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Referred: Rules

go0530hG

Original sponsor(s): Rules/Governor

1 IN THE HOUSE BY THE FINANCE COMMITTEE

2 CS FOR HOUSE BILL NO. 567 (Finance) am

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, penalties, and  
9 inspection authority of the Department of  
10 Environmental Conservation; relating to the oil and  
11 hazardous substance release response fund and  
12 responses to oil and hazardous substance emergencies;  
13 and authorizing the Department of Environmental  
14 Conservation and municipalities to enter into  
15 agreements pertaining to vessel traffic control and  
16 monitoring systems."

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

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

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

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

26 (c) Subject to the \$500,000,000 maximum set under (a) of this  
27 section the court shall assess four times the penalty set out in (a)  
28 of this section if the court finds

29 (1) the discharge was caused by the gross negligence or

1 intentional act of the defendant;

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

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

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

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

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

16 (2) provide for cooperative review of oil discharge preven-  
17 tion and contingency plans submitted to the department under AS 46.-  
18 04.030;

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

22 (4) provide for cooperative oil discharge notification  
23 procedures.

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

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

26 (a) A person may not cause or permit the operation of an oil terminal  
27 facility in the state unless an oil discharge prevention and contin-  
28 gency plan for the facility has been approved by the department and  
29 has been properly implemented [. THE DEPARTMENT IS THE ONLY STATE

1 AGENCY WHICH HAS THE POWER TO APPROVE AN OIL DISCHARGE CONTINGENCY  
2 PLAN FOR THE PURPOSES OF THIS SECTION].

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

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

19 (d) Upon approval of a contingency plan, the department shall  
20 issue to the plan holder a certificate stating that the contingency  
21 plan has been approved by the department. The certificate must in-  
22 clude the name of the facility, pipe line, tank vessel, or oil barge  
23 for which it is issued and the date by which the contingency plan must  
24 be submitted for renewal.

25 (e) A [AN OIL DISCHARGE] contingency plan must be renewed at  
26 least every three years.

27 (f) The department may attach reasonable terms and conditions to  
28 its approval or modification of a [AN OIL DISCHARGE] contingency plan  
29 that the department [WHICH IT] determines are necessary to ensure

1 [INSURE] that the applicant for a [AN OIL DISCHARGE] contingency plan  
2 has access to sufficient resources to protect environmentally sensi-  
3 tive areas and to contain, clean up, and mitigate potential oil dis-  
4 charges at or from the facility or vessel as provided in (j) of this  
5 section, and to ensure that the applicant properly implements the  
6 contingency plan [WITHIN THE SHORTEST FEASIBLE TIME]. The [OIL DIS-  
7 CHARGE] contingency plan must provide for the use [OF THE BEST AVAIL-  
8 ABLE TECHNOLOGY] by the applicant of the best technology that was  
9 available at the time the contingency plan was submitted or renewed.  
10 The department may require an applicant or holder of an approved  
11 contingency plan to take steps necessary to demonstrate its ability to  
12 carry out the contingency plan, including

- 13 (1) periodic training;  
14 (2) response team exercises; and  
15 (3) verifying access to inventories of available equipment,  
16 supplies, and personnel.

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

- 26 (1) approval was obtained by fraud or misrepresentation;  
27 (2) the operator does not have access to the quality or  
28 quantity of resources identified in the plan; [OR]  
29 (3) a term or condition of approval or modification has

1     been violated; or

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

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

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

19             (h) The department is the only state agency that has the power  
20     to approve, modify, or revoke a contingency plan for the purposes of  
21     this section. The department shall exercise its power under this  
22     section in a timely manner. Except for prosecutions under AS 46.03.-  
23     790(b), it is not a defense to an action brought for a violation of  
24     (a) - (c) of this section that the person charged believed that a  
25     current contingency plan had been approved by the department.

26             (i) Before the department approves or modifies a contingency  
27     plan under this section, the department shall provide a copy of the  
28     contingency plan to the Department of Fish and Game and to the Depart-  
29     ment of Natural Resources for their review. The department shall by

1 regulation establish the procedures and time limits applicable to  
2 agency review of contingency plans.

3 (j) Except as provided in (1) of this section, the holder of an  
4 approved contingency plan required under this section shall maintain  
5 in its region of operation, singly or in conjunction with other opera-  
6 tors in its region of operation, sufficient oil discharge containment,  
7 storage, transfer, and cleanup equipment, personnel, and resources to  
8 rapidly contain a

9 (1) realistic maximum oil discharge and to clean up that  
10 discharge within 72 hours if the contingency plan is for an explora-  
11 tion or production facility;

12 (2) discharge in an amount equal to the capacity of the  
13 largest oil storage tank at the facility and to clean up that dis-  
14 charge within 72 hours if the contingency plan is for an oil terminal  
15 facility; if the department determines that the oil terminal facility  
16 is located in an area of high risk because of natural or manmade  
17 conditions outside of the facility, the department may increase the  
18 volume requirement under this paragraph so that the contingency plan  
19 must be designed for response to a discharge that is greater in amount  
20 than the capacity of the largest oil storage tank at the facility;

21 (3) discharge of oil in an amount equal to the maximum  
22 capacity of the vessel or barge and to clean up that discharge within  
23 72 hours if the contingency plan is for a tank vessel or oil barge.

24 (k) Notwithstanding (j) of this section, failure to clean up a  
25 discharge within 72 hours does not constitute failure to properly  
26 implement a contingency plan for purposes of (g) of this section.

27 (1) Notwithstanding (j) of this section, the department may  
28 approve a contingency plan for a noncrude oil terminal facility or for  
29 a tank vessel or barge carrying noncrude oil that provides for the

1 holder of the plan to maintain the equipment, personnel, and resources  
2 required under (j) of this section outside the holder's region of  
3 operation upon a showing satisfactory to the department that the  
4 planning requirements of (j) of this section are otherwise satisfied.

5 (m) In this section

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

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

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

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

15 (C) fulfill the assurances espoused in the plan in the  
16 manner described in the plan;

17 (D) comply with terms and conditions attached to the  
18 plan by the department under the authority of (e) of this sec-  
19 tion; and

20 (E) successfully demonstrate the ability to carry out  
21 the plan when required by the department under (e) of this sec-  
22 tion;

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

29 (4) "region of operation," with respect to the holder of a

1 contingency plan, means the area where the operations of the holder  
2 that require a contingency plan are located, the boundaries of which  
3 correspond to the regional boundaries established by the commissioner  
4 for regional master planning purposes under AS 46.04.210.

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

6 (a) A person may not cause or permit the operation of an oil  
7 terminal facility in the state unless the person has furnished to the  
8 department, and the department has approved, proof of financial abil-  
9 ity to respond in damages. Proof of financial responsibility for a  
10 crude oil terminal may not be less than \$50,000,000 per incident.  
11 Proof of financial responsibility for a noncrude oil terminal may not  
12 be less than \$25, per incident, for each barrel of total noncrude oil  
13 storage capacity at the terminal or [WHICH HAS BEEN ACCEPTED BY THE  
14 DEPARTMENT. ABILITY TO RESPOND IN DAMAGES NEED NOT EXCEED \$50,000,000  
15 BUT MUST BE IN AN AMOUNT (1) NOT LESS THAN \$10, PER INCIDENT, FOR EACH  
16 BARREL OF STORAGE CAPACITY AT THE OIL TERMINAL FACILITY: OR (2)]  
17 \$1,000,000, whichever is greater, subject to a maximum of \$50,000,000.  
18 For purposes of this subsection, an oil terminal facility that stores  
19 both crude oil and noncrude oil is subject to the financial responsi-  
20 bility requirements applicable to the type of facility that corre-  
21 sponds to the type of oil storage that predominates at the facility.  
22 However, if the facility stores more noncrude oil than crude oil, the  
23 \$25 per incident, per barrel requirement of this subsection applies to  
24 each barrel of oil storage capacity at the facility.

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

26 (b) A [AFTER JULY 1, 1981, A] person may not cause or permit the  
27 operation of an [OFFSHORE] exploration or production facility in the  
28 state unless the person has furnished to the department, and the  
29 department has approved, proof of financial ability to respond in

1 damages [HAS BEEN ACCEPTED BY THE DEPARTMENT]. Proof of financial  
2 responsibility for an offshore exploration or production facility may  
3 not be less than \$50,000,000 [\$35,000,000] per incident. Proof of  
4 financial responsibility for an onshore exploration or production  
5 facility may not be less than \$20,000,000 per incident.

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

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

16 (1) \$300, per incident, for each barrel of storage capacity  
17 or \$100,000,000, whichever is greater, for a tank vessel or barge  
18 carrying crude oil;

19 (2) \$100, per incident, for each barrel of storage capacity  
20 or \$1,000,000, whichever is greater, subject to a maximum of  
21 \$35,000,000, for a tank vessel or barge carrying noncrude oil in an  
22 amount of 5,000 barrels or more [RESPONSIBILITY FOR THE TANK VESSEL OR  
23 BARGE HAS BEEN ACCEPTED BY THE DEPARTMENT. FINANCIAL RESPONSIBILITY  
24 UNDER THIS SUBSECTION SHALL BE IN THE FOLLOWING AMOUNTS:

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

29 (2) FOR ANY OTHER OIL BARGE, THE AMOUNT REQUIRED BY

1 SEC. 311(p)(1) OF THE CLEAN WATER ACT, OR \$1,000,000, WHICHEVER IS  
2 GREATER;

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

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

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

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

14 (e) Financial responsibility may be demonstrated by (1) self-  
15 insurance, (2) insurance, (3) surety, (4) [OR] guarantee, (5) letter  
16 of credit approved by the department, or (6) other proof of financial  
17 responsibility approved by the department, including proof of finan-  
18 cial responsibility provided by a group of insureds who have agreed to  
19 cover pollution risks of members of the group under terms the depart-  
20 ment may prescribe. An action brought under AS 46.03.758, 46.03.759,  
21 46.03.760(a) or (e), 46.03.822, or AS 46.04.030(g) [OR TO COLLECT  
22 PENALTIES IMPOSED UNDER AS 46.03.759] may be brought in a state court  
23 directly against the insurer, the group, or another person providing  
24 evidence of financial responsibility. The applicant, and an insurer,  
25 surety, [OR] guarantor, person furnishing an approved letter of cred-  
26 it, or other group or person providing proof of financial respon-  
27 sibility approved by the department shall appoint an agent for service  
28 of process in the state. For purposes of this subsection, an [AN]  
29 insurer, other than a group of insureds whose agreement has been

1 approved by the department, must either be authorized by the Depart-  
2 ment of Commerce and Economic Development to sell insurance in the  
3 state or be an unauthorized insurer listed by the Department of Com-  
4 merce and Economic Development as not disapproved for use in the  
5 state.

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

7 (f) Acceptance of proof of financial responsibility expires

8 (1) one year from its issuance for self-insurance;

9 (2) on the effective date of a change in the surety bond,  
10 guarantee, [OR] insurance agreement, letter of credit, or other proof  
11 of financial responsibility; or

12 (3) on the expiration or cancellation of the surety bond,  
13 guarantee, [OR] insurance agreement, letter of credit, or other proof  
14 of financial responsibility.

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

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

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

25 (j) Upon acceptance and approval of proof of financial responsi-  
26 bility under this section, the department shall issue to the applicant  
27 a certificate stating that the state's financial responsibility re-  
28 quirements have been satisfied. The certificate must include the name  
29 of the facility, tank vessel, or barge for which it is issued and the

1 expiration date of the certificate.

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

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

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

14 (3) the applicant provides a sworn statement or affidavit  
15 that insurance or other form of financial responsibility that meets  
16 the requirements of (e) of this section is not available in greater  
17 amounts.

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

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

26 (b) The dollar amounts change on October 1 of each third year  
27 according to the percentage change between the index for January of  
28 that year and the most recent index used to determine whether to  
29 change the dollar amounts. After calculation of the new amounts, the

1 resulting amounts shall be rounded to the nearest cent.

2 (c) If the index is revised, the percentage of change is cal-  
3 culated on the basis of the revised index. If a revision of the index  
4 changes the reference base index, a revised reference base index is  
5 determined by multiplying the reference base index applicable by the  
6 rebasing factor furnished by the United States Bureau of Labor Statis-  
7 tics. If the index is superseded, the index referred to in this sec-  
8 tion is the one represented by the Bureau of Labor Statistics as  
9 reflecting most accurately changes in the purchasing power of the  
10 dollar for Alaskan consumers.

11 (d) The department shall adopt a regulation announcing

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

14 (2) promptly after the changes occur, changes in the index  
15 required by (c) of this section, including, if applicable, the numer-  
16 ical equivalent of the reference base index under a revised reference  
17 base index and the designation or title of any index superseding the  
18 index.

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

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

23 Sec. 46.04.050. EXEMPTIONS. The provisions of [BECAUSE OF THE  
24 RESTRICTED NATURE OF THE OPERATIONS AND THE MINIMAL DANGER TO THE  
25 ENVIRONMENT POSED BY THE ACTIVITIES,] AS 46.04.030, 46.04.040, and  
26 46.04.060 do not apply to an oil terminal facility that has an effec-  
27 tive storage capacity of less than 5,000 [10,000] barrels of crude oil  
28 or less than 10,000 barrels of noncrude oil.

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

1           Sec. 46.04.060. INSPECTIONS. In addition to other rights of  
2 access or inspection conferred upon the department by law or other-  
3 wise, the department may at reasonable times enter and inspect oil  
4 [OIL] terminal facilities, [OFFSHORE] exploration and production  
5 facilities, tank vessels, and oil barges within the territorial juris-  
6 isdiction of the state in order [ARE SUBJECT TO INSPECTION BY THE DE-  
7 PARTMENT] to

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

9           (2) examine the structural integrity of tank vessels, oil  
10 barges, oil terminal facilities, oil exploration and production facil-  
11 ities, pipelines, and other facilities related to the exploration,  
12 production, storage, and transportation of oil; or

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

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

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

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

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

23           (2) clarify and specify the respective responsibilities of  
24 each of the following in the assessment, containment, and cleanup of a  
25 catastrophic oil discharge or of a significant discharge of a hazard-  
26 ous substance into the environment of the state:

27           (A) agencies of the state;

28           (B) municipalities of the state;

29           (C) appropriate federal agencies;

1 (D) operators of facilities;  
2 (E) private parties whose land and other property may  
3 be affected by the oil or hazardous substance discharge; and  
4 (F) other parties identified by the commissioner as  
5 having an interest in or the resources to assist in the contain-  
6 ment and cleanup of an oil or hazardous substance discharge;  
7 (3) specify the respective responsibilities of parties  
8 identified in (2) of this subsection in an emergency response; and  
9 (4) identify actions necessary to reduce the likelihood of  
10 catastrophic oil discharges and significant discharges of hazardous  
11 substances.

12 (c) In preparing and annually reviewing the state master plan,  
13 the commissioner shall

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

16 (2) submit the draft plan to the public for review and  
17 comment;

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

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

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

26 (a) For any region of the state, the boundaries of which are  
27 determined by the commissioner by regulation, in which the department  
28 is required to review and approve an oil discharge prevention and  
29 contingency plan submitted by a person under AS 46.04.030, the

1 department shall prepare and annually review and revise a regional  
2 master oil and hazardous substance discharge [AND] prevention and  
3 contingency plan.

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

5 (8) "[OFFSHORE] exploration or production facility" means a  
6 platform, vessel, or other facility used to explore for or produce  
7 hydrocarbons in the waters of the state or on land in the state; the  
8 term does not include vessels used for stratigraphic drilling or other  
9 operations that [WHICH] are not authorized or intended to drill to a  
10 producing formation;

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

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

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

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

21 (1) investigate and evaluate the release or threatened  
22 release of oil or a hazardous substance, and contain, clean up, and  
23 take other necessary action, such as monitoring and assessing, to  
24 address a release or threatened release of oil or a hazardous sub-  
25 stance that poses an imminent and substantial threat to the public  
26 health or welfare, or to the environment;

27 (2) pay all costs incurred

28 (A) to establish and maintain the oil and hazardous  
29 substance response office and for the expenses of the oil and

1 hazardous substance response corps and the oil and hazardous  
2 substance response depots established by that office;

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

5 (C) to conduct training, response exercises, inspec-  
6 tions, and tests, in order to verify equipment inventories and  
7 ability to prevent and respond to oil and hazardous substance  
8 release emergencies, and to undertake other activities intended  
9 to verify or establish the preparedness of the state, a munic-  
10 ipality, or a party required by AS 46.04.030 to have an approved  
11 contingency plan to act in accordance with that plan; and

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

14 (3) provide matching funds for participation in federal oil  
15 discharge cleanup activities and under 42 U.S.C. 9601 - 9657 (Compre-  
16 hensive Environmental Response, Compensation, and Liability Act of  
17 1980); [AND]

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

21 (5) prepare, review, and revise

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

25 (B) a regional master oil and hazardous substance  
26 discharge [AND] prevention and contingency plan required by  
27 AS 46.04.210; and

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

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

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

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

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

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

14 (2) the amount and source of money received and money  
15 recovered during the preceding fiscal year as specified in AS 46.08.-  
16 020;

17 (3) a summary of municipal participation in responses  
18 funded by the fund;

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

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

29 \* Sec. 24. SURVEY OF SMALL NONCRUDE OIL TERMINAL FACILITIES. (a) By

1 January 31, 1992, the Department of Environmental Conservation shall sur-  
2 vey, inspect, and prepare an inventory of noncrude oil terminal facilities  
3 in the state with an effective storage capacity of 5,000 to 10,000 barrels  
4 in order to determine for each facility

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

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

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

- 26 (1) notify each facility of the results of the facility's in-  
27 spection; and
- 28 (2) provide each facility with recommendations and technical  
29 assistance concerning identified deficiencies.

1 (d) The Department of Environmental Conservation may conduct the  
2 inspections required under this section notwithstanding the provisions of  
3 AS 46.04.050. The department shall conduct the inspections at reasonable  
4 times.

5 \* Sec. 25. TRANSITIONAL PROVISIONS. (a) AS 46.04.030(j) - (1),  
6 enacted by sec. 5 of this Act, do not apply to oil discharge prevention and  
7 contingency plans until June 1, 1991. On and after June 1, 1991, a  
8 contingency plan must comply with AS 46.04.030(j) - (1), enacted by sec. 5  
9 of this Act, regardless of whether the contingency plan is due for renewal  
10 under AS 46.04.030(d), as amended by sec. 4 of this Act.

11 (b) The amendments to AS 46.04.040, made by secs. 6 - 13 of this Act,  
12 do not apply to persons required to show proof of financial responsibility  
13 until January 1, 1991. On and after January 1, 1991, proof of financial  
14 responsibility must comply with AS 46.04.040, as amended by secs. 6 - 13 of  
15 this Act, regardless of whether acceptance of proof of financial respon-  
16 sibility has expired under AS 46.04.040(f), as amended by sec. 11 of this  
17 Act.