facilities;

25 (E) private parties whose land and other property may  
26 be affected by the oil or hazardous substance discharge; and

27 (F) other parties identified by the commissioner as  
28 having an interest in or the resources to assist in the contain-  
29 ment and cleanup of an oil or hazardous substance discharge;

1 (3) specify the respective responsibilities of parties  
2 identified in (2) of this subsection in an emergency response; and

3 (4) identify actions necessary to reduce the likelihood of  
4 catastrophic oil discharges and significant discharges of hazardous  
5 substances.

6 (c) In preparing and annually reviewing the state master plan,  
7 the commissioner shall

8 (1) consult with municipal and community officials, and  
9 with representatives of affected regional organizations;

10 (2) submit the draft plan to the public for review and  
11 comment;

12 (3) submit to the legislature for review, not later than  
13 the 10th day following the convening of each regular session, the plan  
14 and any annual revision of the plan; and

15 (4) require or schedule unannounced oil spill drills to  
16 test the sufficiency of an oil discharge prevention and contingency  
17 plan approved under AS 46.04.030 or of the cleanup plans of a party  
18 identified under (b)(2) of this section.

19 \* Sec. 18. AS 46.04.210(a) is amended to read:

20 (a) For any region of the state, the boundaries of which are  
21 determined by the commissioner by regulation, in which the department  
22 is required to review and approve an oil discharge prevention and  
23 contingency plan submitted by a person under AS 46.04.030, the depart-  
24 ment shall prepare and annually review and revise a regional master  
25 oil and hazardous substance discharge [AND] prevention and contingency  
26 plan.

27 \* Sec. 19. AS 46.04.900(8) is amended to read:

28 (8) "[OFFSHORE] exploration or production facility" means a  
29 platform, vessel, or other facility used to explore for or produce

1 hydrocarbons in the waters of the state or on land in the state; the  
2 term does not include vessels used for stratigraphic drilling or other  
3 operations that [WHICH] are not authorized or intended to drill to a  
4 producing formation;

5 \* Sec. 20. AS 46.04.900(15) is amended to read:

6 (15) "tank vessel" means a self-propelled waterborne vessel  
7 that is constructed or converted to carry liquid bulk cargo in tanks  
8 and includes tankers, tankships, and combination carriers when carry-  
9 ing oil; the term does not include vessels carrying oil in drums,  
10 barrels, or other packages, or vessels carrying oil as fuel or stores  
11 for that vessel;

12 \* Sec. 21. AS 46.08.040 is amended to read:

13 Sec. 46.08.040. PURPOSES OF THE FUND. The commissioner may use  
14 money from the fund to

15 (1) investigate and evaluate the release or threatened  
16 release of oil or a hazardous substance, and contain, clean up, and  
17 take other necessary action, such as monitoring and assessing, to  
18 address a release or threatened release of oil or a hazardous sub-  
19 stance that poses an imminent and substantial threat to the public  
20 health or welfare, or to the environment;

21 (2) pay all costs incurred

22 (A) to establish and maintain the oil and hazardous  
23 substance response office and for the expenses of the oil and  
24 hazardous substance response corps and the oil and hazardous  
25 substance response depots established by that office;

26 (B) to review oil discharge prevention and contingency  
27 plans submitted under AS 46.04.030;

28 (C) to conduct training, response exercises, inspec-  
29 tions, and tests, in order to verify equipment inventories and

1           ability to prevent and respond to oil and hazardous substance  
2           release emergencies, and to undertake other activities intended  
3           to verify or establish the preparedness of the state, a munic-  
4           ipality, or a party required by AS 46.04.030 to have an approved  
5           contingency plan to act in accordance with that plan; and

6                    (D) to verify or establish proof of financial respon-  
7                    sibility required by AS 46.04.040;

8                    (3) provide matching funds for participation in federal oil  
9 discharge cleanup activities and under 42 U.S.C. 9601 - 9657 (Compre-  
10 hensive Environmental Response, Compensation, and Liability Act of  
11 1980); [AND]

12                   (4) recover the costs to the state or to a municipality of  
13 a containment and cleanup resulting from the release or the threatened  
14 release of oil or a hazardous substance; [.]

15                   (5) prepare, review, and revise

16                           (A) the state's master oil and hazardous substance  
17 discharge [AND] prevention and contingency plan required by  
18 AS 46.04.200; and

19                           (B) a regional master oil and hazardous substance  
20 discharge [AND] prevention and contingency plan required by  
21 AS 46.04.210; and

22                   (6) restore the environment by addressing the effects of an  
23 oil or hazardous substance release.

24 \* Sec. 22. AS 46.08.040 is amended by adding a new subsection to read:

25                   (b) Except for direct response to a declared disaster emergency  
26 relating to an oil or hazardous substance discharge or for specific  
27 projects authorized by the legislature, the department may not receive  
28 or expend money in the fund as grants to municipalities or for reim-  
29 bursable service agreements with any state agency.

1 \* Sec. 23. AS 46.08.060(a) is amended to read:

2 (a) The commissioner shall submit a report to the legislature  
3 not later than the 10th day following the convening of each regular  
4 session of the legislature. The report may include information con-  
5 sidered significant by the commissioner but must include:

6 (1) the amount of money expended under AS 46.08.040 during  
7 the preceding fiscal year;

8 (2) the amount and source of money received and money  
9 recovered during the preceding fiscal year as specified in AS 46.08.-  
10 020;

11 (3) a summary of municipal participation in responses  
12 funded by the fund;

13 (4) a detailed summary of department activities in re-  
14 sponses funded by the fund during the preceding fiscal year, including  
15 response descriptions and statements outlining the nature of the  
16 threat; in this paragraph, "detailed" includes information describing  
17 each personal services position and total compensation for that  
18 position, each contract in excess of \$20,000, and each purchase in  
19 excess of \$10,000; and

20 (5) the projected cost for the next fiscal year of monitor-  
21 ing, operating, and maintaining sites where response has been com-  
22 pleted or is expected to be continued during the fiscal year.

23 \* Sec. 24. SURVEY OF SMALL NONCRUDE OIL TERMINAL FACILITIES. (a) By  
24 January 31, 1992, the Department of Environmental Conservation shall sur-  
25 vey, inspect, and prepare an inventory of noncrude oil terminal facilities  
26 in the state with an effective storage capacity of 5,000 to 10,000 barrels  
27 in order to determine for each facility

28 (1) its actual storage capacity;

29 (2) the type of noncrude oil products stored;

- 1           (3) its age, design, construction, and general condition;  
2           (4) the design and construction standards applicable or rele-  
3 vant;  
4           (5) the presence or absence of containment structures and equip-  
5 ment;  
6           (6) its ability to respond to a release or threatened release;  
7           (7) the environmental sensitivity of the surrounding area and  
8 the potential risk to the environment if a release occurs;  
9           (8) the presence or absence of surface and subsurface pipelines  
10 and storage tanks; and  
11           (9) other appropriate information.

12           (b) By January 31, 1992, the Department of Environmental Conservation  
13 shall report to the legislature the results of the survey required under  
14 (a) of this section and its written recommendations concerning discharge  
15 prevention and contingency requirements or design review requirements that  
16 should be enacted for noncrude oil terminal facilities with storage capac-  
17 ities of less than 10,000 barrels.

18           (c) Upon completion of the survey required under (a) of this section,  
19 the Department of Environmental Conservation may

20           (1) notify each facility of the results of the facility's in-  
21 spection; and

22           (2) provide each facility with recommendations and technical  
23 assistance concerning identified deficiencies.

24           (d) The Department of Environmental Conservation may conduct the  
25 inspections required under this section notwithstanding the provisions of  
26 AS 46.04.050. The department shall conduct the inspections at reasonable  
27 times.

28           \* Sec. 25. This Act takes effect immediately under AS 01.10.070(c).