

SB

406

"An Act relating to oil terminal facilities and the marine transportation of crude oil, refined petroleum products or their by-products; effective date."

COMMITTEE REPORT

5/18/76

HOUSE

Mr. Speaker:

Date May 22, 1976

The Committee on JUDICIARY has had CS SS SB 406

under consideration. A Majority of the members of the Committee

() recommends it DO PASS

() recommends it DO NOT PASS

() recommends it DO PASS WITH ATTACHED AMENDMENT(S)

recommends it BE REPLACED WITH CS FOR _____ AND THAT
CS FOR _____ DO PASS

() "and" recommends it BE REFERRED TO THE _____
COMMITTEE

() reports it back WITHOUT RECOMMENDATION

() "other"

Members signing the Majority report:

<u>[Signature]</u>	<u>Do Pass</u>	<u>[Signature]</u>
<u>[Signature]</u>	<u>" "</u>	<u>[Signature]</u>
<u>[Signature]</u>	<u>" "</u>	<u>[Signature]</u>
<u>[Signature]</u>	<u>" "</u>	<u>[Signature]</u>

Members NOT concurring in the Majority report:

_____ recommends:

_____ recommends:

_____ recommends:

_____ recommends:

_____ recommends:

Terry Anderson Chairman

Put in my file on SB406

~~see J.S. at 11/17~~
~~summary~~

May 14, 1976

Memo to: ~~Guy Van Doren~~

From: Norman Gorsuch

Re: HCS CSSSSB 406

Page 20, Line ~~18~~ 17

Strike lines ~~19~~ through ~~20~~ and replace with the following language:

- (ii) partial, complete or defensively placed segregated ballast systems;
- (iii) a double bottom of a minimum height of one-fifteenth of the beam or two meters, whichever is the greater, or a double hull throughout the cargo-carrying length or compartments of the tank vessel of a minimum of two meters;

Purpose:

(1) sets forth clear statutory criteria that can be used by DEC in setting risk certificate premiums - avoids arbitrary rate setting

(2) recognizes that segregated ballast systems on tankers are safer than single hull vessels - arguably, double hulls would be even safer. Allows some recognition in premium rates of difference between rate for single hull vs. segregated ballast tankers.

Separates page 20, line 18
(ii) into 2 parts

Keep fund at \$20 million

Each year the waters of the Earth are subjected to a massive input of petroleum and its products. In the years 1969-70, 4.9 million metric tons of oil were dumped into the oceans.

Although 46.3 per cent of the above stated figure originated from vessels, there are many sources for pollution. Alaskans were made dramatically aware of the possibilities on May sixth of this year when workmen attempting to move the George Ferris drilling rig in Kachemak Bay discovered its legs were buckling. By the morning of the May tenth, an oil slick was evident extending two to three miles south from the rig through one of the world's largest shrimp and crab regions. At the same time some six million salmon fry were known to be moving through the polluted area.

Tankers and other vessels do contribute their share of oil to the oceans. At about the same time that crews were attempting to stop the leakage from the George Ferris, a tanker went aground in Spanish waters dumping some 80,000 tons of oil into the ocean.

Alaska has already been subjected to the consequences of a tanker accident. For instance, on March 7, 1973 the SS Hillyer Brown ran aground at Cold Bay resulting in what the Coast Guard report described as "...a major polluting incident." But Alaska has not yet become acquainted with vessels of the breathtaking dimensions which will soon be plying northern waters removing oil from Valdez.

Some of the vessels scheduled for service in Alaska are capable of carrying up to 160,000 tons oil. They are just under a quarter of a mile long and 200 feet wide. An emergency stop requires three miles and 20 minutes.

As a contrast to these massive vessels, the environment of Prince William Sound and other Alaskan waters in their paths is among the most delicate in the world. Prince William Sound is known to produce winds of more than 60 mph velocity for periods of up to two weeks. At the same time, the three fisheries in the route of the tankers produce from six to 15 per cent of the state's fishery harvest.

Cleaning up after a spill is, according to industry testimony, an ineffective science and is extremely expensive. Even in the relatively small incident on the George Ferris the spreading oil proved a match for technology when the oil slipped through the containment boom which had been placed around the rig.

CS SS SB 406 is intended to make the danger of pollution from a tanker or terminal facility as minimal as possible while providing the resources to restore the environment in the event of a spill. It establishes as mandatory for all vessels:

- 1) Loran-C navigational equipment;
- 2) collision avoidance systems;
- 3) back up radar systems.

Vessels over 40,000 DWT are required to have tug escorts if they lack:

- 1) lateral thrusters;
- 2) controllable pitch propellers or astern horsepower equal to 40 per cent of rated horsepower;
- 3) redundant boilers.

The bill establishes an insurance certification program with premiums based on the aforementioned safety features as well as flue gas inerting systems and segregated ballast tanks including double bottoms.

Operators of vessels and terminal facilities are required to pay annual premiums into the program with the funds to be made available to cover the cost of cleaning up any oil spills.

The Department of Environmental Conservation is authorized to enforce the provisions of this bill and administer the fund. It is also directed to establish uniform vessel traffic regulations in cooperation and compliance with Coast Guard standards.

Because of the concern over the effect of the bill on rural Alaska, certain exemptions have been allowed. Exempt are marinas with storage capabilities of 10,000 barrels or less and on shore facilities with storage capabilities of 25,000 barrels or less. In addition, on shore facilities with storage capabilities of up to 200,000 barrels are required to carry third party liability insurance of only \$100,000.

Keep this in foot file

Original Sponsors: Croft, Kerttula,
and Poland

1 IN THE SENATE

BY THE JUDICIARY COMMITTEE

2 HOUSE CS FOR CS FOR SPONSOR SUBSTITUTE FOR SENATE BILL NO. 406 (Judiciary)

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 NINTH LEGISLATURE - SECOND SESSION

5 A BILL

6 For an Act entitled: "An Act relating to oil terminal facilities and the
7 marine transportation of crude oil, refined petroleum
8 products or their by-products; and providing for an
9 effective date."

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

11 * Section 1. AS 30 is amended by adding a new chapter to read:

12 CHAPTER 20. REGULATION OF TANK VESSEL TRAFFIC.

13 Sec. 30.20.010. POLICY AND PURPOSE. (a) Because of the danger of
14 spills, the legislature finds and declares that the marine transporta-
15 tion of crude oil, refined petroleum products or their by-products by
16 tankers or other carriers so engaged in the coastal waters and inside
17 coastal waters of the state creates a great potential hazard to impor-
18 tant natural resources of the state and to jobs and incomes dependent on
19 these resources. The legislature also recognizes that the state's
20 coastal and inside coastal waters are a relatively confined saltwater
21 environment with irregular shorelines and therefore there is a greater
22 than usual likelihood of long-term damage from a large oil discharge.
23 Certain areas of the state's coastal and inside coastal waters have
24 limited space for maneuvering large tank vessels engaged in the marine
25 transportation of crude oil, refined petroleum products or their by-
26 products. These waters also contain many natural obstacles and pheno-
27 mena and at certain times and places a high density of commercial,
28 fishing and pleasure boat traffic. Thus, it is important that large
29 tank vessels have sufficient capability for rapid maneuvering responses.

1 (b) It is also the purpose of this chapter to decrease the likeli-
2 hood of oil discharges in the coastal and inside coastal waters of the
3 state and its shorelines by requiring tank vessels engaged in the marine
4 transportation of crude oil, refined petroleum products or their by-
5 products to be equipped with certain safety and maneuvering capability
6 features and, if these vessels are above a certain size but lack these
7 features, to be escorted by tugs while navigating in the coastal and
8 inside coastal waters of the state.

9 (c) The legislature further finds and declares that the particular
10 marine environment of the state through which tank vessels engaged in
11 the marine transportation of crude oil, refined petroleum products or
12 their by-products will navigate is potentially more hazardous than other
13 maritime routes. The introduction of crude oil, refined petroleum pro-
14 ducts or their by-products into the marine environment of the state's
15 coastal and inside coastal waterways causes extreme damage to the
16 marine, estuarine and adjacent terrestrial environment lasting beyond
17 the visible existence of the spilled, discharged or escaped oil and is
18 potentially destructive of the valuable species of fish and shellfish
19 that are harvested in Alaskan waters.

20 Sec. 30.20.020. STANDARD SAFETY, MANEUVERABILITY FEATURES. (a) A
21 tank vessel engaged in the marine transportation of crude oil, refined
22 petroleum products or their by-products while navigating those portions
23 of the navigable coastal, inside coastal or other navigable waters of
24 the state prescribed by the department by regulation shall be equipped
25 or fitted with

26 (1) LORAN-C navigational system receivers and other position
27 location systems as may be prescribed from time to time by the depart-
28 ment by regulation;

29 (2) electronically controlled collision avoidance systems

1 where applicable to an appropriate vessel prescribed by the department
2 by regulation; and

3 (3) two radars of types prescribed by the department by regu-
4 lation in working order, one of which is operating.

5 (b) A tank vessel engaged in the marine transportation of crude
6 oil, refined petroleum products or their by-products of 40,000 dead-
7 weight tons or more, which lacks the following maneuverability and
8 stopping features, must be escorted by tugs with an aggregate shaft
9 horsepower equivalent to five per cent of the deadweight tons of that
10 tank vessel while navigating those portions of the navigable coastal,
11 inside coastal or other navigable waters of the state prescribed by the
12 department by regulation:

13 (1) lateral thrusters;

14 (2) controllable pitch propellers or astern horsepower equal
15 to 40 per cent of rated horsepower; and

16 (3) redundant boilers, an auxiliary propulsion source or
17 other backup equipment that the department may require by regulation to
18 provide for a vessel's safe operation if the primary equipment fails.

19 (c) However, the department may by regulation ~~exempt a tank vessel~~
20 from the tug escort provisions of (b) of this section in certain ports,
21 harbors or navigable waters of the state or at certain times of the ^{year}
22 year, ^{if} as in the judgment of the department, ^{the safety of the tank vessels will} are (dictated by) meteorolo-
23 gical or oceanographic conditions ^{not be produced by the lack of a tug escort.} ^{are such that the tug escort would be ineffective}

24 Sec. 30.20.030. TANK VESSEL TRAFFIC REGULATIONS. (a) The depart-
25 ment shall adopt and maintain a comprehensive, uniform system of traffic
26 regulations for the operation of tank vessels engaged in the transporta-
27 tion of crude oil, refined petroleum products or their by-products in
28 the navigable waters of the state that may be required to implement the
29 provisions of this chapter and that are not in conflict with traffic

1 regulations contained in federal navigation laws or regulations promul-
2 gated by the United States Coast Guard.

3 (b) In adopting these regulations, the department may prescribe
4 the maximum and minimum speed for vessels subject to this chapter and
5 the weather conditions under which the movement of these vessels may be
6 prohibited.

7 (c) The department shall consult and cooperate with the United
8 States Coast Guard in the establishment, adoption, maintenance, adminis-
9 tration and enforcement of the traffic regulations adopted under this
10 chapter.

11 (d) The Administrative Procedure Act (AS 44.62) applies to
12 regulations adopted by the department under this chapter.

13 Sec. 30.20.040. ENFORCEMENT; PENALTIES. (a) This chapter and the
14 regulations adopted under it shall be enforced by a peace officer or an
15 employee of the department or other state agency authorized by the com-
16 missioner.

17 (b) An owner or operator of a tank vessel who violates a provision
18 of this chapter, or a regulation adopted under it, upon conviction is
19 guilty of a misdemeanor and is punishable by a fine of not less than
20 \$1,000 nor more than \$25,000, or by imprisonment for not more than one
21 year, or by both. Each day on which a violation occurs may be con-
22 sidered a separate and additional offense.

23 Sec. 30.20.050. INTERSTATE, FOREIGN COMPACTS, OTHER AGREEMENTS,
24 ARRANGEMENTS AUTHORIZED. Subject to the approval of the legislature or
25 of the Congress of the United States, as may be required under appli-
26 cable provisions of law, the governor may execute supplementary agree-
27 ments, reciprocal arrangements or compacts with any other state or with
28 a foreign government to implement the purposes of this chapter.

29 Sec. 30.20.060. DEFINITIONS. In this chapter

1 (1) "carrier" means a person who owns or who, for compensa-
2 tion, operates or otherwise provides a tank vessel engaged in, used or
3 capable of being used for, the marine transportation of crude oil,
4 refined petroleum products or their by-products on the waters of this
5 state;

6 (2) "commissioner" means the commissioner of environmental
7 conservation;

8 (3) "deadweight tons" or "DWT" means the difference in metric
9 tons between the lightweight displacement and the total displacement of
10 a vessel measured in water of specific gravity 1.025 at the load water-
11 line corresponding to the assigned summer freeboard;

12 (4) "department" means the Department of Environmental Con-
13 servation;

14 (5) "crude oil, refined petroleum products or their by-
15 products" means oil of any kind and in any form including, but not
16 limited to, petroleum, fuel oil, gasoline, lubricating oils, oily
17 sludge, oil refuse, oil mixed with other wastes, crude oils, liquified
18 natural gas, propane, butane or other liquid hydrocarbons regardless of
19 specific gravity;

20 (6) "operate" means to navigate or otherwise use a vessel
21 subject to the provisions of this chapter;

22 (7) "operator" means the person who operates or has charge of
23 the navigation or use of a vessel subject to the provisions of this
24 chapter;

25 (8) "owner" means a person, other than a lienholder, having
26 the property in or title to a vessel; the term includes a person en-
27 titled to the use or possession of a vessel subject to an interest of
28 another person reserved or created by agreement and securing payment or
29 performance of an obligation, but the term excludes a lessee under a

1 lease not intended as security;

2 (9) "tank vessel" means a self-propelled vessel that is
3 specially constructed or converted to carry liquid bulk cargo in tanks
4 and includes tankers, tankships and combination carriers when carrying
5 crude oil, petroleum products or their by-products in bulk; it does not
6 include vessels carrying crude oil, petroleum products or their by-
7 products in drums, barrels, or other packages, or vessels carrying crude
8 oil, petroleum products or their by-products as fuel or stores for that
9 vessel;

10 (10) "waters of the state" means the navigable coastal, inside
11 coastal and other navigable waters within the territorial limits of this
12 state, and the marginal sea adjacent to this state, as defined in
13 AS 44.03 and AS 46.03.900(22).

14 Sec. 30.20.070. SHORT TITLE. This chapter may be cited as the
15 Tank Vessel Traffic Regulation Act.

16 * Sec. 2. AS 30 is amended by adding a new chapter to read:

17 CHAPTER 25. OIL TERMINAL FACILITIES: TRANSFER
18 OF CRUDE OIL, REFINED PETROLEUM PRODUCTS OR THEIR BY-PRODUCTS.

19 Sec. 30.25.010. DECLARATION OF POLICY AND PURPOSE. (a) The
20 legislature finds and declares that it is a matter of the highest
21 urgency and priority to protect the coastal and inside coastal waters,
22 estuaries, wetlands, beaches and public lands adjoining the seacoast,
23 taking into account multiple use accommodations necessary to provide the
24 broadest possible protection of public and private interests with the
25 least possible conflicts among these diverse uses.

26 (b) The legislature further finds and declares that the transfer
27 of crude oil, petroleum products or their by-products between vessels,
28 and between vessels and onshore or offshore facilities within the juris-
29 diction of the state is a hazardous undertaking. Spills, discharges and

1 escapes of crude oil, refined petroleum or their by-products that may
2 occur as a result of procedures involved in the transfer and storage of
3 these products pose threats of great danger and damage to the marine,
4 estuarine and adjacent terrestrial environment of the state, to owners
5 and users of shorefront property, to public and private recreation, to
6 residents of the state and other interests deriving livelihood from
7 fishing and other marine-related activities, and to the beauty of the
8 state's coastline. These spills have occurred frequently and present
9 future threats of potentially catastrophic proportions, all of which are
10 expressly declared to be inimical to the paramount interests of the
11 state as set out in this section. These state interests outweigh any
12 economic and liability burdens imposed by the legislature upon those
13 engaged in transferring crude oil, refined petroleum products or their
14 by-products and related activities.

15 (c) The legislature intends by the enactment of this legislation
16 to

17 (1) exercise the police power of the state through the
18 Department of Environmental Conservation by conferring upon the depart-
19 ment the authority to deal with the hazards and threats of danger and
20 damage posed by these transfers and related activities and to encourage
21 and ensure cooperation with the United States Coast Guard and any other
22 state or federal department or agency;

23 (2) require, through the maximum practicable utilization of
24 contractual services, the prompt containment and removal of the pollu-
25 tion occasioned by oil spills;

26 (3) provide procedures whereby persons suffering damage from
27 these occurrences may be made whole promptly;

28 (4) establish a fund to provide for the inspection and super-
29 vision of oil transfer activities and guarantee the prompt cleanup of

1 oil spills and the payment of those costs; and

2 (5) to establish a system of regulation by requiring the
3 possession of a certificate of risk avoidance, the payment of risk
4 charges and the proof of financial responsibility by owners or operators
5 of oil terminal facilities and tank vessels engaged in the transporta-
6 tion or transfer of crude oil, refined petroleum products or their by-
7 products; the risk avoidance scheme is designed to provide incentives to
8 owners or operators of tank vessels engaged in the marine transportation
9 of crude oil, refined petroleum products or their by-products to incor-
10 porate safety and maneuvering capability features in those tank vessels
11 to reduce the risk that these vessels will release crude oil, refined
12 petroleum products or their by-products into the marine environment by
13 granting a reduction in the risk established under sec. 250 of this
14 chapter and by reducing requirements for proof of financial responsi-
15 bility under sec. 50 of this chapter.

16 (d) The legislature further finds and declares that the preserva-
17 tion of the public uses referred to in this section is of grave public
18 interest and concern to the state in promoting its general welfare,
19 promoting health and providing for the public safety, and that the
20 state's interest in the preservation of these interests outweighs any
21 burdens of strict liability imposed by the legislature upon those en-
22 gaged in transferring crude oil, refined petroleum products or their by-
23 products and related activities.

24 ARTICLE 2. REGULATION OF OIL TERMINAL FACILITIES, MARINE
25 CARRIERS; ISSUANCE OF CERTIFICATES OF RISK AVOIDANCE.

26 Sec. 30.25.020. POLLUTION AND CORRUPTION OF WATERS AND LANDS OF
27 THE STATE PROHIBITED. Except as provided in AS 46.03.740, the discharge
28 of crude oil, refined petroleum products or their by-products into or
29 upon any waters and lands of the state, as defined in AS 46.03.826(7),

1 is prohibited.

2 Sec. 30.25.030. AUTHORITY OF DEPARTMENT. (a) The authority of
3 the department under this chapter extends to the areas described in
4 sec. 20 of this chapter, and in AS 44.03.

5 (b) Certificates of risk avoidance required under this chapter
6 shall be obtained from and proof of financial responsibility shall be
7 submitted to the department subject to the terms and conditions pre-
8 scribed in this chapter and regulations adopted under it.

9 Sec. 30.25.040. OPERATION WITHOUT A CERTIFICATE PROHIBITED; APPLI-
10 CATION; PERIODIC INSPECTION. (a) No person may operate, or cause to be
11 operated in the state, an oil terminal facility used or capable of being
12 used in the transfer of crude oil, refined petroleum products or their
13 by-products without proof of financial responsibility submitted to, and
14 a certificate of risk avoidance issued by, the department under this
15 chapter.

16 (b) No person may operate, or cause to be operated, a tank vessel
17 engaged in the marine transportation of crude oil, refined petroleum
18 products or their by-products without proof of financial responsibility
19 submitted to, and a certificate of risk avoidance issued by, the depart-
20 ment under this chapter

21 (1) to or from oil terminal facilities located onshore in the
22 ports, harbors or elsewhere in the state;

23 (2) to or from deepwater port facilities located offshore in
24 the waters of the state; or

25 (3) through the waters of the state.

26 (c) The department shall prohibit the loading or unloading of a
27 tank vessel subject to the provisions of this chapter, that does not
28 possess a certificate of risk avoidance or proof of financial responsi-
29 bility, or both the certificate and proof.

1 (d) Certificates of risk avoidance shall be issued on an annual
2 basis subject to those terms and conditions the department considers
3 necessary and prescribes by regulation to carry out the purposes of this
4 chapter.

5 (e) As a condition precedent to the issuance or renewal of a
6 certificate of risk avoidance the department shall require payment of an
7 annual risk charge established under sec. 250 of this chapter and sub-
8 mission of satisfactory evidence that the applicant has, or is in the
9 process of implementing state and federal plans and regulations for
10 control of pollution related to crude oil, refined petroleum products or
11 their by-products and the abatement of the pollution when a discharge
12 occurs.

13 (f) In addition to the evidence supplied under this section,
14 applicants for an oil terminal facility certificate shall demonstrate
15 that they can provide all necessary equipment, personnel and supplies to
16 prevent, contain, and remove discharges of oil and other pollutants, and
17 shall submit information to the department in a form satisfactory to it,
18 describing the following:

19 (1) the barrel or other measurement capacity of the terminal
20 facility;

21 (2) all containment and removal equipment, including but not
22 limited to vehicles, vessels, pumps, skimmers, booms, chemicals and
23 communications devices to which the facility has access, whether through
24 direct ownership or by contract or membership in an oil cleanup organi-
25 zation; and

26 (3) the terms of agreement and operation plan of any dis-
27 charge cleanup organization to which the owner or operator of the
28 terminal facility belongs.

29 (g) In addition to the other evidence supplied under this section,

1 applicants for a marine carrier certificate shall demonstrate that they
2 can provide all necessary equipment, personnel and supplies to prevent,
3 contain, and remove discharges of oil and other pollutants, and shall
4 submit information to the department in a form satisfactory to it,
5 describing the following:

6 (1) the name and description of each tank vessel for which a
7 certificate is sought that is engaged in, used or capable of being used
8 by the carrier for the marine transportation of crude oil, refined
9 petroleum products or their by-products to and from onshore and offshore
10 oil terminal facilities in this state; the vessel description shall in-
11 clude, but is not limited to, the overall length, beam, draft, gross
12 tonnage, deadweight tonnage, net tonnage, and design capacity for trans-
13 porting crude oil, refined petroleum products or their by-products, and
14 a detailed statement as to the tank vessel's seaworthiness; the depart-
15 ment may, in addition, require that the carrier furnish a marine survey
16 of the tank vessel's condition;

17 (2) a projection of the number of visits each tank vessel
18 will make annually to or from an oil terminal facility in the state, or
19 through the waters of the state;

20 (3) all containment and removal equipment, including but not
21 limited to vehicles, vessels, pumps, skimmers, booms, chemicals, and
22 communication devices to which the carrier or the tank vessel has
23 access, whether through direct ownership or by contract or membership in
24 an approved discharge cleanup organization; and

25 (4) the terms of agreement and operation plan of any dis-
26 charge cleanup organization to which the carrier or the owner or opera-
27 tor of the tank vessel belongs.

28 (h) Upon showing of satisfactory containment and removal or
29 cleanup capability under this section, and upon payment of the annual

1 risk charge, the department shall issue the applicant a certificate of
2 risk avoidance for each terminal facility and related appurtenances or
3 for each tank vessel. In addition to the annual risk charge, the
4 department may assess a penalty for late applications and a fee for the
5 processing of an application for the issuance or renewal of a certi-
6 ficate of risk avoidance under this section. This fee shall be reason-
7 ably related to the administrative costs of verifying the data submitted
8 under (e), (f) and (g) of this section.

9 (i) Oil terminal facilities engaged in the transfer of, and
10 carriers engaged in the marine transportation of crude oil, refined
11 petroleum products or their by-products, that are applicants for, or are
12 holders of, a certificate of risk avoidance under this section are
13 subject to inspection by the department to ensure compliance with the
14 provisions of this chapter.

15 Sec. 30.25.050. PROOF OF FINANCIAL RESPONSIBILITY. (a) Carriers
16 and facilities subject to the provisions of this chapter shall present
17 to the department evidence of insurance, bonding or other forms of
18 financial responsibility acceptable to the department for property
19 damage, personal injuries, loss of income or other losses resulting from
20 the unlawful discharge of crude oil, refined petroleum products or their
21 by-products.

22 (b) The amount of financial responsibility required for each
23 carrier shall not be less than \$20,000,000, or an amount required under
24 applicable federal law or regulation.

25 (c) The amount of financial responsibility required for each
26 facility with a capacity of less than 200,000 barrels of crude oil,
27 refined petroleum products or their by-products is \$100,000; the amount
28 for the same type of facility with a capacity of 200,000 barrels or more
29 of crude oil, refined petroleum products or their by-products is

420,000

1 \$1,000,000.

2 Sec. 30.25.060. EXEMPTIONS. (a) Because of the restricted nature
3 of marina and limited capacity facility operations and the minimal
4 danger to the environment posed by their activities, [a marina used or
5 capable of being used to store less than 10,000 barrels of refined
6 petroleum products or their by-products] or an onshore limited capacity
7 facility used or capable of being used to store less than 25,000 barrels
8 of refined petroleum products or their by-products, is exempt from the
9 proof of financial responsibility requirements of sec. 50 of this
10 chapter and the certificate of risk avoidance requirements of sec. 40 of
11 this chapter.

12 (b) For the purposes of (a) of this section

13 (1) "marina" means a person or facility engaged in the
14 business, whether on shore or offshore, of servicing the fuel require-
15 ments of aircraft, pleasure watercraft, fishing boats and other com-
16 mercial vessels, where the purchaser and the consumer are the same
17 entity, and the fuel capacity of the servicing or serviced vessel is
18 less than 10,000 barrels of refined petroleum products or their by-
19 products, and is not covered by the definition of limited capacity
20 facility in (2) of this subsection; however, a marina does [not] include
21 a seafood processing vessel or tender when, incidental to its seafood
22 processing operations, it transfers refined petroleum products to a
23 fishing boat;]

24 (2) "limited capacity facility" means a small tank farm,
25 small bulk fuel storage facility, or other onshore facility storing
26 refined petroleum products or their by-products, except asphalt, and
27 which is engaged in the business of servicing the requirements of pro-
28 duct transporters and vendors, or storing the fuel requirements for
29 village domestic, school or commercial use, including but not limited to

1 fish processing, logging operations, construction projects or electric
2 power generation.

3 Sec. 30.25.070. SCOPE OF REGULATIONS. The department shall adopt
4 regulations to carry out the purposes of this chapter that do not con-
5 flict with federal law or regulations issued by any federal department
6 or agency, including but not limited to the following:

7 (1) operating and inspection requirements for oil terminal
8 facilities, tank vessels, personnel, equipment, supplies and other
9 matters relating to the insured's operations under sec. 40 of this
10 chapter;

11 (2) procedures and methods of reporting discharges and other
12 occurrences prohibited by this chapter;

13 (3) procedures, methods, means and equipment to be used by
14 persons subject to this chapter and the implementing regulations;

15 (4) procedures, methods, means and equipment to be used in
16 the removal of oil and petroleum pollutants;

17 (5) development and implementation of criteria and plans to
18 meet oil and petroleum pollution discharges, spills or other occurrences
19 of various degrees and kinds;

20 (6) requirements for the safety and operation of tank vessels
21 and motor vehicles, motorized equipment and other equipment relating to
22 the use and operation of terminals, facilities and refineries and the
23 approach and departure from terminals, facilities and refineries;

24 (7) establishment of the risk charges for annual issuance of
25 the certificate of risk avoidance; and

26 (8) those other regulations that may be required by or for
27 emergency conditions or that reasonably may be necessary to carry out
28 the purposes of this chapter.

29 ARTICLE 3. EMERGENCIES.

1 Sec. 30.25.080. GOVERNOR'S POWERS: EMERGENCY PROCLAMATION. (a) In
2 addition to exercising his civil defense powers under AS 26.20, or
3 directing the department to exercise its emergency powers under AS 46.-
4 03.820, when a disaster or catastrophe occurs or appears imminent aris-
5 ing from the discharge of crude oil, refined petroleum products or their
6 by-products, the governor, or in his absence or inability, the lieute-
7 nant governor, shall by proclamation declare (1) that fact and (2) that
8 an emergency exists in one, several or all sections of the state. A
9 copy of the proclamation shall be filed with the lieutenant governor in
10 the manner prescribed by law.

11 (b) The governor has general direction and control of the depart-
12 ment and is responsible for carrying out the provisions of this chapter
13 when a disaster or catastrophe occurs or appears imminent arising from
14 the discharge of crude oil, refined petroleum products or their by-
15 products.

16 (c) In performing his duties under this chapter, the governor may
17 (1) issue, amend and rescind the necessary orders and regu-
18 lations to carry out the provisions of this chapter within the limits of
19 the authority conferred upon him and not inconsistent with the regula-
20 tions and directives of the President of the United States or of any
21 federal department or agency that has specifically authorized emergency
22 functions;

23 (2) delegate any authority vested in him under this chapter
24 and provide for the subdelegation of that authority.

25 (d) When the governor is satisfied that an emergency no longer
26 exists, he shall terminate the proclamation issued under (a) of this
27 section by another proclamation affecting the sections of the state
28 covered by the original proclamation. The proclamation shall be pub-
29 lished in the newspapers of general circulation in the state and posted

1 at other places that the governor, or the person acting in that capa-
2 city, considers appropriate.

3 (e) The provisions of AS 26.20 as they apply to eminent domain and
4 compensation, mutual aid, immunity, aid in emergency, right-of-way, en-
5 forcement and compensation apply to disasters or catastrophes proclaimed
6 by the governor under this chapter.

7 Sec. 30.25.090. INTERAGENCY COOPERATION. In performing his duties
8 under sec. 80 of this chapter, the governor shall secure cooperation
9 from all departments and agencies of the federal government, and the
10 governments of other states and foreign countries, and the political
11 subdivisions of them, as well as from private agencies, in all matters
12 relating to disaster or catastrophe.

13 ARTICLE 4. REMOVAL OF PROHIBITED DISCHARGES.

14 Sec. 30.25.100. IMMEDIATE REMOVAL REQUIRED. A person discharging
15 crude oil, refined petroleum products or their by-products in a manner
16 prohibited by sec. 20 of this chapter shall immediately undertake to
17 remove the discharge to the department's satisfaction. Notwithstanding
18 this requirement, the department may undertake the removal of the
19 discharge and may retain agents and enter into contracts for that
20 purpose notwithstanding the provisions of AS 37.05.220 - 37.05.280.
21 These agents or contractors shall operate under the direction of the
22 department.

23 Sec. 30.25.110. UNEXPLAINED DISCHARGES. An unexplained discharge
24 of crude oil, refined petroleum products or their by-products within the
25 state's jurisdiction or discharge of crude oil, refined petroleum pro-
26 ducts or their by-products occurring in waters beyond state jurisdiction
27 that for any reason penetrates within state jurisdiction shall be re-
28 moved by or under the direction of the department.

29 Sec. 30.25.120. OIL DISCHARGE CLEANUP PERSONNEL, EQUIPMENT, EX-

1 PENSES. (a) The department may establish and maintain at ports, harbors
2 or other locations in the state, the personnel, equipment and supplies
3 that, in its judgment, may be necessary to carry out the provisions of
4 this chapter. Whenever feasible, the department shall enter into
5 contracts with persons or private organizations to provide the oil
6 discharge cleanup personnel, equipment or other services or supplies
7 that may be required to carry out the provisions of this chapter.

8 (b) The salaries of department employees and the cost of equip-
9 ment, supplies and contracts entered into under (a) of this section re-
10 quired to carry out the provisions of this chapter shall be paid from
11 the coastal protection fund.

12 (c) The department and the Departments of Natural Resources and
13 Fish and Game shall consult with one another periodically relative to
14 procedures for the prevention of oil discharges into the coastal and
15 inside coastal waters of the state from offshore drilling production
16 facilities. These departments shall jointly establish predesignated
17 sites for the deposit of oil discharge refuse and waste.

18 (d) Those inspection and enforcement employees of the department
19 designated by the commissioner are peace officers under AS 01.10.060(6)
20 in their line duty under this chapter and AS 46.03.

21 (e) Expenses involved in the removal of discharges, whether by
22 the person causing the discharge, the person reporting it, or the depart-
23 ment by itself, or through its agents or contracts shall be paid solely
24 from the coastal protection fund established under this chapter.

25 ARTICLE 5. ENFORCEMENT; PENALTIES.

26 Sec. 30.25.130. ADMINISTRATIVE ADJUDICATION. When it appears,
27 after investigation, that there is a violation of a regulation, order or
28 certificate issued by the department, the department shall proceed in
29 accordance with the provisions of this chapter and the regulations

1 adopted under it.

2 Sec. 30.25.140. CRIMINAL SANCTIONS. A person who violates sec. 20
3 of this chapter is punishable under AS 46.03.760 or 46.03.790. A person
4 who falsifies information required under sec. 40 of this chapter is
5 punishable under AS 46.03.760 or 46.03.790.

6 Sec. 30.25.150. CIVIL PENALTIES. A person who violates a provi-
7 sion of this chapter or a regulation or order of the department is
8 subject to the penalties prescribed in AS 46.03.760 - 46.03.780.

9 Sec. 30.25.160. INJUNCTIVE RELIEF. A person may be enjoined by
10 the superior court from committing a violation of a provision of this
11 chapter, or the implementing regulations.

12 Sec. 30.25.170. ACTIONS TO RECOVER PENALTIES, DAMAGES. (a)
13 Actions to recover penalties or damages under this chapter shall be
14 brought by the attorney general in a court of competent jurisdiction.

15 (b) All penalties recovered under sec. 140 or 150 of this chapter
16 shall be paid to the department and deposited by it in the coastal pro-
17 tecton fund.

18 Sec. 30.25.180. EACH VIOLATION IS A SEPARATE OFFENSE. Each viola-
19 tion of a provision of this chapter, an implementing regulation, or an
20 order or certificate issued by the department under them, is a separate
21 and distinct offense and, in case of a continuing violation, each day
22 the violation continues constitutes a separate offense.

23 Sec. 30.25.190. PENALTIES CUMULATIVE. (a) All penalties imposed
24 under this chapter are cumulative.

25 (b) An action to recover a civil penalty is not a bar to an en-
26 forcement proceeding to require compliance, or to any other remedy or
27 sanction provided by this chapter.

28 Sec. 30.25.200. JOINDER OF ACTIONS. Under the applicable court
29 rules, appeals from orders of the department, and actions for recovery

1 of damages or penalties may be joined. The court may in the interests
2 of justice separate the actions.

3 Sec. 30.25.210. PRIVATE CAUSE OF ACTION. (a) A person subjected
4 to a prohibited discharge in violation of this chapter may sue in a
5 state court of appropriate jurisdiction for damages resulting from the
6 prohibited discharge.

7 (b) A person recovering damages under this section is entitled to
8 a reasonable attorney fee, fixed by the court, to be taxed and collected
9 as costs of the suit.

10 ARTICLE 6. COASTAL PROTECTION FUND.

11 Sec. 30.25.220. FUND CREATED; USES; LIMITATIONS; CHARGES. (a) The
12 coastal protection fund is created as a revolving fund. The fund shall
13 be used by the department to carry out the purposes of this chapter.

14 (b) To this fund shall be credited all risk charges, penalties, ^{damages} and
15 other fees or charges established under or related to this chapter. To
16 this fund shall be charged all expenses of the department related to
17 this chapter, including administrative expenses, and costs of abatement,
18 containment or removal of discharges of pollutants.

19 Sec. 30.25.230. SURPLUS FUNDS. Money in the fund not currently
20 needed to meet the obligations of the department in the exercise of its
21 responsibilities under this chapter shall be deposited with the com-
22 missioner of revenue to the credit of the fund and shall be invested in
23 the manner provided in AS 37.10. Interest received on that investment
24 shall be credited to the fund.

25 Sec. 30.25.240. RESEARCH AND DEVELOPMENT. The department may
26 allocate annually not more than five per cent of the amount ^{then} [than] cur-
27 rently in the fund for research and development into the causes, effects,
28 prevention and removal of pollution of the aquatic environment caused by
29 crude oil, refined petroleum products, or their by-products. These

1 allocations shall be made in accordance with the Executive Budget Act
2 (AS 37.07).

3 Sec. 30.25.250. FUNDING; RISK CHARGES. (a) Annual risk charges
4 for each classification of certificates issued by the department under
5 sec. 40 of this chapter shall be based on the following factors:

6 (1) data submitted by applicants under that section;

7 (2) with respect to the issuance of certificates to carriers
8 engaged in the marine transportation of crude oil, refined petroleum
9 products or their by-products, the design characteristics of the tank
10 vessel for which the certificate is issued, including but not limited to

11 (A) the presence or absence of the standard safety or
12 maneuvering capability features prescribed in AS 30.20.020; and

13 (B) if the tank vessel is ~~40,000~~ deadweight tons or
14 more, the presence or absence of

15 (1) flue gas or other gas inerting systems to be
16 prescribed by the department by regulation; and

17 (ii) segregated ballast tanks, the combined capacity
18 of which shall be of sufficient size, as prescribed by the
19 department, so that the tank vessel can operate safely on
20 ballast voyages without recourse to the use of cargo tanks for
21 water ballast, and which is achieved in part by fitting,
22 throughout the cargo-carrying length or compartments of the
23 tank vessel: either a double bottom of a minimum height of
24 one-fifteenth of the beam or two meters, whichever is the
25 greater, or a double hull of a minimum of two meters;

26 (3) the risk experience of oil terminal facilities and
27 carriers during the previous period for which the certificate of risk
28 avoidance was issued and risk charges paid; and

29 (4) any other data, information or standards the department

1 considers relevant or essential to an appropriate determination of the
2 annual charges for the issuance of certificates of risk avoidance under
3 sec. 40 of this chapter.

4 (b) The annual risk charge for a tank vessel that lacks some or
5 all of the design characteristics prescribed in (a)(2) of this section
6 shall be increased accordingly in the manner prescribed by the depart-
7 ment. The annual risk charge shall be reduced when the tank vessel is
8 equipped or fitted with the design characteristics prescribed in (a)(2)
9 of this section.

10 (c) Charges may be adjusted from time to time during each year to
11 allow for risk experience or the equipping or fitting of design charac-
12 teristics prescribed in (a)(2) of this section during that period.

13 (d) The aggregate annual risk charges to be collected each year
14 shall be sufficient to cover anticipated authorized disbursements from
15 the fund for that year, except costs involved in the abatement, con-
16 tainment or removal of pollution under sec. 260(a)(2) of this chapter,
17 plus 20 per cent of the amount necessary to fund the pollution abatement
18 expense reserve established under (f) of this section.

19 (e) At the time the full pollution abatement expense reserve has
20 been collected, there shall be returned to those holders of certificates
21 of risk avoidance who paid into the fund in its first year of operation
22 their pro rata share of the excess, if any, of risk charges paid over
23 all disbursements from the fund made for that year plus interest on the
24 amount of the excess returned. In each year thereafter, so long as the
25 pollution abatement expense reserve is maintained, excess risk charges,
26 if any, shall be paid to the certificate holders in the year following
27 the last year for which a return of excess risk charge has been made if
28 due or calculated and found not due.

29 (f) The initial pollution abatement expense reserve is \$30,000,000

1 At least once every five years during the fund's operation, the depart-
2 ment shall determine an appropriate amount necessary to maintain ade-
3 quate funds to ^{contain or remove} abate anticipated oil pollution and establish a new
4 amount for the pollution abatement expense reserve.

5 (g) Risk charges shall be paid to the department and upon receipt
6 by it deposited in the coastal protection fund.

7 Sec. 30.25.260. DISBURSEMENTS FROM FUND. (a) Money in the
8 coastal protection fund may be disbursed for the following purposes and
9 no other, subject to the provisions of AS 37.07 and AS 37.10:

10 (1) administrative expenses, personnel expenses, contract
11 fees, and equipment and supplies costs of the department related to the
12 enforcement of this chapter;

13 (2) all costs involved in the abatement, containment or
14 removal of pollution related to the discharge of crude oil, refined
15 petroleum products or their by-products covered by this chapter;

16 (3) sums allocated to research and development in accordance
17 with sec. 240 of this chapter; and

18 (4) payment of costs of insurance by the state to implement
19 this chapter.

20 (b) The department shall submit annually to the legislature,
21 through the Department of Administration and the governor, in accordance
22 with the Executive Budget Act (AS 37.07), its recommendations for dis-
23 bursements from the fund under (a) of this section and sec. 240 of this
24 chapter.

25 Sec. 30.25.270. SPECIAL RISK CHARGES. (a) If a discharge occurs
26 in any year necessitating disbursements from the fund in excess of
27 expenses funded by that year's charges, the department shall collect
28 from all carriers and facilities subject to the provisions of this
29 chapter at the time the discharge occurs that amount which will

1 reimburse the fund by the aggregate amount of the excess expenditures.

2 (b) The amount to be collected shall be prorated among those
3 carriers and facilities subject to this chapter at the time of the dis-
4 charge and shall be determined on the basis of the same criteria used to
5 determine annual risk charges under sec. 250 of this chapter.

6 (c) If a carrier or facility subject to (a) of this section re-
7 fuses to pay the special risk charges established under (a) of this
8 section, those charges shall be prorated among the remaining carriers or
9 facilities.

10 (d) Requests for payment of the special risk charges established
11 under (a) of this section, if not paid within 30 days of demand, shall
12 be turned over to the Department of Administration or the Department of
13 Law, or both, for collection.

14 Sec. 30.25.230. OIL TERMINAL FACILITY, CARRIER STRICTLY LIABLE. An
15 operator of an oil terminal facility and a carrier are strictly liable,
16 without regard to fault, under AS 46.03.822 - 46.03.828 for all acts and
17 omissions of their employees and agents. The liability of a carrier
18 extends from the time the vessel enters state waters until the time the
19 vessel leaves state waters.

20 ARTICLE 7. GENERAL, MISCELLANEOUS PROVISIONS.

21 Sec. 30.25.290. INTERSTATE, FOREIGN COMPACTS AUTHORIZED. The
22 governor may execute supplementary agreements, reciprocal arrangements
23 or compacts with any other state or with foreign governments, subject to
24 the approval of the legislature and of the Congress of the United States
25 that may be required by applicable provisions of law, for the purpose of
26 implementing this chapter.

27 Sec. 30.25.300. ANNUAL REPORT. The department shall prepare and
28 publish an annual report to the governor and to the legislature review-
29 ing its work under this chapter and shall include in the report its

1 recommendations for the enactment of appropriate legislation.

2 Sec. 30.25.310. MUNICIPAL ORDINANCES, REGULATIONS; POWERS LIMITED.
3 If a conflict occurs between a provision of this chapter, or a regula-
4 tion, certificate, order, decision or other determination of the depart-
5 ment and a charter, ordinance, permit, regulation, franchise, decision
6 or other determination of a municipality, the provisions of this chapter
7 or a regulation, certificate, order, decision or other determination of
8 the department prevails. However, nothing in this chapter may be con-
9 strued to preclude a municipality, by ordinance or regulation, from ex-
10 exercising its police powers in the area regulated by this chapter.

11 Sec. 30.25.320. APPLICATION OF ADMINISTRATIVE PROCEDURE ACT. (a)
12 The administrative adjudication procedures of the Administrative
13 Procedure Act (AS 44.62) do not apply to the adjudicatory, certificate
14 issuing, or other proceedings of the department under this chapter.
15 However,

16 (1) final administrative determinations or orders by the
17 department are subject to judicial review under that Act; and

18 (2) department hearings shall be held only after at least 10
19 days public notice, unless it is an emergency hearing; they shall be
20 held at a place most convenient for those interested in the subject of
21 the hearing.

22 (b) Notwithstanding the provisions of (a)(1) of this section, no
23 regulation or order of the department may be stayed pending appeal under
24 the provisions of the Administrative Procedure Act.

25 (c) The Administrative Procedure Act applies to regulations pro-
26 mulgated by the department.

27 Sec. 30.25.330. LIMITATION ON LIABILITY OF THE STATE. Neither the
28 state nor the fund is liable for any act or omission arising out of the
29 enforcement or implementation of this chapter or the failure to enforce

1 or implement this chapter.

2 Sec. 30.25.340. CONSTRUCTION. This chapter shall be liberally
3 construed to effect the purposes set out in sec. 10 of this chapter.

4 Sec. 30.25.350. DEFINITIONS. In this chapter, unless the context
5 requires otherwise,

6 (1) "barrel" means 42 U. S. gallons at 60 degrees Fahrenheit;

7 (2) "board" means a board of arbitration established under
8 this chapter;

9 (3) "carrier" means a person who owns or who, for compensa-
10 tion, operates or otherwise provides a vessel engaged in, used or capa-
11 ble of being used for, the marine transportation of crude oil, refined
12 petroleum products or their by-products on the waters of this state;

13 (4) "commissioner" means the commissioner of environmental
14 conservation;

15 (5) "deadweight tonnage" or "DWT" means the difference in
16 metric tons between the lightweight displacement and the total displace-
17 ment of a vessel measured in water of specific gravity 1.025 at the load
18 waterline corresponding to the assigned summer freeboard;

19 (6) "department" means the Department of Environmental Con-
20 servation;

21 (7) "discharge" means any spilling, leaking, pumping, pour-
22 ing, emitting, emptying, or dumping;

23 (8) "fund" means the state coastal protection fund;

24 (9) "municipality" means a home rule or general law borough
25 or city including but not limited to a unified municipality organized
26 under AS 29.68;

27 (10) "crude oil, refined petroleum products, or their by-
28 products" means oil of any kind and in any form including, but not
29 limited to, petroleum, fuel oil, gasoline, lubricating oils, oily

1 sludge, oil refuse, oil mixed with other wastes, crude oils, liquefied
2 natural gas, propane, butane or other liquid hydrocarbons regardless of
3 specific gravity;

4 (11) "oil terminal facility" means an onshore or offshore
5 facility of any kind and related appurtenances, including but not
6 limited to a deepwater port, located in, on, or under the surface of any
7 land or water of the state, including tide and submerged land, which is
8 used or capable of being used for the purpose of transferring, proces-
9 sing or refining, or storing crude oil, refined petroleum products or
10 their by-products; a vessel shall be considered an oil terminal facility
11 only in the event of a ship-to-ship transfer of crude oil, refined
12 petroleum products or their by-products, and only that vessel going to
13 or coming from the place of transfer and the oil terminal facility;

14 however, an oil terminal facility does not include a seafood processing
15 vessel or tender when, incidental to its seafood processing operations,
16 it transfers refined petroleum products to a fishing boat;

17 (12) "operate" or "operator" means a person owning or oper-
18 ating an oil terminal facility or a carrier whether by lease, contract
19 or any other form of agreement, or a person who navigates or has charge
20 of the navigation or use of a vessel;

21 (13) "transferred" includes both onloading and offloading,
22 between terminal and vessel and vessel to vessel;

23 (14) "tank vessel" means a self-propelled vessel that is
24 specially constructed or converted to carry liquid bulk cargo in tanks
25 and includes tankers, tankships, and combination carriers when carrying
26 crude oil, petroleum products or their by-products in bulk; it does not
27 include vessels carrying crude oil, petroleum products or their by-
28 products in drums, barrels, or other packages, or vessels carrying
29 crude oil, petroleum products or their by-products as fuel or stores for

1 that vessel;

2 (15) "waters of the state" means the navigable waters within
3 the territorial limits of the state, and the marginal sea adjacent to
4 the state, and as defined in AS 44.03 and AS 46.03.900(22).

5 Sec. 30.25.360. SHORT TITLE. This chapter may be cited as the
6 Alaska Oil Discharge Prevention and Pollution Control Act.

7 * Sec. 3. AS 46.03.750 is amended by adding a new subsection to read:

8 (e) Cargo in tank vessels, as defined in AS 30.20.060(9), engaged
9 in the marine transportation of crude oil, refined petroleum products or
10 their by-products may not be placed in segregated ballast tanks, nor may
11 ballast be placed in cargo tanks of those tank vessels having segregated
12 ballast systems. However, the department may by regulation permit the
13 placing of ballast in the cargo tanks of those vessels in emergency
14 situations. All ballast placed in cargo tanks shall be processed by or
15 in an onshore ballast water treatment facility and may not be discharged
16 into the waters of the state.

17 * Sec. 4. AS 46.03 is amended by adding a new section to read:

18 Sec. 46.03.755. DISCHARGE REPORTING. (a) A person in charge of a
19 facility, operation or vessel, as soon as he has knowledge of any dis-
20 charge from the facility, operation or vessel in violation of sec. 740
21 or 750 of this chapter or AS 30.25.020, shall immediately notify the
22 department of the discharge.

23 (b) Notwithstanding (a) of this section, the department may enter
24 into a written agreement with a person for the periodic reporting of
25 minor discharges other than into the waters of the state.

26 * Sec. 5. AS 46.03.760 is repealed and re-enacted to read:

27 Sec. 46.03.760. CIVIL ACTION FOR POLLUTION; DAMAGES. (a) A
28 person who violates or causes or permits to be violated a provision of
29 this chapter or AS 30.25.020, or a regulation, a lawful order of the

1 department, or a permit or certificate, or term or condition of a permit
2 or certificate issued under this chapter or AS 30.25 is liable, in a
3 civil action, to the state for a sum to be assessed by the court of not
4 less than \$500 nor more than \$100,000 for the initial violation, nor
5 more than \$5,000 for each day thereafter on which the violation con-
6 tinues, and which shall reflect, when applicable,

7 (1) reasonable compensation in the nature of liquidated
8 damages for any adverse environmental effects caused by the violation,
9 which shall be determined by the court according to the toxicity, de-
10 gradability and dispersal characteristics of the substance discharged,
11 the sensitivity of the receiving environment, and the degree to which
12 the discharge degrades existing environmental quality;

13 (2) reasonable costs incurred by the state in detection,
14 investigation, and attempted correction of the violation, except dis-
15 bursements for pollution abatement costs under AS 30.25.260(a)(2); and

16 (3) the economic savings realized by the person in not com-
17 plying with the requirement for which a violation is charged.

18 (b) Actions under this section may not be used for punitive pur-
19 poses, and sums assessed by the court must be compensatory and remedial
20 in nature.

21 (c) The court, upon motion of the department or upon its own
22 motion, may defer assessment of all or part of that portion of the sum
23 imposed upon a person under (a)(3) of this section conditioned upon the
24 person complying, within the shortest feasible time, with the require-
25 ment for which a violation is shown.

26 (d) As used in this section, "economic savings" means that sum
27 which a person would be required to expend for the planning, acquisi-
28 tion, siting, construction, installation and operation of facilities
29 necessary to effect compliance with the standard violated.

Coastal Protection Fund
Return state damages
from persons not having
insurance

(e) In addition to liability under (a) - (d) of this section, a person who violates or causes or permits to be violated a provision of secs. 740 - 750 of this chapter is liable to the state, in a civil action brought under sec. 822 of this chapter, for the full amount of actual damages caused to the state by the violation, including direct and indirect costs associated with the abatement, containment or removal of the pollutant, restoration of the environment to its former state, and all incidental administrative costs. Except for special risk charges collected under AS 30.25.270, a person holding a risk avoidance certificate may not be held liable for costs associated with the abatement, containment or removal of the pollutant.

* Sec. 6. AS 46.03 is amended by adding a new section to read:

Sec. 46.03.765. INJUNCTIONS. The superior court has jurisdiction to enj in a violation of this chapter or AS 30.25, or of a regulation, lawful order of the department, or permit or certificate, or term or condition of a permit or certificate issued under this chapter or AS 30.25. In actions brought under this section, temporary or preliminary relief may be obtained upon a showing of an imminent threat of continued violation, and probable success on the merits, without the necessity of demonstrating physical irreparable harm. The balance of equities in actions under this section may affect the timing of compliance, but not the necessity of compliance within a reasonable period of time.

* Sec. 7. AS 46.03.780(a) is amended to read:

(a) A person who violates a provision of this chapter or AS 30.25, or who fails to perform a duty imposed by this chapter or AS 30.25, or violates or disregards an order, permit, or other determination of the department made under the provisions of this chapter or AS 30.25, respectively, and thereby causes the death of fish, animals, or

1 vegetation or otherwise injures or degrades the environment of the state
2 is liable to the state for damages

3 * Sec. 8. AS 46.03.790 is repealed and re-enacted to read:

4 Sec. 46.03.790. CRIMINAL PENALTIES. (a) A person who violates or
5 who causes or permits a violation of a provision of this chapter or
6 AS 30.25, or of a regulation, lawful order of the department, or permit
7 or certificate, or term or condition of a permit or certificate issued
8 under this chapter or AS 30.25 is guilty of a misdemeanor and, upon
9 conviction, is punishable by a fine of not more than \$25,000 and costs
10 of prosecution.

11 (b) A person who wilfully violates a provision of this chapter, or
12 of a regulation, lawful order of the department, or permit or certifi-
13 cate, or term or condition of a permit or certificate issued under this
14 chapter or AS 30.25 is guilty of a misdemeanor and, upon conviction, is
15 punishable by a fine of not more than \$25,000 and costs of prosecution,
16 or by imprisonment for not more than one year, or by fine, costs, and
17 imprisonment.

18 (c) Each day on which a violation described in (a) or (b) of this
19 section occurs is considered a separate violation.

20 (d) A person who fails to provide or falsely states information
21 required under sec. 755 of this chapter or AS 30.25 is guilty of a mis-
22 demeanor and, upon conviction, is punishable by a fine of not more than
23 \$25,000, or by imprisonment for not more than one year, or by both.
24 Each unlawful act constitutes a separate offense.

25 * Sec. 9. AS 46.03 is amended by adding a new section to read:

26 Sec. 46.03.850. COMPLIANCE ORDER. (a) When, in the opinion of
27 the department, a person is violating or is about to violate a provision
28 of this chapter or AS 30.25, or a regulation or lawful order of the
29 department, or a permit or certificate, or a term or condition of a

1 permit or certificate issued by the department under this chapter or
2 AS 30.25, the department may notify the person of its determination by
3 personal service or certified mail. The determination and notice do not
4 constitute an order under sec. 820 of this chapter.

5 (b) The recipient of the determination must file with the depart-
6 ment, within the time period specified in the notice, a report stating
7 what measures have been and are being taken, or are proposed to be
8 taken, to correct or control the conditions outlined in the notice.

9 (c) After the report is filed under (b) of this section or the
10 time period specified for it has elapsed, the department may issue a
11 compliance order in conformity with the authority of the department and
12 the public policy declared in sec. 10 of this chapter. A copy of the
13 compliance order shall be served personally or sent by certified mail to
14 the person affected. A compliance order is effective upon receipt.

15 (d) Within 30 days after receipt the recipient may request a
16 hearing to review the compliance order. Failure to request a hearing
17 within 30 days after the receipt of a compliance order constitutes a
18 waiver of the recipient's right of review.

19 (e) The department shall hold a hearing within 20 days after
20 receipt of a request for one under (d) of this section. After the hear-
21 ing the department may rescind, modify or affirm the compliance order.

22 (f) The attorney general shall seek enforcement of a compliance
23 order.

24 * Sec. 10. AS 46.03 is amended by adding a new section to read:

25 Sec. 46.03.875. REMEDIES CUMULATIVE. All remedies provided by
26 this chapter or AS 30.25 are cumulative, and the securing of relief,
27 whether injunctive, civil or criminal, under a section of this chapter
28 or AS 30.25 does not estop the state from obtaining relief under any
29 other section of this chapter or AS 30.25.

1 * Sec. 11. SEVERABILITY. If any provision of this Act or the application
2 of it to any person or circumstance is held invalid, particularly those pro-
3 visions that establish incentives for carriers to use vessels with certain
4 safety or maneuvering capability features, the remainder of this Act and the
5 application to other persons or circumstances, including but not limited to
6 those provisions which create a coastal protection fund, shall not be af-
7 fected.

8 * Sec. 12. This Act takes effect July 1, 1977.
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A M E N D M E N T

TO: HCS CSSSB 406 (Judiciary)

On page 20, strike out lines 17 - 25, inclusive, and insert:

(ii) partial, complete or defensively placed segregated ballast tanks or systems, ^{may be considered as a des} ~~the combined capacity of which shall be of sufficient size, as prescribed by the department, so that the tank vessel can operate safely on ballast voyages without recourse to the use of cargo tanks for water ballast; or~~

(iii) throughout the cargo-carrying length or compartments of the tank vessel: either a double bottom of a minimum height of one-fifteenth of the beam or two meters, whichever is the greater, or a double hull of a minimum of two meters;

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PROPOSED RULES

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provided however that a certification of such change shall be provided to such individual within such period.

4. Section 1224.1-17 is added to provide for internal appeal of any denial of access.

§ 1224.1-17 Denial of access and appeals with respect hereto.

In the event that the agency finds it necessary to deny any individual access to a record about such individual pursuant to provisions of the Privacy Act or of these regulations, a response to the original request shall be made in writing within ten working days from the date of such initial request. The denial shall specify the reasons for such refusal or denial and advise the individual of the reasons therefore, and of his or her right to an appeal within the agency and/or judicial review under the provisions of the Privacy Act.

(a) In the event an individual desires to appeal any denial of access, he may do so in writing by addressing such appeal to the attention of the Deputy Director, ACTION, c/o the Director, AF/Administrative Services, 806 Connecticut Avenue, NW., Washington, D.C. 20525. Although there is no time limit for such appeals, ACTION shall be under no obligation to maintain copies of original requests or responses thereto beyond 180 days from the date of the original request.

(b) The Deputy Director, or his designee, shall review a request from a denial of access and shall make a determination with respect to such appeal within 20 days after receipt thereof. Notice of such determination shall be provided to the individual making the request in writing. If such appeal is denied in whole or in part, such notice shall include notification of the right of the person making such requests to have judicial review of the denial as provided in the Privacy Act (5 U.S.C. 552a).

Any person interested in the proposed regulations as amended herein may submit written comments or views on such regulations by addressing ACTION/Office of the General Counsel, M 607, 806 Connecticut Avenue, NW., Washington, D.C. 20525 on or before June 14, 1976. All written comments received on or before that day will be considered by the agency in formulating final rule changes.

Dated: May 5, 1976.

JOHN L. GANLEY,
Deputy Director, ACTION.
[FR Doc. 76-13046 Filed 5-12-76; 8:45 am]

DEPARTMENT OF
TRANSPORTATION

Coast Guard
[33 CFR Part 157]
[CGD 76-075]

CERTAIN EXISTING TANK VESSELS
SEGREGATED BALLAST

Advance Notice of Proposed Rule Making

• Purpose. The Coast Guard is considering developing regulatory requirements

for a segregated ballast capability for certain existing tank vessels of 70,000 DWT and over. The purpose of this advance notice is to solicit comments from the public on the cost involved in retrofitting existing vessels, the inflationary impact on the economy by requiring this retrofitting, and on technical and other possible problems that could be expected during and as a result of implementing this concept.

Written comments. All persons are invited to participate in the proposed rule making by submitting their views, data, arguments, objections, and comments to the Executive Secretary, Marine Safety Council (G-CMC/81), Room 8117, U.S. Coast Guard, Washington, D.C. 20500. Each person submitting written comments should include his name and address, identify this notice (CGD 76-075), and give reasons for any recommendations. Comments received will be available for examination by interested persons in Room 8117, U.S. Coast Guard Headquarters, Washington, D.C.

Closing date for comments. All communications received before June 30, 1976, will be evaluated before further action is taken.

Background: The International Convention for the Prevention of Pollution from Ships, 1973, requires new tankers of 70,000 DWT and over to have a segregated ballast capability. The concept of segregated ballast is that a tank vessel must have sufficient spaces set aside for carrying ballast water separately so that in all but unusually rough weather conditions, it will not be necessary to introduce ballast water into cargo tank spaces. In the October 14, 1975 issue of the FEDERAL REGISTER (40 FR 40280) this concept was implemented for certain new U.S. tank vessels carrying oil in domestic trade. In the FEDERAL REGISTER (41 FR 16850) of April 15, 1976 the Coast Guard proposed that this concept apply to certain new U.S. tank vessels in foreign trade and certain new foreign tank vessels entering the navigable waters of the United States. New vessels are defined by calendar dates in the regulations and the proposed regulations. Existing vessels are those vessels that are not within the definition of new vessels.

Resolution 3 adopted by the International Conference on Marine Pollution, 1973, recommends that governments undertake concerted efforts to reduce the discharge of oil from ships into the sea with a view to the complete elimination of international pollution as soon as possible but not later than the end of the present decade. Segregated ballast, as stated in the Coast Guard Final Environmental Impact Statement, Regulations for Tank Vessels Engaged in the Carriage of Oil in Domestic Trade, August 1975, is a concept that has gained worldwide acceptance for offering major environmental benefits. The Coast Guard is now considering extending the segregated ballast concept to existing U.S. tank vessels of 70,000 DWT and over and to existing foreign tank vessels of 70,000 DWT and over that enter the navigable waters of the United States.

According to both domestic and international studies available to the Coast Guard, the retrofitting of existing tankers with segregated ballast capability appears feasible because:

(a) There presently exists on a worldwide basis a considerable excess of available tank vessel tonnage capacity, a condition projected to continue for at least the next five years. Because of this excess capacity, and allowing a modest period for necessary shipyard alternation, the requirement should result in minimal disruption of the oil transportation system.

(b) The vessel alterations will not entail major conversions but in most instances would at least require changes to the cargo and ballast piping systems.

(c) Increases in consumer cost of oil and oil products as a result of this contemplated action should have a minimum impact on the present inflationary trend. There will be some small increase in the transportation cost of oil because of this action; however, transportation costs are a relatively small part of the price consumers pay today. Further, this action should reduce the size scale of needed reception facilities at loading ports.

It is recognized by the Coast Guard that segregated ballast alone will not eliminate the need for good operational practice on board tankers. Cargo tanks must be washed in order to remove sludge and before entering shipyards; however, segregated ballast will eliminate the major source of operational pollution, dirty ballast. Emerging techniques for crude oil washing of cargo tanks (under development by industry), in combination with improved methods of stripping cargo tanks and cargo piping systems, hold promise for even further reduction of the amount of oil discharged into the sea from tankers.

The Coast Guard has examined and will continue to examine the feasibility of requiring retrofitting of certain existing tankers with segregated ballast capacity. The purpose of this advance notice is to learn as much as possible from the public and industry as to the costs involved, the expected inflationary impact, and the technical and other possible problems resulting from the contemplated retrofitting of existing vessels.

(R.S. 4417a (3) and (7), as amended (40 U.S.C. 391a (3) and (7); 40 CFR 1.46(n) (4).)

J. V. CAPPARY,
Captain, U.S. Coast Guard, Acting Chief, Office of Merchant Marine Safety.

MAY 6, 1976.
[FR Doc. 76-13704 Filed 5-12-76; 8:45 am]

[33 CFR Part 164]
[CGD 76-025]

TUG ASSISTANCE IN CONFINED WATERS
Proposed Minimum Standards
Correction

In FR Doc. 76-13210, appearing in the issue for Thursday, May 6, 1976, on page

18771, in the second column, in paragraph 6, the word "drugs" appearing in the third sentence should read, "tugs".

Also, in paragraph 8, the word "bands" appearing in the fourth sentence should read "bends".

Finally, the word "In" appearing at the beginning of paragraph 10 should read "Is".

[33 CFR Part 164]

[COD 74-77]

NAVIGATION SAFETY REGULATIONS

Proposed Testing Requirements

Correction

In FR Doc. 76-13209, appearing in the issue for Thursday, May 6, 1976, on page 18767, in the third column, in the fifth line of the last paragraph, the sentence which reads as follows: "The misapplication or reversal orders to . . ." should read as follows: "The misapplication or reversal of orders to . . ."

[33 CFR Part 164]

[COD 76-051]

MINIMUM NET BOTTOM CLEARANCE

Request for Comments

Correction

In FR Doc. 76-13211, appearing on page 18771, in the issue for Thursday, May 6, 1976, in the first line of the authority citation which reads as follows: ". . . 88 Stat. 8662" should appear as follows: ". . . 88 Stat. 862."

Federal Aviation Administration

[14 CFR Part 39]

[Docket No. 15698]

MESSERSCHMITT - BOLKOW - BLOHM MODEL BO-105A AND BO-105C HELICOPTERS

Airworthiness Directives; Notice of Proposed Rule Making

The Federal Aviation Administration is considering amending Part 39 of the Federal Aviation Regulations by adding an airworthiness directive applicable to certain Messerschmitt-Bolkow-Blohm (MBB) Model BO-105A and BO-105C helicopters. There have been reports of cracks occurring in the piston rods of the main rotor hydraulic servo actuators that could result in the failure of an actuator and loss of control of the helicopter. Since this condition is likely to exist or develop in other helicopters of the same type design, the proposed airworthiness directive would require periodic inspections and the replacement of the piston rods in the main rotor hydraulic servo actuators on certain MBB Model BO-105A and BO-105C helicopters.

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications should identify the docket number and be submitted in du-

PLICATE to the Federal Aviation Administration, Office of the Chief Counsel, Attention: Rules Docket, AGC-24, 800 Independence Avenue, S.W. Washington, D.C. 20591. All communications received on or before June 14, 1976, will be considered by the Administrator before taking action upon the proposed rule. The proposals contained in this notice may be changed in the light of comments received. All comments will be available, both before and after the closing date for comments, in the rules docket for examination by interested persons.

This amendment is proposed under the authority of sections 313(a), 601, and 603 of the Federal Aviation Act of 1958 (49 U.S.C. 1354(a), 1421, and 1423) and of section 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)).

In consideration of the foregoing, it is proposed to amend § 39.13 of Part 39 of the Federal Aviation Regulations by adding the following new airworthiness directive:

MESSERSCHMITT - BOLKOW - BLOHM GmbH (MBB). Applies to Model BO-105A and BO-105C helicopters, certificated in all categories, incorporating Teledyne Hydra-Power hydraulic actuators, P/N 106-45021, with the following serial numbers: 1012, 1,14, 1018, 1016, 1017, 1018, 1019, 1021, 1023, 1027, 1028, 1029, 1030, 1032, 1034, 1035, 1037, 1038, 1040, 1041, 1043, 1044, 1046, 1046, 1049, 1050, 1057, 1062, 1064, 1065, 1066, 1069, 1071, 1076, 1091, 1093, 1101, 1104, 1109, 1113, 1119, 1121, 1123, 1126, 1127, 1150, 1160, and 1161 which have piston rods, P/N D133-750.08E, with S/N's 101 through 440.

Compliance is required as indicated, unless already accomplished.

To prevent possible failure of the main rotor hydraulic actuator and loss of control of the helicopter, accomplish the following:

(a) Before the accumulation of 600 hours total helicopter time in service or within the next 25 hours time in service after the effective date of this AD, whichever occurs later, and thereafter at intervals not to exceed 600 hours time in service from the last inspection until modified in accordance with paragraph (e) of this AD, comply with paragraph (b) of this AD.

(b) Inspect the piston rods, P/N D133-750.08E, in the hydraulic actuators, P/N 106-45021, for cracks, using a dye penetrant method in accordance with Paragraph 2.B. of the "Accomplishment General" section of MBB Service Bulletin No. 40-10, dated June 2, 1976, or an FAA-approved equivalent.

(c) If a crack is found in a piston rod during an inspection specified in paragraph (b) of this AD, before further flight, replace the cracked piston rod with a serviceable part of same part number and continue to inspect in accordance with paragraph (b) of this AD at intervals not to exceed 600 hours time in service until the modification specified in paragraph (e) of this AD is accomplished.

(d) Comply with paragraph (e) of this AD as follows:

(1) For helicopters with less than 1800 hours total time in service on the effective date of this AD and for which it has been less than 4 years since the issuance of its airworthiness certificate, comply with paragraph (e) of this AD in accordance with paragraph (1) or (2), whichever occurs later.

(2) Before the accumulation of 1800 hours total time in service or within four years of the date of issuance of its airworthiness certificate, whichever occurs sooner.

(1) Within the next 25 hours time in service after the effective date of this AD.

(2) For helicopters with 1800 hours or more total time in service on the effective date of this AD or helicopters for which the effective date of this AD is four years or more after the date of issuance of its airworthiness certificate, comply with paragraph (e) of this AD within the next 25 hours time in service after the effective date of this AD.

(e) Disassemble the Teledyne Hydra-Power actuators, P/N 106-45021, and replace the piston rods, P/N D133-750.08E, which have S/N's 101 through 440 with serviceable parts of the same part number which have serial numbers other than 101 through 440.

Issued in Washington, D.C., on May 6, 1976.

JAMES M. VINES,

Acting Director,

Flight Standards Service.

[FR Doc. 76-13706 Filed 5-12-76; 8:46 am]

[14 CFR Part 39]

[Docket No. 75-NE-17]

PRATT & WHITNEY JT9D MODEL ENGINES

Withdrawal of Notice of Proposed Rulemaking

In the April 23, 1975, issue of the FEDERAL REGISTER (40 FR 17852), the Federal Aviation Administration published a Notice of Proposed Rulemaking (Docket No. 75-NE-17) to amend Part 39 of the Federal Aviation Regulations by adding an airworthiness directive applicable to the Pratt & Whitney JT9D turbofan engine. The proposed airworthiness directive required an inspection for residual nickel chloride on the internal air surface of the T₄ temperature sensing bellows.

Two comments were received on the proposal. One commentator suggested some changes of an editorial nature, and also suggested that the inspection interval of 600 hours was unnecessarily restrictive in view of service experience. This commentator recommended that the inspection interval be extended to 1000 hours. The other commentator questioned the need for an AD on this subject since actual service experience indicated that there have been no in-flight shutdowns that could be attributed to a corroded sensing bellows. This commentator also recommended that the inspection interval be extended to 1000 hours and that the applicability of the AD be limited.

Since the publication of the NPRM in the FEDERAL REGISTER, additional evidence has become available which indicates that the extent of corrosion is not as severe as originally anticipated and that even the most critical failure of the T₄ bellows would not create a significant unsafe condition.

This information, in conjunction with reports that there have been no reported instances of service difficulty caused by a T₄ sensor failure, indicate that an AD on the subject is not necessary at this time. Accordingly, the agency has determined that the NPRM should be, and hereby is, withdrawn.

The agency will, of course, continue to monitor the service experience of the T₄ temperature sensors and will initiate rulemaking action on this subject should

file 438

PMS REP TERRY GARDINER

2739

JUN

1976 MAY 18 AM 12 27

WE OBJECT TO THE PASSAGE OF SB438. THE HOURS OF BUSINESS ARE OFTEN NOT ALWAYS NEGOTIABLE AND COULD MAKE SERVICE UNAVAILABLE IN MANY AREAS DEALERS ARE FREE AT ANY TIME TO REFUSE TO BUY AN PRODUCTS EXCEPT GASOLINE AND ARE NOT COMPELLED TO BUY ANY OTHER PRODUCTS OR SERVICES IT WOULD TAKE A COURT DECISION IN EACH CASE OF TRANSFER OF OWNERSHIP TO DEFINE UNREASONABLE AND ANOTHER TO DEFINE QUALIFIED WE UNDERSTAND THAT THE MAIN REASON FOR SECTION A-8 WAS TO PROVIDE RIGHTS OF SURVIVORSHIP IF SO WHAT MAKES ANY HEIR A QUALIFIED ASSIGNEE THIS PARAGRAPH EFFECTIVELY ELIMINATES THE COMPANYS RIGHT TO BE SELECTIVE IN CHOOSING A DEALER FOR A RETAIL OUTLET IF PASSED IT CAN ONLY HAVE A DETERIORATIVE EFFECT ON THE QUALITY OF DEALERS AND STATION A DEALER CAN GET AN OUTLET WITHOUT PROPER TRAINING TO MEET THE QUALITY OF HIS PEERS WHICH WOULD MEAN LOWERING THE QUALITY OF SERVICE TO THE PUBLIC THE APPEARANCE OF SERVICE STATIONS IN A COMMUNITY WOULD LIKEWISE SUFFER DUE TO THE PROBABILITY OF AN ASSIGNEE HAVING A LOWER LEVER OF ACCEPTANCE THAN THE COMPANYS ACCEPTED DEALER THE COMPANIES GENERALLY BEING MUCH MORE CONCIOUS OF THE COMMUNITY IMAGE THE VALUE OF GOODWILL IS SO ABSTRACT THAT THERE WOULD ALMOST BE UNIVER SALLY BE DISAGREEMENT OVER IT AND THE DIFFERENCES BEINL RESOLVED IN A COURT OF LAW IN EACH CASE EVEN THEN THE POSSIBILITY OF A FAIR DECISION FOR BOTH PARTIES WOULD BE REMOTE DUE TO THE INABILITY OF ANYONE TO EVALUATE THE DIFFERENCE BETWEEN THE GOODWILL OF THE OPERATOR AND THAT OF THE COMPANIES HALLMARK AND CREDIT CARD SYSTEM GOODWILL HAS NEVER ENTERED INTO THE CHANGE OF DEALERSHIPS IN AHICH THE LEASING FROM THE OIL COMPANIES IS INVOLVED TO

EVEN THEN THE POSSIBILITY OF A FAIR DECISION FOR BOTH PARTIES WOULD BE REMOTE DUE TO THE INABILITY OF ANYONE TO EVALUATE THE DIFFERENCE BETWEEN THE GOODWILL OF THE OPERATOR AND THAT OF THE COMPANIES HALLMARK AND CREDIT CARD SYSTEM GOODWILL HAS NEVER ENTERED INTO THE CHANGE OF DEALERSHIPS IN WHICH THE LEASING FROM THE OIL COMPANIES IS INVOLVED TO INSTITUTE IT TO THE EXTENT OF THIS BILL COULD ONLY GIVE PRESENT DEALERS A BONANZA SINCE THEY DID NOT PAY IT ON THEIR INCEPTION BUT WOULD DEMAND IT UPON DEPARTURE IT WOULD OPEN THE SERVICE STATION BUSINESS TO SPECULATION RATHER THAN TO SOLID SALES AND SERVICE THE SERVICE STATION HAS TRADITIONALLY BEEN ONE OF THE FEW PLACES WHERE A PERSON OF LIMITED MEANS COULD ENTER BUSINESS AND MAKE GOOD IF THIS BILL WERE TO BECOME LAW IT WOULD EFFECTIVELY REMOVE THE GREATER PERCENTAGES OF THESE OPPORTUNITIES AND COULD PLACE THE SERVICE STATION INDUSTRY AT THE MERCY OF BIG BUSINESS WE FEEL WE NEED A BILL RELATING TO FRANCHISE AGREEMENTS BUT MORE CLOSELY RELATED TO A JOINT VENTURE BETWEEN THE COMPANY AND DEALER LEGISLATION COULD ONLY CAUSE FRICTION BETWEEN THE TWO WE APPROXIMATELY 1/3 OF THE ANCHORAGE CHEVRON DEALERS STRONGLY OPPOSE THE PASSAGE OF THIS BILL

B C BYLSMA, E L BRODY, L W MCCONNELL

HARRY K BEESON, LR HAAG JR, EDWARD E CLARK, IW MOORE

TELEGRAM

RCA ALASKA COMMUNICATIONS, INC.

PHONE: 526-6440

BUREAU, ALASKA 99501

1 A M E N D M E N T S

2 TO: HCS CSSB 406 (Judiciary)

BY THE JUDICIARY COMMITTEE

3 *Passed*

4 AMENDMENT NO. 1

5 On page 14, between lines 2 and 3, insert:

6 "(c) A person, facility or vessel exempt from this chapter
7 under (a) - (b) of this section may, at his or its option, apply for
8 and obtain a certificate of risk avoidance by complying with the applicable
9 provisions of sec. 40 of this chapter."

10 *Passed*

11 AMENDMENT NO. 2

12 On page 19, line 14, after "charges," insert: "damages,"

13 On page 29, line 8, after "costs.", insert:

14 "That portion of the damages recovered by the state in a
15 civil action brought under sec. 822 of this chapter attributable
16 to costs incurred by the department in the abatement, containment or removal of the
17 pollutant resulting from a discharge of crude oil, refined petro-
18 leum products or their by-products shall be deposited in the coastal
19 protection fund created under AS 30.25.220."

20 *Passed*

21 AMENDMENT NO. 3

22 On page 20, line 29, after "standards", insert:

23 ", including but not limited to partial, complete or
24 defensively placed ballast tanks or systems with respect to (2)(B)(ii)
25 of this subsection,



Maine, Florida + Model Act
HB 34 by Speckwing

Hearings this summer

- ① Fuel cost problem
- ② 1/2" pre-emption

— Page 2 - three requirements of all
Alaska traffic

— Page 3 - unless tug + scort - 3/16/16 requirement
exemption clause

— Insurance system - incentive program
Additional Requirements

— Oil landing facilities

Fuel changes

Page ~~29~~ 29 - New language

Page 21, line 29 - 30 million to 20 million

Page 29, ^{old} Section 7 - ~~deleted~~ - Civil seizure of vessel
Had constitutional problems
Retain authority for violation of criminal laws

Page 21, line 15

1 —
2



A

Article 7 — 3rd party damages ^{reference} deleted
+ arbitrators

You can't sue state for faulty cleanup

Oil transporter under existing state law
is strictly liable - just dispute damages

Norm Gossink - Mr. Schowalter

Provision for incentives
Page 20 line 17-25

existing " only allows incentive for
specific ballast tanks

\$720
million

Schie - 2 - double bottoms
6 - ballasts

Gene Wilder

Ker Schowalter - Schie

5
20,000,000

fuel level \$900 - #7

#6 1/2 - #7 million - 1969

1/3 of fuel belongs to state

20 companies involved - All majors involved
because of onshore facility

*Gorsuch*A M E N D M E N T

TO: HCS CSSSB 406 (Judiciary)

On page 20, strike out lines 17 - 25, inclusive, and insert:

(ii) partial, complete or defensively placed segregated ballast tanks or systems, the combined capacity of which shall be of sufficient size, as prescribed by the department, so that the tank vessel can operate safely on ballast voyages without recourse to the use of cargo tanks for water ballast; or

(iii) throughout the cargo-carrying length or compartments of the tank vessel: either a double bottom of a minimum height of one-fifteenth of the beam or two meters, whichever is the greater, or a double hull of a minimum of two meters;