

HB

220

# HOUSE COMMITTEE REPORT

(11)

Date Referred: April 10, 1989

FURTHER REFERRALS:

Date of Committee Action: 4/29/89

The FINANCE Committee considered:

HB 220

HOUSE BILL NO. 220 [UNDERGROUND STORAGE TANKS]

"An Act relating to motor fuels, petroleum and chemical storage tanks, and investigation, containment, and cleanup of oil and hazardous substances; and providing for an effective date."

**RECOMMENDATIONS:**

- be replaced with CS HB 220 (Finance) [ ] the same title
- [ ] a new title
- [ ] have attached amendment(s)
- do pass
- [ ] do not pass
- [ ] no recommendation
- [ ] individual recommendations
- [ ] additional referral to the \_\_\_\_\_ Committee

ADOPTS: \_\_\_\_\_ letter of intent

ATTACHES NEW FISCAL NOTE(S):  
(Dept)

APPROVES PREVIOUS: (Date/Dept)

- [3] fiscal impact DEC Rev, DoT
- [ ] zero fiscal note \_\_\_\_\_
- [ ] zero with analysis \_\_\_\_\_

- [3] fiscal note(s) \_\_\_\_\_
- [ ] zero fiscal note(s) \_\_\_\_\_
- [ ] zero fn/analysis \_\_\_\_\_

**SIGNING DO PASS:**

**SIGNING:**

(Check approp. column)

Do Not  
Pass      No Rec      Amend

[Signature] Hoffman

[Signature] Larson

[Signature] Brown

[Signature] Koponen

[Signature] Ulmer

[Signature] Wallis

	Do Not Pass	No Rec	Amend
<u>[Signature]</u> Swackhammer	X		
<u>[Signature]</u> Barnes	X		
<u>[Signature]</u> Shultz		X	
<u>[Signature]</u> Phillips		/	
<u>[Signature]</u> Rieger	✓		

CO- [Signature]  
CO- Chairman's Signature  
[Signature]

**REQUEST: FISCAL NOTE**

Revision Date:  
Title: An Act relating to motor fuels, petroleum and chemical storage tanks, and investigation, ...  
Sponsor: Menard, M. Davis, Brown, et al.  
Requestor: House Finance

Agency Affected: DOT&PF  
BRU: Engineering & Operations Standards  
Components:

**EXPENDITURES/REVENUES: (THOUSANDS OF DOLLARS)**

OPERATING	FY 90	FY 91	FY 92	FY 93	FY 94	FY 95
PERSONAL SERVICES	0	0	0	0	0	0
TRAVEL	0	0	0	0	0	0
CONTRACTURAL	0	0	0	0	0	0
SUPPLIES	0	0	0	0	0	0
EQUIPMENT	0	0	0	0	0	0
LAND & STRUCTURES	0	0	0	0	0	0
GRANTS, CLAIMS	0	0	0	0	0	0
MISCELLANEOUS	0	0	0	0	0	0
TOTAL OPERATING	0	0	0	0	0	0

CAPITAL	65.0	65.0	65.0	65.0	65.0	65.0
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REVENUE	0	0	0	0	0	0
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**FUNDING: (THOUSANDS OF DOLLARS)**

GENERAL FUND	0	0	0	0	0	0
FEDERAL FUNDS	65.0	65.0	65.0	65.0	65.0	65.0
OTHER	0	0	0	0	0	0
TOTAL	65.0	65.0	65.0	65.0	65.0	65.0

**POSITIONS:**

FULL-TIME	0	0	0	0	0	0
PART-TIME	0	0	0	0	0	0
TEMPORARY	0	0	0	0	0	0

**ANALYSIS:** The bill would require registration of storage tanks used by construction contractors and an increase of 2¢ per gallon on fuel used for construction activities of the department. This is estimated to cost \$40,000 in registration fees and \$25,000 in fuel surcharge fees. The majority of these construction related costs would occur on federal-aid construction. A breakdown of this estimate is attached.

Prepared by: Jeffery C. Ottesen, Director  
Division: Engineering and Operations Standards

Phone: 465-2951  
Date: April 29, 1989

Approved by: Mark S. Hickey, Commissioner  
Agency: Department of Transportation and Public Facilities

Date: 4/29/89

Distribution (by preparer):  
Legislative Finance  
Legislative Sponsor  
Requestor  
Office of Management and Budget  
Impacted Agency(ies)

Adopted

**Basis of Estimate**  
**Fiscal Note: CS HB 220**  
**Department of Transportation and Public Facilities**

**Construction Related Tank Registration**

Estimate 50 projects per year with 4 tanks per project at 10,000 gallons per tank (average) =  
 $50 * 4 * 10,000 * 2\text{¢}$  per gallon storage = \$40,000

**Construction Fuel Surcharge**

Estimate 50 projects per year with 50,000 gallons average = 2,500,000 gallons fuel  
At 2¢ per gallon = \$50,000  
Less estimated allowance for fuel tax refunds (AS 43.40.030) @ 50% \$25,000

STATE OF ALASKA  
1989 LEGISLATIVE SESSION

BILL VERSION: CS HB 220 (FIN)  
PUBLISH DATE: 4/29/89

FISCAL NOTE

REQUEST:

Revision Date: \_\_\_\_\_  
Title: An Act relating to Motor Fuels

Agency Affected: Revenue  
BRU: Income & Excise Audit

Sponsor: Menard, etc.  
Requestor: Finance

Components: Operating

EXPENDITURES/REVENUES: (Thousands of Dollars)

	FY 90	FY 91	FY 92	FY 93	FY 94	FY 95
<b>OPERATING</b>						
PERSONAL SERVICES	0	0	0	0	0	0
TRAVEL	0	0	0	0	0	0
CONTRACTUAL	25.0	0	0	0	0	0
SUPPLIES	0	0	0	0	0	0
EQUIPMENT	0	0	0	0	0	0
LANDS & STRUCTURES	0	0	0	0	0	0
GRANTS, CLAIMS	0	0	0	0	0	0
MISCELLANEOUS	0	0	0	0	0	0
<b>TOTAL OPERATING</b>	<b>25.0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>
<b>CAPITAL</b>						
	0	0	0	0	0	0
<b>REVENUE</b>						
	5700	5700	5700	5700	5700	5700

FUNDING: (Thousands of Dollars)

GENERAL FUND	25.0	0	0	0	0	0
FEDERAL FUNDS	0	0	0	0	0	0
OTHER	0	0	0	0	0	0
<b>TOTAL</b>	<b>25.0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>

POSITIONS:

FULL-TIME	0	0	0	0	0	0
PART-TIME	0	0	0	0	0	0
TEMPORARY	0	0	0	0	0	0

ANALYSIS: (Attach a separate page if necessary)

Prepared By: Steven E. Kettel  
Division: Income and Excise Audit

Phone: (907) 465-2320  
Date: April 29, 1989

Approved by Commissioner: Hugh Malone  
Agency: Department of Revenue

Date: April 29, 1989

Distribution (by preparer):

- Legislative Finance
- Legislative Sponsor
- Requestor
- Office of Management and Budget
- Impacted Agency(ies)

Adopted

CS HB 220 (FIN)  
Prepared by: Steven E. Kettel  
April 29, 1989

REVENUE PROJECTION

Under Section 2 of this bill a surcharge of 2¢ per gallon is levied on all motor fuel except aviation and marine fuel subject to tax under AS 43.40.010. No increase or decrease in consumption was estimated for future use.

FISCAL IMPACT \$25.0 CONTRACTUAL

One time cost for forms design, development, publication, postage and industry training. Additional costs for accounting of the proceeds from the surcharge will include data processing system upgrade and related equipment acquisitions.

## FISCAL NOTE

**REQUEST:** \_\_\_\_\_

Revision Date: \_\_\_\_\_  
Title: An Act relating to motor fuels, storage tanks, and investigation, containment, and cleanup of oil and hazardous etc  
Sponsor: Menard, Davis, Brown, et al

Agency Affected: Environmental Conservation  
BRU: Environmental Quality  
Components: Environmental Quality

**EXPENDITURES/REVENUES: (Thousands of Dollars)**

OPERATING	FY 89	FY 90	FY 91	FY 92	FY 93	FY 94
PERSONAL SERVICES		498.5	734.25	734.25	734.25	734.25
TRAVEL		57.5	83.75	83.75	83.75	83.75
CONTRACTUAL		269.0	269.0	269.0	269.0	269.0
SUPPLIES		56.0	61.25	61.25	61.25	61.25
EQUIPMENT		79.5	88.75	88.75	88.75	88.75
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
<b>TOTAL OPERATING</b>		<b>959.5</b>	<b>1237.0</b>	<b>1237.0</b>	<b>1237.0</b>	<b>1237.0</b>
<b>CAPITAL</b>						
<b>REVENUE</b>						

**FUNDING: (Thousands of Dollars)**

GENERAL FUND						
FEDERAL FUNDS						
OTHER		959.5	1237.0	1237.0	1237.0	1237.0
<b>TOTAL</b>		<b>959.5</b>	<b>1237.0</b>	<b>1237.0</b>	<b>1237.0</b>	<b>1237.0</b>

**POSITIONS:**

FULL-TIME		11.5	16.75	16.75	16.75	16.75
PART-TIME		0	0	0	0	0
TEMPORARY		0	0	0	0	0

**ANALYSIS :** (Attach a separate page if necessary)

Prepared by: Lynn Tomich Kent Phone: 465-2630  
Division: Environmental Quality Date: 4/29/89

Approved by Commissioner: A. Dille Date: 4/29/89  
Agency: Alaska Department of Environmental Conservation

Distribution (by preparer):  
Legislative Finance  
Legislative Sponsor  
Requestor  
Office of Management and Budget  
Impacted Agency(ies)

Adopted

CSHB 220 (Finance)  
dated 4/25/89

The following is a summary of the main tasks under the proposed legislation and an explanation of the necessary services.

Revenue is expected from two sources as a result of this legislation; a tank registration fee and a gasoline tax.

1. Storage Tank Program Development

During FY 90, three FTEs will be needed in this program. One professional position will manage a contract, develop and maintain an automated database of above and underground storage tanks, investigate financial responsibility options and program funding mechanisms, and prepare draft regulations in conjunction with an Advisory Panel. This position will manage these items once completed. One professional position will collect data, provide technical assistance to facility owner/operators, and assist with development of technical portions of the regulations. One clerical position will provide typing, filing, data entry, and assist with scheduling and administrative tasks associated with the Advisory Panel. Draft Underground Storage Tank regulations will be completed in FY 90.

FY 91 and ongoing tasks will include completion and implementation of regulations. Also required will be one additional professional position and 1 additional clerical position. Major field tasks include: inspection of tank/piping and associated structures, installation and abandonment procedures, review of facility records for maintenance and operation activities, and technical assistance. The Department will examine means of contracting out functions.

2. Registration/Notification Program

During FY 90, three FTEs are estimated to be needed in this program. One-half professional position will oversee the development of the program, special databases, and associated procedures, and develop contracts and forms. One-half clerical position will provide needed assistance. One fiscal position will justify accounts and revenues. One clerical/administrative position will receive forms, enter data, develop and send mailouts and perform followups. A consultant will be hired to set up a computer program and develop guidelines; the contractual line includes \$40.0 for this. Extra funds (\$3.5) are included in supplies to cover materials and postage for mass mailouts. The equipment line includes \$17.0 for specialized computer equipment to gain access to AKSAS and to print mass mailouts and labels.

FY 91 and ongoing tasks will include sending out notices of renewal, contacting new establishments, receiving payments and upgrading the database to meet new needs. No additional positions will be needed for FY 91 and subsequent years. It may be possible to reduce staffing once the program is in place.

### 3. Public Information Program

During FY 90, one professional and one-half clerical FTEs will be needed in this program. One professional position, with the help of one-half clerical position, will identify and provide information and assistance to tank owners and will plan and conduct public information activities. Development of the program will be contracted out to assist tank owner/operators and the public directly through presentations and workshops. Contractual funds (\$15.0) are included for document set up and printing costs and \$6.0 is included for supplies for mailouts and software.

These tasks will continue during FY 91 as the regulations are completed and program implementation begins. No additional positions are anticipated at this time.

### 4. Loan or Grant Program

During FY 90, one-half FTE will be needed in this program. This one-half professional position will assist the Department of Commerce and Economic Development in setting up a loan guarantee program, and approve the use of funds from the Underground Storage Tank Account (case by case) to guarantee a loan.

FY 91 and ongoing tasks will include continued approval of all loan guarantees or grants during the 10-year period that underground tanks have to upgrade. An additional one-quarter FTE will be needed for this purpose.

### 5. Underground Storage Tank Account Cleanup Program

During FY 90, three and one-half FTEs will be needed in this program. One and one-half professional positions and one-half clerical position will develop guidelines and review reported leaks, document leaks on computer, determine the extent of investigation, cleanup, and necessary upgrades to current facility equipment, and oversee cleanup contracts. One-half position in fiscal will help set up, receive, and deposit payments received. One-half administrative position will track costs, and justify that payments are correct and adequate. One-half professional position in the Solid Waste Program will develop permits for disposal of soils contaminated from releases. Additional contractual funds (21.0) are included for development and printing of forms and medical monitoring physicals for the two staff involved in field work. The supplies line includes 35.0 for postage and mailout supplies. The equipment line includes personal protective equipment (5.0) for two staff persons.

FY 91 and ongoing tasks will include a considerable increase in the regional office efforts to monitor contracts for cleanup, determine adequacy of cleanup, and assure appropriate tank upgrades following cleanup. Additionally, requests for contaminated soil disposal permits will begin. Two professional and one clerical FTE will be required for these purposes.

Original sponsors: Menard, M. Davis,  
Brown, et al.

1 IN THE HOUSE

BY THE FINANCE COMMITTEE

2 CS FOR HOUSE BILL NO. 220 (Finance)

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 SIXTEENTH LEGISLATURE - FIRST SESSION

5 A BILL

6 For an Act entitled: "An Act relating to motor fuels, petroleum and chemi-  
7 cal storage tanks, and investigation, containment,  
8 and cleanup of oil and hazardous substances; and  
9 providing for an effective date."

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

11 \* Section 1. PURPOSE. The purpose of this Act is to authorize the  
12 Department of Environmental Conservation to abate and prevent leaks associ-  
13 ated with underground petroleum and chemical storage tanks in order to  
14 protect the public from contamination of drinking water and the environment  
15 and to establish mechanisms that will assist the owners of underground  
16 petroleum storage tanks to comply with federal and state requirements  
17 governing their tanks. The legislature recognizes that these owners may be  
18 faced with expenses that they cannot immediately afford for liability  
19 insurance, the costs of upgrading or replacing their tanks, and the costs  
20 of cleaning up past contamination related to their tanks. The legislature  
21 intends to help these owners through a combination of educational  
22 assistance, grants, and other financial assistance, but only if these  
23 owners promptly comply with the new requirements of this Act.

24 \* Sec. 2. AS 43.40 is amended by adding a new section to read:

25 Sec. 43.40.015. ADDITIONAL SURCHARGE ON MOTOR FUEL. (a) In  
26 addition to the tax levied by AS 43.40.010, there is levied a sur-  
27 charge of two cents a gallon on all motor fuel subject to tax under  
28 AS 43.40.010 except the motor fuel taxes levied and collected

29 (1) under AS 43.40.010(a)(1) and (b)(1) on aviation

1 gasoline and under AS 43.40.010(b)(3) on aviation fuel other than  
2 gasoline; and

3 (2) under AS 43.40.010(a)(2) and (b)(2) for motor fuel used  
4 in boats and watercraft of all descriptions.

5 (b) The surcharge imposed by (a) of this section shall be col-  
6 lected and remitted in the same manner as the tax levied and collected  
7 under AS 43.40.010 except that the proceeds of the surcharge may not  
8 be returned to municipalities under AS 43.40.010(e) or deposited in  
9 any special account authorized under AS 43.40.010, but shall be remit-  
10 ted to the commissioner of revenue for deposit into the general fund.

11 (c) The commissioner of administration shall separately account  
12 for the proceeds of the surcharge collected under this section and  
13 deposited into the general fund. The legislature may use the annual  
14 estimated balance in the account to make appropriations to the Depart-  
15 ment of Environmental Conservation for the petroleum and chemical  
16 storage tank account established under AS 46.08.015.

17 \* Sec. 3. AS 43.40.035(a) is amended to read:

18 (a) A person who resells fuel on which the tax under AS 43.40.-  
19 010(a) or (b) and the surcharge levied under AS 43.40.015 were [WAS]  
20 previously paid is entitled to a credit or refund of the tax or sur-  
21 charge, or both, if (1) the resold fuel is not motor fuel and the  
22 requirements of AS 43.40.010(1) have been fulfilled; or (2) the amount  
23 of tax and surcharge previously paid exceeds the tax and surcharge due  
24 on the resale. The amount of the credit or refund under this section  
25 is equal to the amount of tax and surcharge previously paid on the  
26 resold fuel less the amount of tax prescribed by AS 43.40.010(a) or  
27 (b) and the surcharge prescribed by AS 43.40.015.

28 \* Sec. 4. AS 46.03 is amended by adding new sections to read:

29 ARTICLE 6A. PETROLEUM AND CHEMICAL STORAGE TANKS.

1           Sec. 46.03.360. REGULATION OF UNDERGROUND PETROLEUM AND CHEMICAL  
2 STORAGE TANKS. (a) The department shall develop and implement a  
3 program to prevent and abate pollution from underground petroleum and  
4 chemical storage tanks through the adoption of regulations.  
5 Consistent with other provisions in AS 46.03.360 - 46.03.450, the  
6 regulations may govern

- 7           (1) notification;
- 8           (2) licensing, certification, inspection, and record keep-  
9 ing;
- 10          (3) contingency plans and financial responsibility;
- 11          (4) construction, installation, and performance;
- 12          (5) maintenance, operation, and repair;
- 13          (6) spill and overflow control, corrosion prevention, and  
14 release detection and reporting;
- 15          (7) enforcement, corrective action, and damages and cost  
16 recovery;
- 17          (8) closure and abandonment; and
- 18          (9) prevention of spills, releases, or pollution, to pro-  
19 tect the public health and environment.

20          (b) The department may distinguish between the sizes, types,  
21 classes, and ages of underground petroleum and chemical storage tanks  
22 in the regulations adopted under (a) of this section.

23          (c) The commissioner shall appoint an advisory panel to assist  
24 the department in developing regulations under this section. The  
25 panel must include public members and persons who will be governed by  
26 the regulations, such as underground petroleum and chemical storage  
27 tank owners and persons who install, repair, or test underground  
28 petroleum and chemical storage tanks. Before a notice of proposed  
29 action may be published under AS 44.62.190 for regulations required

1 under this section, the commissioner shall submit the proposed  
2 regulations to the panel for review and comment. Before the commis-  
3 sioner adopts regulations under this section, the commissioner shall  
4 consider the comments of the panel.

5 Sec. 46.03.370. INSPECTIONS. (a) An underground petroleum  
6 or chemical storage tank regulated under AS 46.03.360 - 46.03.450 is  
7 subject to inspection by the department or by professionally qualified  
8 inspectors certified by the department to ensure compliance with  
9 AS 46.03.360 - 46.03.450 and the regulations adopted under those  
10 sections and to verify information on the registration form required  
11 under AS 46.03.400.

12 (b) An aboveground petroleum or chemical storage tank is subject  
13 to inspection by the department or by professionally qualified  
14 inspectors certified by the department to verify information on the  
15 registration form required under AS 46.03.400.

16 (c) The department may contract with persons who are not state  
17 employees to perform inspections under this section. The department  
18 shall adopt regulations to implement a certification program for  
19 persons who wish to be eligible for inspection contracts under this  
20 section.

21 Sec. 46.03.380. EDUCATIONAL ASSISTANCE. The department shall  
22 provide to persons who own or operate underground petroleum storage  
23 tanks educational assistance to help them comply with federal and  
24 state laws and regulations applicable to the tanks. The department  
25 shall also provide the public with information to help the public  
26 understand the effects associated with the release of petroleum prod-  
27 ucts into the environment.

28 Sec. 46.03.390. GRANTS. (a) Except as provided in (c) of this  
29 section, the department may issue a grant, not to exceed \$100,000 per

1 facility, to the owner of an underground petroleum storage tank for  
2 the purpose of

3 (1) removing and properly disposing of all sludges from the  
4 tank and either filling the tank with inert material or properly  
5 dismantling, removing, and disposing of the tank; or

6 (2) retrofitting, repairing, or replacing an underground  
7 petroleum storage tank to meet federal or state requirements.

8 (b) A grant under (a)(1) of this section may be for up to 90  
9 percent of the costs approved by the department. A grant under (a)(2)  
10 of this section may be for up to 75 percent of the costs approved by  
11 the department.

12 (c) A person is not eligible for a grant under this section for  
13 costs relating to a storage tank that contains motor fuel that is  
14 exempt from the surcharge levied under AS 43.40.015.

15 (d) The department may adopt regulations to implement this  
16 section.

17 Sec. 46.03.400. NOTIFICATION AND REGISTRATION REQUIREMENTS. (a)  
18 A person who intends to install or have a storage tank installed shall  
19 notify the department in writing at least 30 days before installing or  
20 having the tank installed. The department may waive the requirement  
21 of this subsection upon a showing of good cause.

22 (b) The owner of a storage tank shall, within 30 days after  
23 installing a storage tank, register the tank with the department on a  
24 form provided by the department. The owner shall biennially renew the  
25 registration.

26 (c) The owner shall specify on the registration form required  
27 under (b) of this section the location, size, type of construction,  
28 and age of the tank; the type of petroleum or chemical stored in the  
29 tank; and the total volume of petroleum or chemical stored in the tank

1 during the previous 12 months.

2 (d) If a storage tank is taken out of operation, the owner of  
3 the tank shall

4 (1) specify on the biennial registration form the date the  
5 tank was taken out of operation; and

6 (2) provide evidence satisfactory to the department that

7 (A) all petroleum and chemical products and sludges  
8 have been removed from the tank and properly disposed of;

9 (B) the tank has either been filled with inert  
10 material or been properly dismantled, removed, and disposed of;  
11 and

12 (C) the owner has otherwise complied with federal laws  
13 relating to taking a tank out of operation.

14 Sec. 46.03.410. REGISTRATION FEE. (a) At the time of registra-  
15 tion and renewal of registration under AS 46.03.400, the owner shall  
16 pay to the department a registration fee of \$.02 per gallon based on  
17 the capacity of the tank being registered or a fee of \$2,000, which-  
18 ever is lower, subject to a maximum biennial fee of \$40,000 per facil-  
19 ity. The department shall deposit fees collected under this section  
20 in the general fund. The commissioner of administration shall sepa-  
21 rately account for fees deposited under this section. The legislature  
22 may appropriate the annual estimated balance of the account to the  
23 petroleum and chemical storage tank account established under AS 46.-  
24 08.015.

25 (b) The registration fee imposed under (a) of this section does  
26 not apply to a storage tank owned by the state. The department may by  
27 regulation provide for other exemptions from the registration fee  
28 imposed under (a) of this section.

29 Sec. 46.03.420. EXEMPTIONS. (a) AS 46.03.360 - 46.03.450 do

1 not apply to a storage tank with a capacity of 1,100 gallons or less  
2 at a farm, or at a residence that is a single-family dwelling or  
3 duplex, if the storage tank is used for storing motor fuel that is not  
4 intended for resale.

5 (b) AS 46.03.360 - 46.03.450 do not apply to a storage tank with  
6 a capacity of 1,100 gallons or less if the storage tank is used for  
7 storing heating oil for consumptive use on the premises where it is  
8 stored.

9 (c) AS 46.03.360 - 46.03.450 do not apply to a storage tank used  
10 for storing heating oil at a farm, or at a residence that is a single-  
11 family dwelling or duplex, if the oil is held for consumptive use on  
12 the premises where it is stored.

13 (d) AS 46.03.360 - 46.03.450 do not apply to the storage of  
14 hazardous waste that is being managed under 42 U.S.C. 6901 - 6991i  
15 (the Solid Waste Disposal Act).

16 (e) The department may by regulation provide for other exemp-  
17 tions as necessary.

18 Sec. 46.03.450. DEFINITIONS. In AS 46.03.360 - 46.03.450

19 (1) "chemical" means any substance defined in 42 U.S.C.  
20 9601(14) (sec. 101(14) of the Comprehensive Environmental Response,  
21 Compensation, and Liability Act of 1980), as amended, and any sub-  
22 stance having the characteristics identified or listed under 42 U.S.C.  
23 6921 (sec. 3001 of the Solid Waste Disposal Act), regardless of wheth-  
24 er the substance is a solid waste;

25 (2) "facility" means contiguous land and structures on or  
26 in the land containing petroleum and chemical storage tanks owned by  
27 the same person;

28 (3) "farm" means a tract of land devoted to the production  
29 of crops or raising animals, including fish, and associated residences

1 and improvements; "farm" includes fish hatcheries, rangelands, and  
2 nurseries with growing operations;

3 (4) "petroleum" means crude oil or any fraction of crude  
4 oil that is liquid at 60 degrees Fahrenheit and pressure of 14.7  
5 pounds per square inch absolute; "petroleum" includes petroleum-based  
6 substances comprised of a complex blend of hydrocarbons derived from  
7 crude oil through processes of separation, conversion, upgrading, and  
8 finishing, such as motor fuels, jet fuels, distillate fuel oils,  
9 residual fuel oils, lubricants, petroleum solvents, and used oils;

10 (5) "storage tank" means one or a combination of stationary  
11 devices that are designed to contain an accumulation of petroleum or  
12 chemicals; are constructed of nonearthen materials such as concrete,  
13 steel, or plastic; and provide structural support; "storage tank" in-  
14 cludes pipes or piping connected to the storage tank;

15 (6) "underground petroleum storage tank" means a storage  
16 tank designed to contain an accumulation of petroleum, the volume of  
17 which, including the volume of underground pipes connected to it, is  
18 10 percent or more beneath the surface of the ground.

19 \* Sec. 5. AS 46.08.010(c) is amended to read:

20 (c) Except as provided in AS 46.08.015, the [THE] fund shall be  
21 used for actual expenses incurred under AS 46.08.040. Except as  
22 provided in AS 46.08.015, the [THE] fund may not be used for capital  
23 improvements.

24 \* Sec. 6. AS 46.08 is amended by adding a new section to read:

25 Sec. 46.08.015. PETROLEUM AND CHEMICAL STORAGE TANK ACCOUNT.

26 (a) There is established in the fund a petroleum and chemical storage  
27 tank account. The account consists of money appropriated to it.

28 (b) The commissioner may use money from the petroleum and chem-  
29 ical storage tank account to pay for

1 (1) the costs of investigation, containment, and cleanup of  
2 a release or threatened release of petroleum or chemicals from a  
3 storage tank or from uses related to a storage tank; payments under  
4 this paragraph may not exceed \$1,000,000 per investigation, contain-  
5 ment, and cleanup action;

6 (2) the costs of investigation, containment, and cleanup of  
7 a release or threatened release of a hazardous substance that poses an  
8 imminent and substantial threat to public health;

9 (3) grants under AS 46.03.390; and

10 (4) the department's costs for administering AS 46.03.380 -  
11 46.03.410.

12 (c) Each year, the commissioner shall use at least 10 percent of  
13 the balance of the petroleum and chemical storage tank account exist-  
14 ing on July 1 for grants under AS 46.03.390 during the ensuing fiscal  
15 year.

16 (d) In this section, "chemical," "petroleum," and "storage tank"  
17 have the meanings given in AS 46.03.450.

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

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

23 (1) the amount of money expended under AS 46.08.015 and  
24 46.08.040 during the preceding fiscal year;

25 (2) the amount and source of money received and money re-  
26 covered during the preceding fiscal year as specified in AS 46.08.020;

27 (3) a summary of municipal participation in responses  
28 funded by the fund;

29 (4) a detailed summary of department activities in re-

1 sponses funded by the fund and the petroleum and chemical storage tank  
2 account during the preceding fiscal year, including response and  
3 descriptions and statements outlining the nature of the threat; the  
4 report must separately describe how many requests for assistance have  
5 been made to the department to use the petroleum and chemical storage  
6 tank account to respond to a release or threatened release from a  
7 storage tank and the estimated cost of containment and cleanup related  
8 to those requests; and

9 (5) the projected cost for the next fiscal year of  
10 monitoring, operating, and maintaining sites where response has been  
11 completed or is expected to be continued during the fiscal year.

12 \* Sec. 8. Notwithstanding AS 46.03.400, enacted by sec. 4 of this Act,  
13 the registration required under AS 46.03.400, enacted by sec. 4 of this  
14 Act, is due December 1, 1989, for a tank installed before July 1, 1989.  
15 This registration requirement also applies to storage tanks governed by  
16 AS 46.03.360 - 46.03.450, as enacted by sec. 4 of this Act, that were taken  
17 out of operation before July 1, 1989.

18 \* Sec. 9. AS 43.40.015 is repealed July 1, 1998.

19 \* Sec. 10. AS 46.03.390 is repealed July 1, 1994.

20 \* Sec. 11. (a) Subject to (b) - (i) of this section, the owner of an  
21 underground petroleum storage tank may request the department to use funds  
22 from the account established under AS 46.08.015, enacted in sec. 6 of this  
23 Act, to pay the costs of investigation, containment, and cleanup resulting  
24 from a release of petroleum from, or associated with, an underground petro-  
25 leum storage tank.

26 (b) Payments made by the department under this section shall exclude  
27 a portion of the investigation, containment, and cleanup costs. The por-  
28 tion of costs not payable by the department under this section shall be  
29 based upon the total number of whole gallons of petroleum stored by the

1 owner in all underground petroleum storage tanks during the 12-month period  
2 preceding the date the owner reported the release to the department, as  
3 follows:

Total number of gallons of petroleum stored by the owner in the 12 months before the report date:	Amount of investigation, containment, and cleanup costs not payable by the department under this section:
0 - 1,000,000 .....	\$ 5,000
1,000,001 - 5,000,000.....	10,000
5,000,001 - 10,000,000.....	15,000
10,000,001 - 15,000,000.....	20,000
15,000,001 - 30,000,000.....	40,000
Over 30,000,000.....	No costs payable

14 (c) An owner of an underground petroleum storage tank is not eligible  
15 to request payment under this section unless the owner establishes the  
16 following to the department's reasonable satisfaction:

- 17 (1) the owner reported the release to the department before
  - 18 (A) July 1, 1990, for a release that the owner establishes
  - 19 first occurred before July 1, 1989;
  - 20 (B) July 1, 1994, for a release that the owner establishes
  - 21 first occurred on or after July 1, 1989, and before December 22, 1993;
- 22 (2) the tank from which the release occurred was installed  
23 before December 22, 1988;
- 24 (3) the tank from which the release occurred was registered with  
25 the department as provided in sec. 8 of this Act by December 1, 1989;
- 26 (4) the owner has, after July 1, 1989, been in compliance with  
27 all state and federal laws applicable to underground petroleum storage  
28 tanks;
- 29 (5) the owner lacks sufficient assets to adequately self-insure

1 for the costs of investigation, containment, and cleanup resulting from  
2 releases of petroleum from underground storage tanks as defined under  
3 applicable federal regulations;

4 (6) the owner, upon demand by the department, pays the full  
5 amount of costs not payable under this section as set out in (b) of this  
6 section;

7 (7) the petroleum release was not a result of the owner's negli-  
8 gence, gross negligence, recklessness, or intentional conduct; and

9 (8) the owner agrees to

10 (A) upgrade all underground storage tank systems located at  
11 the facility from which the release occurred to the standards set by  
12 federal regulations; or

13 (B) remove and properly dispose of all sludges from the  
14 underground storage tank systems located at the facility from which  
15 the release occurred and either fill the tanks with inert material or  
16 properly dismantle, remove, and dispose of the tanks.

17 (d) The department shall reject a request for payment made under this  
18 section if the department determines that one or more of the following  
19 conditions exists:

20 (1) the account established under AS 46.08.015, enacted by sec.  
21 6 of this Act, lacks sufficient funds;

22 (2) other investigation, containment, and cleanup activities for  
23 which account funds may be used constitute a higher priority for account  
24 fund expenditures;

25 (3) the owner fails to meet the requirements set out in (c) of  
26 this section; or

27 (4) other good cause exists to reject the request for payment.

28 (e) A request for funding under this section, and a payment made  
29 under this section, may not exceed \$1,000,000 per facility.

1 (f) The department shall determine which costs of investigation,  
2 containment, and cleanup are eligible for payment under this section. The  
3 department shall give higher priority to investigation, containment, and  
4 cleanup under this section than to grants under AS 46.03.390, enacted by  
5 sec. 4 of this Act.

6 (g) The department may adopt regulations reasonably necessary to  
7 implement this section. The department shall by regulation adopt criteria  
8 that will be used by the department for determining priorities for respond-  
9 ing to a release or threatened release reported under this section.

10 (h) This section does not affect the liability under state or federal  
11 law of any person for the costs of investigation, containment, and cleanup  
12 resulting from a release of petroleum. However, the department may not  
13 seek reimbursement of a payment made under this section unless the depart-  
14 ment determines that the payment was requested under false pretenses or  
15 that other circumstances render the payment inconsistent with this section  
16 or with department regulations. This section does not affect the authority  
17 of the department to seek recovery of costs other than payments actually  
18 made to an owner under this section.

19 (i) A person is not eligible to request funding under this section  
20 for costs relating to a storage tank containing motor fuel that is exempt  
21 from the surcharge under AS 43.40.015.

22 (j) The owner of an underground petroleum storage tank for whom the  
23 department makes payments under this section may not operate the under-  
24 ground petroleum storage tank system for which payments were received under  
25 this section for the costs of investigation, containment, and cleanup until  
26 the system meets the requirements of federal regulations that are applica-  
27 ble to underground storage tank systems installed after the date investiga-  
28 tion, containment, and cleanup are completed.

29 (k) In this section,

1 (1) "department" means the Department of Environmental Conserva-  
2 tion;

3 (2) "underground petroleum storage tank" has the meaning given  
4 in AS 46.03.450, as enacted by sec. 4 of this Act, but does not include  
5 storage tanks that are exempt under AS 46.03.420, enacted by sec. 4 of this  
6 Act, or regulations adopted under that section;

7 (3) "underground storage tank system" has the meaning given to  
8 the term "UST system" in 40 C.F.R. sec. 280.11, as amended.

9 \* Sec. 12. By the 10th day of the Second Regular Session of the  
10 Sixteenth Alaska State Legislature, the Department of Environmental Con-  
11 servation shall submit a report to the legislature containing its rec-  
12 ommendations on

13 (1) whether there is a need to develop a state program for the  
14 prevention and abatement of pollution from aboveground petroleum or  
15 chemical storage tanks; and

16 (2) the manner in which aboveground petroleum or chemical  
17 storage tanks should be regulated, including recommended legislation, if  
18 the department identifies a need under (1) of this section.

19 \* Sec. 13. This Act takes effect July 1, 1989.  
20  
21  
22  
23  
24  
25  
26  
27  
28  
29

*Amend 1 a  
approved*

AMENDMENTS TO CS FOR HB 220 (FINANCE)

Page 1, Line 13

after the word petroleum  
insert the words "and chemical"

Page 3, Line 3

after the word PETROLEUM  
insert the words "AND CHEMICAL"

Page 3, Line 20

after the word petroleum  
insert the words "and chemical"

Page 3, Line 25

after the word petroleum  
insert the words "and chemical"

Page 3, Line 26

after the word petroleum  
insert the words "and chemical"

Page 4, Line 3

after the word petroleum  
insert the words "and chemical"

Page 4, Line 9

after the word aboveground  
delete the words "storage tank"  
insert the words "petroleum"

Page 14, Line 5

after the word aboveground  
delete the words "storage tank"  
insert the word "petroleum"

Page 14, Line 7

after the word aboveground  
delete the words "storage tank"  
insert the word "petroleum"

A M E N D M E N T # 2 *LL*

OFFERED IN THE HOUSE

BY BARNES

TO: CSHB 220 (Finance)

Page 4, line 5, after "inspection":

Insert "<sup>or</sup>by professionally qualified inspectors certified" *by the dept.*

Page 4, line 10, after "inspection":

Insert "<sup>or</sup>by professionally qualified inspectors certified" *by the dept.*

Page 4, after line 11:

Insert a new subsection to read:

"(c) The department <sup>may</sup>~~shall~~ contract with persons who are not state employees to perform ~~all~~ inspections under this section. The department shall adopt regulations to implement a certification program for persons who wish to be eligible for inspection contracts under this section."

AMENDMENT

SWACKHAMMER BY REQUEST

OFFERED IN THE HOUSE

TO: CSHB 220 (Finance)

Page 2, line 2:

Delete "and"

Page 2, line 4, after "descriptions":

Insert " and, (3) except motor fuel which is neither stored in, received in, nor delivered from an underground storage tank at the facility where the sale giving rise to the imposition of the surcharge occurs."

Page 6, line 6, after "renewal of":

Insert "an underground storage tank"

Page 6, line 10, after ".":

Insert "At the time of registration and renewal of registration of an aboveground storage tank, the owner shall pay to the department a registration fee of \$25.00."

Page 10, line 17 through page 11, line 4:

Delete all material.

Alphabetize the following subsections accordingly.

Page 11, line 20 through line 23:

Delete all material.

Renumber the following subsections accordingly.


STATE OF ALASKA  
THE LEGISLATURE

POUCH Y STATE CAPITOL  
JUNEAU, ALASKA 99811  
907-465-3800

LEGISLATIVE AFFAIRS AGENCY

MEMORANDUM

April 17, 1989

SUBJECT: Technical amendment (CSHB 220(Res))  
TO: Representative Ron Larson  
FROM: Terri Lauterbach   
Legislative Counsel

Enclosed is a technical amendment to CSHB 220(Resources).

Since AS 46.03.390 enacts a grant program, the reference to "loan guarantees" should be changed to "grants."

If I can be of further assistance, please let me know.

TML:lmb  
L7/075

Enclosure

A M E N D M E N T

OFFERED IN THE HOUSE

TO: CSHB 220 (Resources)

Page 12, line 9:

Delete "loan guarantees"

Insert "grants"

A M E N D M E N T

OFFERED IN THE HOUSE

BY BARNES

TO: CSHB 220 (Resources)

Page 1, line 6:

Delete "motor fuels,"

Page 1, line 7:

Delete the first comma.

Page 1, line 24 through page 2, line 24:

Delete all material.

Renumber the following bill sections accordingly.

Page 9, line 17:

Delete "4"

Insert "2"

Page 9, line 18:

Delete "4"

Insert "2"

Page 9, line 21:

Delete "4"

Insert "2"

Page 9, line 23:

Delete "4"

Insert "2"

Page 9, line 27:

Delete "6"

Insert "4"

Page 11, line 1:

Delete "8"

Insert "6"

Page 11, line 26:

Delete "6"

Insert "4"

Page 12, line 10:

Delete "4"

Insert "2"

Page 13, line 6:

Delete "4"

Insert "2"

Page 13, line 7:

Delete "4"

Insert "2"

A M E N D M E N T

OFFERED IN THE HOUSE

BY BARNES

TO: CSHB 220 (Resources)

Page 4, line 2, after "inspection":

Insert "by professionally qualified inspectors certified"

Page 4, line 4, after "sections.":

Insert "The department shall contract with persons who are not state employees to perform all inspections under this section. The department shall adopt regulations to implement a certification program for persons who wish to be eligible for inspection contracts under this section."

A M E N D M E N T

OFFERED IN THE HOUSE

BY BARNES

TO: CSHB 220(Resources)

Page 1, line 21:

Delete ", grants,"

Page 1, line 22:

Delete "other"

Page 4, lines 12 - 25:

Delete all material.

Page 8, line 12, after " ; ":

Insert "and"

Page 8, line 13:

Delete all material.

Renumber the following paragraph accordingly.

Page 8, lines 16 - 19:

Delete all material.

Reletter the following subsection accordingly.

Page 9, lines 23 - 24:

Delete all material.

Renumber the following bill sections accordingly.

Page 12, line 7, after "section." through page 12, line 10:

Delete all material.



**Department of Transportation  
and Public Facilities**

# POSITION PAPER

**BILL NO:** HB 220

**APPROVED:** M. K. S. Hily

**TITLE:** An Act relating to motor fuels, petroleum and chemical storage tanks, and investigation, ...

**DATE:** March 24, 1989

The department is supportive of the need to address the pollution and operator liability problems associated with leaking underground tanks. However, it is our opinion that this bill contravenes a long standing principle of taxation, most particularly the rationale that there should be a clear connection between taxes (or surcharges) levied and benefits derived. This bill fails to follow this principle in that it benefits many who will not contribute taxes to the program, and the benefits to the main contributing group, consumers of motor fuels, will be an abstract nexus. We are especially concerned that this obscure relationship between the taxes levied and the benefits gained by transportation users will ultimately disenfranchise motor fuel tax contributors and undermine the user fee concept associated with fuel taxes. This user fee concept is the underpinning of successful transportation programs throughout the nation.

### Relationship Between Tax and Problem.

Leaking fuel tanks used in transportation are only a portion of the pollution problem the state faces. Similar tanks are used in commercial, residential and industrial settings. While all groups will pay the annual tank registration fees, only motor fuel sales are charged the 2¢ per gallon tax. This tax would provide these other industries with an on going subsidy at the expense of transportation users and ultimately destroy our ability to develop a transportation system based on user fee revenues.

We believe that all benefitting user groups should be responsible for contributing payments to this program. If the fuel tax is passed, it should apply to the fuel requirements of every group which would derive benefits, including commercial, industrial, and utility users. Similarly, the tax should not apply to users who are ineligible to receive its benefits. Large trucking operators, for example, will pay the tax but will likely be ruled ineligible as they typically have assets sufficient to self-insure or can obtain commercial insurance.

Another example of an inequity is the application of this tax to watercraft fuels. Most watercraft fuel distributors utilize above ground tanks because of the shoreside location. Such tanks are ineligible for the benefits of this proposed program. In this case, marine fuel consumers will pay to resolve pollution problems occurring only in other sectors.

#### Tank Registration

This section appears to apply to virtually all tanks, above or below ground, except for small tanks ( $\leq 1,100$  gallons) used at a farm, duplex or single family home. As such this may be confusing to the public who are currently focusing attention only on underground storage tank requirements.

Further, as we interpret the draft bill, the registration fee may or may not apply to existing tanks. As operators of state facilities, with approximately 800 tanks in our inventory, this interpretation represents an \$80,000 annual cost that may, or may not be charged to us. (We have assumed that existing tanks will be subject to the fee in our fiscal note).

The requirement for 30 days notice of tank installation seems excessive. In particular, for temporary tanks used on construction projects this could delay projects unnecessarily. A typical remote construction project will have between 20,000 and 50,000 gallons of temporary tankage.

#### Underground Petroleum Storage Tank Account

Access to these funds hinges on the tank owners inability to obtain insurance and inability to self insure. We wonder why any operator would make a "best effort" to obtain commercial insurance if they can obtain "free" state insurance if they are unsuccessful. It is also not clear how a "best effort" would be proved. Also questionable is what constitutes "sufficient assets to self-insure". A further complication is the state's right to avoid participation in clean-up costs if there are insufficient funds or if there are spills with greater priority for clean-up. All-in-all, an operator will have no certainty of access to this "insurance" fund given the many limitations on its use. This seems counter to the objective of helping tank owners comply with federal and state requirements.

#### Transportation System Not a Beneficiary

The operations of highways and airports by federal, state and local authorities requires large fleets of vehicles and attendant underground tanks. The DOT&PF has estimated that the cost of compliance with the new EPA regulations for its own facilities may exceed \$40 million. The annual tank registration fee for the department may equal \$80,000 for which there is no tangible benefit. The cost for municipal road authorities will be generally comparable. A larger, though incalculable cost is the cleanup within public rights-of-way where fuel leaks have migrated into the subsurface. It appears

the underground petroleum storage tank account may not be used to address these costs, unless the party responsible has met all the nine criteria of the bill. Thus, in many cases, public agencies will have to contribute additional resources.

In summary the department opposes this bill. It will charge motor fuel consumers for the majority of costs that should be borne by a far broader spectrum of fuel users, and will deny these same consumers the benefits of this program when they are asked to pay for the clean-up associated the maintenance and operating facilities supporting state and municipal transportation activities.

As a side effect, the bill creates a subsidy from the transportation sector to other categories of industry. It will also create subsidies within the transportation and fuel distributing industries from larger firms to smaller firms. Given the intense competition between some transportation groups (e.g., trucking and rail) this is an unproductive market factor, and will tend to artificially skew the economics of transportation.

Of equal concern to the department is the consequences of this funding approach to the strong historic relationship between transportation taxes and transportation improvements. This surcharge will seriously dilute this relationship with potentially serious consequences to the long term development of transportation. Given the vital role of transportation to all current and proposed economic activity the loss of an economic relationship between transportation effectiveness and costs could be ruinous. Even with the proposed doubling of the highway fuel tax, the total tax revenue would not cover the true maintenance and operating requirements of the state highway network. Until these basic needs are fulfilled, it seems incongruous to underwrite other programmatic needs from a transportation tax.

As there is a need for adequate funding for the problems addressed by this bill we would encourage instead an insurance pool supported principally by fees from tank owners who cannot afford commercial insurance. If additional funding is necessary it could be in the form of a tax on all fuel delivered to distributors. In addition, the benefit of the program should extend to the various organizations responsible for maintaining transportation facilities if they are going to be assessed in the revenue structure of the program. An alternative funding mechanism would be a fee assessed to all tank owners (of tanks requiring registration) based upon total storage volume (or total annual gallons used), unless they have adequate insurance through other means.

In short, we believe there are more equitable methods of generating the funds necessary for this program that do not result in the subsidization of one sector by another and weakening of the user-fee concept.



**MAPCO ALASKA PETROLEUM INC.**

A. L. Eukl Wright, Jr.  
VICE PRESIDENT -- ALASKA  
(907) 452-5218

19 April 1989

The Honorable Ron Larson, Co-Chairman  
House Finance Committee  
House of Representatives  
State of Alaska  
P O Box V  
Juneau, AK 99811

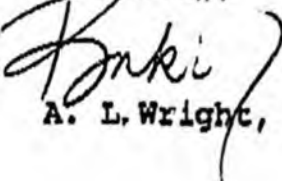
Dear Mr. Larson:

Following testimony at the House Finance Committee hearing regarding House Bill No. 220 (Resources), you asked that I submit my comments in writing.

Please find attached a summary statement regarding MAPCO's views on CSHB 220 and also a more detailed statement relating MAPCO's position to each section of the CSHB 220 (Res) on which I commented at the hearing.

Thank you for considering our input.

Sincerely,

  
A. L. Wright, Jr.

Attachment

cc: Rep. Dick Shultz  
Rep. Lyman Hoffmann  
Sen. Jack Coghill  
George Krusz  
Terry Renner

HOUSE BILL NO. 220 (RESOURCES)

SUMMARY STATEMENT  
respectfully submitted by

A. L. WRIGHT, JR., VICE PRESIDENT - ALASKA  
MAPCO ALASKA PETROLEUM Inc.

Above ground tanks and chemical tanks should be treated separately - not exempted - not ignored. But, not handled in the same regulations as are underground tanks.

I would urge the Committee to seriously consider the enormous expense of a outright grant program for tank replacement, retrofitting, etc. These costs are generally treated as a normal cost of business.

Registration should only be required once, then notification given when a tank or system is taken out of service.

The surcharge should be the primary revenue source to the fund. Registration fees should be only enough to administer the fund.

Anyone who is required to pay (register) into the fund should be allowed to use the fund. Or, those who choose self insurance, should be allowed to opt not to pay into the fund.

No one should be excluded from receiving funds for clean-up costs due only to size of operation.

HOUSE BILL NO. 220 (RESOURCES)

DETAILED STATEMENT  
(addressing specific sections of CSHB 220)

A. L. WRIGHT, JR., VICE PRESIDENT - ALASKA  
MAPCO ALASKA PETROLEUM Inc.

REGARDING  
Section 1.  
PURPOSE

"The purpose of this Act is to authorize the Department of Environmental Conservation to abate and prevent leaks associated with petroleum and chemical storage tanks ...."

Above ground tanks should be handled separately, as should chemical tanks. I don't suggest they should be exempted, and certainly not ignored. But, circumstances surrounding installation, maintenance, and usage of these three kinds of tanks are very different. They must be dealt with independently.

The Federal Government, as I understand, is currently working on above ground tank regulations, with which future State regulations will have to coincide. Also, OSHA already has stringent regulations on above ground tank installation and use.

REGARDING  
Section 1.  
GRANTS

"The legislature intends to help these owners through a combination of educational assistance, grants, and financial assistance, but only if these owners promptly comply with the new requirements of this Act."

This should be reviewed. These costs are a normal cost of business. This will be an enormous expense for the State.

There should, at least be, the determination of a problem of leakage and/or contamination, before the State takes on the financial responsibility for a wholesale replacement of all tanks installed in Alaska prior to 1989.

**REGARDING**

Sec. 2. to amend Sec. 43.40.015.  
MOTOR OIL SURCHARGE

"ADDITIONAL SURCHARGE ON MOTOR FUEL. ... there is levied a surcharge of two cents per gallon on all motor fuel subject to tax under AS 43.40.010 except the motor fuel taxes levied and collected under AS 43.40.010(a)(2) and (b)(2) for motor fuel used in boats...."

Marine fuel has been exempted from the surcharge. Aviation fuel sales are very competitive with fuel imported from foreign and U.S. west coast sources. As with marine fuel, aviation fuel should be exempted.

Underground tanks not in marine or aviation service should still be registered and should be eligible for funding from the fund.

**REGARDING**

Sec 2. (c)  
ADVISORY PANEL

"The commissioner shall appoint an advisory panel to assist the department in developing regulations under this section. The panel must include public member and persons who will be governed by the regulations...."

Legislation should be more specific as to make-up of Advisory Panel. All segments affected should be represented.

The Panel must have teeth, otherwise it is just one more costly advisory Board.

**REGARDING**

Sec. 46.03.370.(c) INSPECTIONS  
REGISTRATION

"The owner shall biannually renew the registration."

Initial registration is necessary. Periodic re-registration would not serve any purpose. Notification should be required for taking tanks out of service. A fine could be levied for those who fail to comply in a timely fashion.

**REGARDING**

Sec. 46.03, 410  
REGISTRATION FEE

"... owner shall pay to the department a registration fee of \$.02 per gallon based on the capacity of the tank being registered or a fee of \$2,000, whichever is lower..."

Amounts should be only enough to cover normal administration, costs of implementing registration, i.e. \$.02 per gallon capacity on \$100, which ever is lower.

**REGARDING**

Sec. 10 (b)  
DEDUCTIONS

"Payments made by the department under this section shall exclude a portion of the investigation, containment, and cleanup costs. The portion of costs not payable by the department under this section shall be based upon the total number of whole gallons of petroleum stored by the owner in all underground petroleum storage tanks ...."

Criteria for deductions should be the same as for fees. Registration fee is on tank capacity. "Deductible" should be determined on the same basis. The problems are with the tanks, not with whether there is greater use or more fuel in one than in another.

There should be no one who pays who will be excluded from benefitting. Page 10, line 18, "Over 30,000,000.....No costs payable", should be deleted.

Deductibles should be against total capacity per facility, not per owner. Some owners operate multiple facilities, some of which are older and more out of date, some newer and more in compliance.

PAUL J. NANGLE & ASSOCIATES

ATTORNEYS AT LAW

KERRY BUILDING, 101 CHRISTENSEN DRIVE

ANCHORAGE, ALASKA 99501

TELEPHONE  
(907) 274-8866

FACSIMILE  
(907) 279-1784

April 21, 1989

Senator Jim Duncan  
via FAX 465-3841

Dear Senator Duncan:

As citizens, our family urges you to support the Alaska State Arts Council Budget at the level of last year or \$2 million. You have funded a wonderful PAC and we need your financial support to keep Alaskans marching into the 21st century.

Very truly yours,

PAUL J. NANGLE FAMILY



Paul J. Nangle

PJN/cr

**REGARDING**

**Sec. 10 (c) (5)**

**PAYMENT OF CLAIMS**

"(c) An owner of an underground petroleum storage tank is not eligible to request payment under this section unless ... (5) the owner lacks sufficient assets to adequately self-insure for the costs of investigation, containment, and cleanup resulting from releases of petroleum from underground storage tanks as defined under applicable federal regulations;"

This section, like the "deductible" one clearly discriminates against large and/or more successful operators.

This gives some operators a competitive advantage over others.

**REGARDING**

**Sec. 10 (c) (8) (a)**

**MANDATORY COMPLIANCE REGULATIONS**

"(8) the owner agrees to (A) upgrade all underground storage tank systems located at the facility from which the release occurred to the standards set by federal regulations; or (B) remove and properly dispose of all sludges from the underground storage tank systems located at the facility from which the release occurred and either fill the tanks with inert material or properly dismantle, remove, and dispose of the tanks."

Who would refuse to do all this, since the state will pay, according to earlier provision in this bill.

# # #

PAUL J. NANGLE & ASSOCIATES

ATTORNEYS AT LAW

KERRY BUILDING, 101 CHRISTENSEN DRIVE

ANCHORAGE, ALASKA 99501

TELEPHONE  
(907) 274-8866

FACSIMILE  
(907) 279-1794

April 21, 1989


Senator Rick Uhling  
via FAX 465-3841

Dear Senator Uhling:

As citizens, our family urges you to support the Alaska State Arts Council Budget at the level of last year or \$2 million. You have funded a wonderful PAC and we need your financial support to keep Alaskans marching into the 21st century.

Very truly yours,

PAUL J. NANGLE FAMILY

  
Paul J. Nangle

PJN/cr

PAUL J. NANGLE & ASSOCIATES

ATTORNEYS AT LAW

KERRY BUILDING, 101 CHRISTENSEN DRIVE

ANCHORAGE, ALASKA 99501

TELEPHONE  
(907) 274-8866

FACSIMILE  
(907) 279-1794

April 21, 1989

Senator Tim Kelly  
via FAX 465-3841

Dear Senator Kelly:

As citizens, our family urges you to support the Alaska State Arts Council Budget at the level of last year or \$2 million. You have funded a wonderful PAC and we need your financial support to keep Alaskans marching into the 21st century.

Very truly yours,

PAUL J. NANGLE, FAMILY

  
Paul J. Nangle

PJN/cr



**MAPCO ALASKA PETROLEUM INC.**

A. L. Buki Wright, Jr.  
VICE PRESIDENT - ALASKA  
(907) 453-5318

19 April 1989

The Honorable Ron Larson, Co-Chairman  
House Finance Committee  
House of Representatives  
State of Alaska  
P O Box V  
Juneau, AK 99811

Dear Mr. Larson:

Following testimony at the House Finance Committee hearing regarding House Bill No. 220 (Resources), you asked that I submit my comments in writing.

Please find attached a summary statement regarding MAPCO's views on CSHB 220 and also a more detailed statement relating MAPCO's position to each section of the CSHB 220 (Res) on which I commented at the hearing.

Thank you for considering our input.

Sincerely,

A. L. Wright, Jr.

**Attachment**

cc: Rep. Dick Shultz  
Rep. Lyman Hoffman  
Sen. Jack Coghill  
George Krusz  
Terry Renner

HOUSE BILL NO. 220 (RESOURCES)

SUMMARY STATEMENT  
respectfully submitted by

A. L. WRIGHT, JR., VICE PRESIDENT - ALASKA  
MAPCO ALASKA PETROLEUM Inc.

Above ground tanks and chemical tanks should be treated separately - not exempted - not ignored. But, not handled in the same regulations as are underground tanks.

I would urge the Committee to seriously consider the enormous expense of a outright grant program for tank replacement, retrofitting, etc. These costs are generally treated as a normal cost of business.

Registration should only be required once, then notification given when a tank or system is taken out of service.

The surcharge should be the primary revenue source to the fund. Registration fees should be only enough to administer the fund.

Anyone who is required to pay (register) into the fund should be allowed to use the fund. Or, those who choose self insurance, should be allowed to opt not to pay into the fund.

No one should be excluded from receiving funds for clean-up costs due only to size of operation.

HOUSE BILL NO. 220 (RESOURCES)

DETAILED STATEMENT  
(addressing specific sections of CSHB 220)

A. L. WRIGHT, JR., VICE PRESIDENT - ALASKA  
MAPCO ALASKA PETROLEUM Inc.

REGARDING  
Section 1.  
PURPOSE

"The purpose of this Act is to authorize the Department of Environmental Conservation to abate and prevent leaks associated with petroleum and chemical storage tanks ...."

Above ground tanks should be handled separately, as should chemical tanks. I don't suggest they should be exempted, and certainly not ignored. But, circumstances surrounding installation, maintenance, and usage of these three kinds of tanks are very different. They must be dealt with independently.

The Federal Government, as I understand, is currently working on above ground tank regulations, with which future State regulations will have to coincide. Also, OSHA already has stringent regulations on above ground tank installation and use.

REGARDING  
Section 1.  
GRANTS

"The legislature intends to help these owners through a combination of educational assistance, grants, and financial assistance, but only if these owners promptly comply with the new requirements of this Act."

This should be reviewed. These costs are a normal cost of business. This will be an enormous expense for the State.

There should, at least be, the determination of a problem of leakage and/or contamination, before the State takes on the financial responsibility for a wholesale replacement of all tanks installed in Alaska prior to 1989.

**REGARDING**

Sec. 2. to amend Sec. 43.40.015.  
**MOTOR OIL SURCHARGE**

"ADDITIONAL SURCHARGE ON MOTOR FUEL. ... there is levied a surcharge of two cents per gallon on all motor fuel subject to tax under AS 43.40.010 except the motor fuel taxes levied and collected under AS 43.40.010(a)(2) and (b)(2) for motor fuel used in boats...."

Marine fuel has been exempted from the surcharge. Aviation fuel sales are very competitive with fuel imported from foreign and U.S. west coast sources. As with marine fuel, aviation fuel should be exempted.

Underground tanks not in marine or aviation service should still be registered and should be eligible for funding from the fund.

**REGARDING**

Sec 2. (c)  
**ADVISORY PANEL**

"The commissioner shall appoint an advisory panel to assist the department in developing regulations under this section. The panel must include public member and persons who will be governed by the regulations...."

Legislation should be more specific as to make-up of Advisory Panel. All segments affected should be represented.

The Panel must have teeth, otherwise it is just one more costly advisory Board.

**REGARDING**

Sec. 46.03.370.(c) INSPECTIONS  
**REGISTRATION**

"The owner shall biannually renew the registration."

Initial registration is necessary. Periodic re-registration would not serve any purpose. Notification should be required for taking tanks out of service. A fine could be levied for those who fail to comply in a timely fashion.

**REGARDING**  
**Sec. 46.03.410**  
**REGISTRATION FEE**

"... owner shall pay to the department a registration fee of \$.02 per gallon based on the capacity of the tank being registered or a fee of \$2,000, whichever is lower..."

Amounts should be only enough to cover normal administration. costs of implementing registration, i.e. \$.02 per gallon capacity on \$100, which ever is lower.

**REGARDING**  
**Sec. 10 (b)**  
**DEDUCTIONS**

"Payments made by the department under this section shall exclude a portion of the investigation, containment, and cleanup costs. The portion of costs not payable by the department under this section shall be based upon the total number of whole gallons of petroleum stored by the owner in all underground petroleum storage tanks ...."

Criteria for deductions should be the same as for fees. Registration fee is on tank capacity. "Deductible" should be determined on the same basis. The problems are with the tanks, not with whether there is greater use or more fuel in one than in another.

There should be no one who pays who will be excluded from benefitting. Page 10, line 18, "Over 30,000,000.....No costs payable", should be deleted.

Deductibles should be against total capacity per facility, not per owner. Some owners operate multiple facilities, some of which are older and more out of date, some newer and more in compliance.

PAUL J. NANGLE & ASSOCIATES

ATTORNEYS AT LAW

KERRY BUILDING, 101 CHRISTENSEN DRIVE

ANCHORAGE, ALASKA 99501

TELEPHONE  
(907) 274-8866

FACSIMILE  
(907) 279-1784

April 21, 1989

Senator Jim Duncan  
via FAX 465-3841

Dear Senator Duncan:

As citizens, our family urges you to support the Alaska State Arts Council Budget at the level of last year or \$2 million. You have funded a wonderful PAC and we need your financial support to keep Alaskans marching into the 21st century.

Very truly yours,

PAUL J. NANGLE, FAMILY



Paul J. Nangle

PJN/cr

**REGARDING**  
**Sec. 10 (c) (5)**  
**PAYMENT OF CLAIMS**

"(c) An owner of an underground petroleum storage tank is not eligible to request payment under this section unless ... (5) the owner lacks sufficient assets to adequately self-insure for the costs of investigation, containment, and cleanup resulting from releases of petroleum from underground storage tanks as defined under applicable federal regulations;"

This section, like the "deductible" one clearly discriminates against large and/or more successful operators.

This gives some operators a competitive advantage over others.

**REGARDING**  
**Sec. 10 (c) (8) (a)**  
**MANDATORY COMPLIANCE REGULATIONS**

"(8) the owner agrees to (A) upgrade all underground storage tank systems located at the facility from which the release occurred to the standards set by federal regulations; or (B) remove and properly dispose of all sludges from the underground storage tank systems located at the facility from which the release occurred and either fill the tanks with inert material or properly dismantle, remove, and dispose of the tanks."

Who would refuse to do all this, since the state will pay, according to earlier provision in this bill.

# # #

PAUL J. NANGLE & ASSOCIATES

ATTORNEYS AT LAW  
KERRY BUILDING, 101 CHRISTENSEN DRIVE  
ANCHORAGE, ALASKA 99501

TELEPHONE  
(907) 274-8866

FACSIMILE  
(907) 278-1794

April 21, 1989

Senator Rick Uhling  
via FAX 465-3841

Dear Senator Uhling:

As citizens, our family urges you to support the Alaska State Arts Council Budget at the level of last year or \$2 million. You have funded a wonderful PAC and we need your financial support to keep Alaskans marching into the 21st century.

Very truly yours,

PAUL J. NANGLE FAMILY

*Paul J. Nangle*  
Paul J. Nangle

PJN/cr

PAUL J. NANGLE & ASSOCIATES

ATTORNEYS AT LAW  
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TELEPHONE  
(907) 274-8868

FACSIMILE  
(907) 279-1794

April 21, 1989

Senator Tim Kelly  
via FAX 465-3841

Dear Senator Kelly:

As citizens, our family urges you to support the Alaska State Arts Council Budget at the level of last year or \$2 million. You have funded a wonderful PAC and we need your financial support to keep Alaskans marching into the 21st century.

Very truly yours,

PAUL J. NANGLE, FAMILY

  
Paul J. Nangle

PJN/cr

POSITION PAPER  
A.G.C. OF ALASKA  
PRESENTED TO THE  
HOUSE FINANCE COMMITTEE

APRIL 17, 1989

ON

HB 220

AN ACT RELATING TO MOTOR FUELS, PETROLEUM AND CHEMICAL  
STORAGE TANKS, AND INVESTIGATION, CONTAINMENT AND CLEANUP  
OF OIL AND HAZARDOUS SUBSTANCES.



THANK YOU MR. CHAIRMAN. FOR THE RECORD, MY NAME IS RESA JERREL AND I AM THE DIRECTOR OF GOVERNMENTAL RELATIONS FOR THE ASSOCIATED GENERAL CONTRACTORS OF ALASKA. ON BEHALF OF OUR OVER 600 MEMBER FIRMS WE APPRECIATE THE OPPORTUNITY TO TESTIFY ON HB 220.

A.G.C. OF ALASKA IS AWARE OF THE PROBLEM THAT EXIST WITH LEAKING UNDERGROUND STORAGE TANKS AND THE NEED TO ADDRESS THIS PROBLEM.

WE ARE CONCERNED ABOUT THIS LEGISLATION: WE ARE OPPOSED TO THE FUNDING OF THIS PROGRAM WITH A TWO CENTS PER GALLON MOTOR FUEL TAX (SURCHARGE) FOR THE FOLLOWING REASONS:

BREACHES USER FEE CONCEPT: SUCH A TAX WOULD BREACH THE USER FEE CONCEPT OF THE GAS TAX, WHICH HAS BEEN CRITICAL TO THE PUBLIC'S SUPPORT OF THE HIGHWAY PROGRAM. IT WOULD BE LEVIED UPON THE CONSUMERS OF MOTOR FUELS WITHOUT THEM RECEIVING THE BENEFIT OF A REPAIRED BRIDGE, UPGRADED HIGHWAY, ETC.

UNFAIR TAXATION: THE MOTORIST WOULD BE SINGLED OUT TO SHOULDER THE BURDEN OF PAYING FOR PROGRAM TO SOLVE A PROBLEM THEY DID NOT CREATE AND PAY FOR A PROGRAM THE BENEFITS OF WHICH THEY CAN NOT UTILIZE.

WE WOULD SUGGEST PURSUING ALTERNATIVE FUNDING SOURCES WHICH ARE MORE BROADLY BASED UPON THE BENEFITTING USER GROUPS VS. REQUIRING MOTORIST TO FUND THIS PROGRAM.

A.G.C. OF ALASKA APPRECIATES THIS OPPORTUNITY TO COMMENT ON HB 220, IF YOU HAVE ANY QUESTIONS I WOULD BE HAPPY TO TRY TO ANSWER THEM.

STATEMENT  
HB 220  
April 16, 1989

TO: House Finance Committee

FROM: G. B. Weber, Treasurer  
Alaska Underground Storage Tank Owners and Operators  
Association, Inc. (AUTOO)

Thank you for the opportunity to address this legislative committee on behalf of the underground tank owners and operators in Alaska on probably one of the most important pieces of legislation this year. I have been asked by my constituency to express their concerns to you based on my 30 years of experience in the petroleum industry; 17 years with Chevron U.S.A, Inc. and 13 years as an independent Chevron dealer reselling motor fuels.

The heavy demands that the new EPA regulations dictate have virtually put the small business operator into an impossible position to deal with. Even though EPA has been working on these regulations since 1984, we, in the industry, received official copies in December of 1988, and we were shocked at the timeframe in which we were given to comply; in particular, providing proof of \$1 million financial responsibility by October of 1990 and being put in the position of cleaning up past, present and future pollution without benefit of major insurance underwriting or lending institution assistance.

We have in essence, been abandoned by the very industries who have in the past furnished us with the umbrella of protection that kept us in existence. The upheaval in the last five years in the insurance industry has sent the small business operators scrambling to come up with money to pay liability and Workers Compensation insurance premiums that have doubled and tripled. The cost of environmental liability insurance has been far beyond the resources small business can afford. Chevron U.S.A. has assured their dealers for the last five years that they were actively searching for an underwriter for environmental liability insurance and have been unable to find insurance at an affordable rate for their dealers. For this reason, they have, for five years, been waiving the environmental liability insurance requirement as stipulated in their agreements, leases and contracts. We now know that environmental liability insurance is not available to any commercial, industrial, or reseller business with underground tanks without extensive tank and line testing, core drilling and removal of contaminated soil and ground water.

The next alternative for business is to turn to the lending institutions for the necessary capital loans to test, clean up and upgrade to EPA specifications. However, the banks have already abandoned the underground tank owner as a high risk and

have for the last year been left in the cold themselves on existing loans with collateral that has been reduced to zero value. They are not about to loan money to a business with an underground tank, no matter how justifiable, by the grave fact that pollution liability renders whatever collateral they may secure, valueless.

Because of the insurance underwriting, lending institution withdrawal, and fear of association with the underground tank owner, the small independent businesses will be forced into bankruptcy, the banks will be forced to write off their outstanding loans with those business and will forego foreclosure to avoid environmental liability, clean-up and upgrading costs to salvage their collateral. The result will be that the cost of clean-up and abandonment will fall to the responsibility of the State of Alaska, who is already strapped to meet budget expenses and come up with capital money to further the economy of the state. The state does not need these costs forced upon them, no more than small business needs the costs forced upon them. EPA mandates that the individual states must enforce their regulations. In doing so, the State of Alaska Department of Environmental Protection is faced with the grim job of enforcement. A grim job indeed. And they are going to need as much help from this legislative body as is the private business sector to handle their administrative costs and cost of clean-up and abandonment for those sites where owners will choose bankruptcy in lieu of facing the burden of the EPA regulations. In fact, EPA has forced the State of Alaska and Alaska business to form a partnership in a joint effort to clean up the environment and make all underground fuel storage environmentally safe. We have, in fact, been charged with the responsibility of product liability. We are, in effect, being forced to pay the bill at all and any cost.

Without an umbrella fund to assist in the payments, the results will trigger an apocalypse of bankruptcy and ruin in the coming decade of the 90's. If we allow this apocalypse to occur without firm financial planning and preparation, we will be allowing a major change in our Alaskan way of life by allowing the bankruptcies of small entrepreneurs who have, in the past, provided fuel to small aircraft, small water craft and tourists in our rural and bush areas and have, in some cases, been the only sources of fuel for the life lines to many of our bush communities. Small aircraft refueling will be limited to major metropolitan areas and sightseeing to our vast state will come to an abrupt halt.

During my tenure with Chevron in the decades of the 60's and 70's, there was a major marketing effort by all majors to install as many tank truck deliverable underground storage tanks as possible. These installations were generally referred to as "pump and tank plans," and ranged in one or two underground tanks of 250 to 10,000 gallons with one or two farm pumps with gallon meters only and no dollar meters. The targeted accounts

were commercial, agricultural and industrial businesses and also residential installations. The types of businesses included were home owners, car dealers, auto rentals, lumber companies, hardware companies, freight companies, small heating fuel distributors, equipment rental companies, grocers, air taxis, printers, newspaper companies, game and fish processors, small mercantile jobbers and distributors, contractors, bus companies, transit services, airport and marine refuelers, to mention a few, and virtually any business who had a small fleet of vehicles, including individuals who just wanted to get away from the cost of retail fuel at the local service station.

Most of these accounts have now turned to AUTOO for assistance and advice in solving their environmental liability and EPA regulation demands. As these pump and tank installations were made, retail volumes these businesses and consumers had been buying at local service stations were diverted to wholesale volumes delivered by the local Wholesale Distributor tank trucks or by Company-owned proprietary tank trucks from company terminals. The purpose of this marketing effort was to replace wholesale volumes that the majors would frequently take away from the local distributors by negotiating larger pump and tank installations with well-established high volume accounts or provide proprietary contractor loan equipment at remote high volume jobs with the purpose in mind to bypass and eliminate Wholesale Distributor commissions, plant thru-put costs and maximize their profits with high volume proprietary tank truck and trailer deliveries. This left the Wholesale Distributor scrambling to sell more tank truck deliverable storage to maintain his volume and existence. It also left the local service stations scrambling to do a better job to entice volumes from their competitors and maintain their retail volumes.

These pump and tank plans provided the oil companies with an inexpensive means of maximizing their profits and provided them an unsupervised marketing team in the field who perpetuated their market position and insured them of maintaining and increasing their percentage share of the market. These pump and tank plans were literally sold by the hundreds.

Now, in the decade of the 90's, these commercial, agricultural, industrial and residential accounts who accepted the underground tanks from the oil companies are also faced with environmental product liability and are forced to clean up their sites, upgrade their installations or abandon them at a cost far beyond what they have saved or ever will save by not buying at a local service station. Many of them will be thrown into ruin and bankruptcy without an umbrella fund to assist them. Many will abandon their tanks and return to fueling at the local service station to avoid costly environmental liability. As this shift in the fuel market occurs, the available retail volume as we know it today could double or even triple. However, many of the small independent service stations will have already closed their doors and succumbed to bankruptcy without the benefit

of an umbrella fund, leaving the increased retail volumes to a select few who will enjoy a virtual competitively unencumbered free market with high profit margins and profitability unimaginable in today's market.

The consuming public has to only look at Europe, the Orient and Canada to see that retail fuel is selling for over \$3.00 per gallon. Yet, in the lower 48 and in Alaska, because of the established competition, fuel is still available at the pump-blocks for as low as \$.94 a gallon. If we were to remove the competition, it is not unreasonable to expect the price of fuel to increase \$1.00 to \$2.00 per gallon at the remaining station pump-blocks. I do not know of any consumer who would not welcome a motor fuel tax increase of \$.02 to \$.10 per gallon for the purpose of establishing an umbrella fund that will enable the competition to stay in place, hold the prices to ten percent or less over what they are today and possibly still improve our road systems from their present state of disrepair.

If the competition leaves the market, the motoring public will not have the convenience of topping off at mid-trip to keep from running out of gas on drives from Anchorage to Fairbanks or similar drives. They will have to carry spare fuel with them. They will have to plan their fuel stops in advance and rural motorists may have to drive 40 or 50 miles out of their way to fuel their vehicles.

Because of the EPA regulations, we are being forced to address the issue and enforce the regulations. In doing so, we must keep in mind that HB 220 is not only an environmental issue but is also a moral and social issue, not only in protecting our ground water and soils but to keep our foot soldiers of the Alaskan economy -- the small businesses -- from being aborted from their individual industries, and to shortstop the possible inflation of motor fuel prices to the motoring consumer through the elimination of the competition resulting in unreasonable excess profit for the benefit of a selected few.

The Alaskan businesses and the Alaskan consumer must depend on the moral conscience of this legislative body to act swiftly in the passing of this bill. Some have said that we still have a year to come up with a solution and there is no need to hurry. Special interest groups have asked us to drag our heels or have even tried to convince us that legislation is not even necessary to carry out the EPA regulations or have asked for limits of liability to be raised far beyond small businesses' ability to pay. The fact is that the Alaskan entrepreneurs have already risked their financial lives for the sake of their businesses, and their customers and the Alaskan consumer has already risked their financial security through their pioneering courage of settling the rural and bush areas of our unique state and both the businesses and consumers, through hard work and endurance, have survived the long recession of the late 80's and simply are

not financially capable of handling the demands of the EPA regulations and the economic burdens the regulations will send rippling through our economy. DEC has the difficult job of establishing a plan of action and must know what they have to work with.

We do not have another year to sit on our laurels and wait. We need to pass this legislation and let DEC and business get on with meeting the challenge of environmental clean up and upgrading to EPA standards. DEC must have time to plan and estimate costs a year in advance for the next nine years so that each January they will know how much they must ask the Legislature to budget annually into the proposed clean-up fund. They must gear up now and go to work this year so they can ask for that budget in the 1990 legislative session.

For these reasons, AUTOO is asking the House Finance Committee to act swiftly in passing HB 220 to Rules for an affirmative House vote and allow the Senate the time they need to pass similar legislation before the end of the 1989 session.

Ladies and gentlemen, the future of a large segment of small businesses in Alaska are depending on you. Please act swiftly.

Respectfully submitted,



---

G. B. Weber  
Treasurer  
Alaska Underground Storage Tank  
Owners and Operators Association,  
Inc.

STATEMENT  
HB 220

MARCH 15, 1989

TO: HOUSE RESOURCE COMMITTEE  
FROM: G. B. WEBER, TREASURER  
ALASKA UNDERGROUND TANK OWNERS AND OPERATORS ASSOCIATION, INC.  
(AUT00)

THANK YOU FOR THE OPPORTUNITY TO ADDRESS THIS LEGISLATIVE COMMITTEE ON BEHALF OF THE UNDERGROUND TANK OWNERS AND OPERATORS IN ALASKA ON PROBABLY ONE OF THE MOST IMPORTANT PIECES OF LEGISLATION THIS YEAR. I HAVE BEEN ASKED BY MY CONSTITUENCY TO EXPRESS THEIR CONCERNS TO YOU BASED ON MY 30 YEARS IN THE PETROLEUM INDUSTRY EXPERIENCE; 17 YEARS WITH CHEVRON CORPORATION AND 13 YEARS AS AN INDEPENDENT RESELLER OF MOTOR FUEL. MR. CHAIRMAN, WE APPRECIATE YOUR CONCERN FOR THE DEMANDS THAT THE NEW EPA REGULATIONS ARE PUTTING ON UNDERGROUND TANK OWNERS IN ALASKA AND THROUGHOUT OUR NATION AND EXPRESSING YOUR CONCERNS BY THE INTRODUCTION OF HB 220.

EVEN THOUGH EPA HAS BEEN WORKING ON THESE REGULATIONS SINCE 1984, WE, IN THE INDUSTRY, REVIEWED OFFICIAL COPIES IN DECEMBER OF 1988 AND WE WERE SHOCKED AT THE TIME-FRAME IN WHICH WE WERE GIVEN TO COMPLY; IN PARTICULAR, PROVIDING PROOF OF \$1 MILLION FINANCIAL RESPONSIBILITY BY OCTOBER OF 1990 AND BEING PUT IN THE POSITION OF CLEANING UP POST, PRESENT AND FUTURE POLLUTION WITHOUT BENEFIT OF MAJOR INSURANCE UNDERWRITING OR LENDING INSTITUTION ASSISTANCE. WE HAVE, IN ESSENCE, BEEN ABANDONED BY THE VERY INDUSTRIES WHO HAVE IN THE PAST FURNISHED US WITH THE UMBRELLA OF PROTECTION

THAT KEEP US IN EXISTENCE. THEIR FEAR OF ASSOCIATION WITH THE UNDERGROUND TANK OWNER IS WARRANTED. THE COST OF CLEAN-UP WILL RUN INTO THE BILLIONS OF DOLLARS OVER THE NEXT DECADE AND WOULD CRIPPLE THEIR PROFITS FOR YEARS TO COME. BECAUSE OF THEIR WITHDRAWAL, THE SMALL INDEPENDENT BUSINESS PEOPLE AND INDIVIDUAL STATES WILL BE FORCED TO PAY THE BILL AND THE RESULTS WILL TRIGGER AN APOCALYPSE OF BANKRUPTCY AND RUIN IN THE COMING DECADE OF THE 90's.

BECAUSE OF THESE REGULATIONS, WE, AS A STATE, ARE BEING FORCED TO ADDRESS THE ISSUE AND ENFORCE THE REGULATIONS. IN DOING SO, WE MUST KEEP IN MIND THAT HB 220 IS NOT ONLY AN ENVIRONMENTAL ISSUE BUT IS ALSO A MORAL AND SOCIAL ISSUE, NOT ONLY IN PROTECTING OUR GROUND WATER BUT TO KEEP OUR FOOT SOLDIERS OF THE AMERICAN ECONOMY -- THE SMALL BUSINESSES -- FROM BEING ABORTED FROM THEIR INDIVIDUAL INDUSTRIES WITH A SILENT SCREAM OF BANKRUPTCY, RUIN AND DESPAIR.

IF WE ALLOW THEIR SILENT SCREAM TO GO UNHEARD, WE WILL, IN EFFECT, BE CHANGING OUR FREE ENTERPRISE SYSTEM BY ELIMINATING THE SMALL BUSINESS ENTREPRENEURS WHO MAKE UP A LARGE PERCENTAGE OF THE COMPETITIVE RESALE MARKET IN ALASKA AND CHANGING OUR VERY ALASKAN WAY OF LIFE BY ELIMINATING THE SMALL ENTREPRENEURS WHO HAVE, IN THE PAST, PROVIDED FUEL TO SMALL AIRCRAFT AND TOURISTS IN OUR RURAL AND BUSH AREAS. WE, AS SMALL BUSINESSES AND STATE GOVERNMENT, HAVE, IN FACT, BEEN CHARGED WITH THE RESPONSIBILITY OF ENVIRONMENTAL PRODUCT LIABILITY, WHICH IN ANY OTHER INDUSTRY WOULD REMAIN WITH THE MANUFACTURER. WE, IN SMALL BUSINESS, ACCEPT THE RESPONSIBILITY AND THIS CHALLENGE. WE, AS ENTREPRENEURS,

HAVE RISKED OUR FINANCIAL LIVES FOR THE SAKE OF OUR BUSINESSES AND OUR CUSTOMERS AND HAVE, IN THE PAST, ADPATED READILY TO MID-STREAM CHANGES DICTATED TO US BY OUR GOVERNMENT AND OUR SUPPLIERS.

HOWEVER, THIS ISSUE IS EVEN BIGGER THAN THE FEDERAL SUPERFUND CAN HANDLE AND WE ARE GOING TO NEED THE HELP OF THIS LEGISLATIVE BODY TO KEEP FROM BEING A VICTIM OF THE COMING APOCALYPSE. WE PLACE OUR FUTURE EXISTENCE IN THE HANDS OF THIS LEGISLATIVE BODY AND THE PEOPLE OF THE STATE OF ALASKA AND TRUST THAT YOUR MORAL CONSCIOUS WILL FIND A SOLUTION TO THIS CHALLENGE AND SILENCE THE SCREAM THAT WILL SOON ECHO FROM EVERY UNDERGROUND TANK OWNER IN THE STATE OF ALASKA.

RESPECTFULLY SUBMITTED,

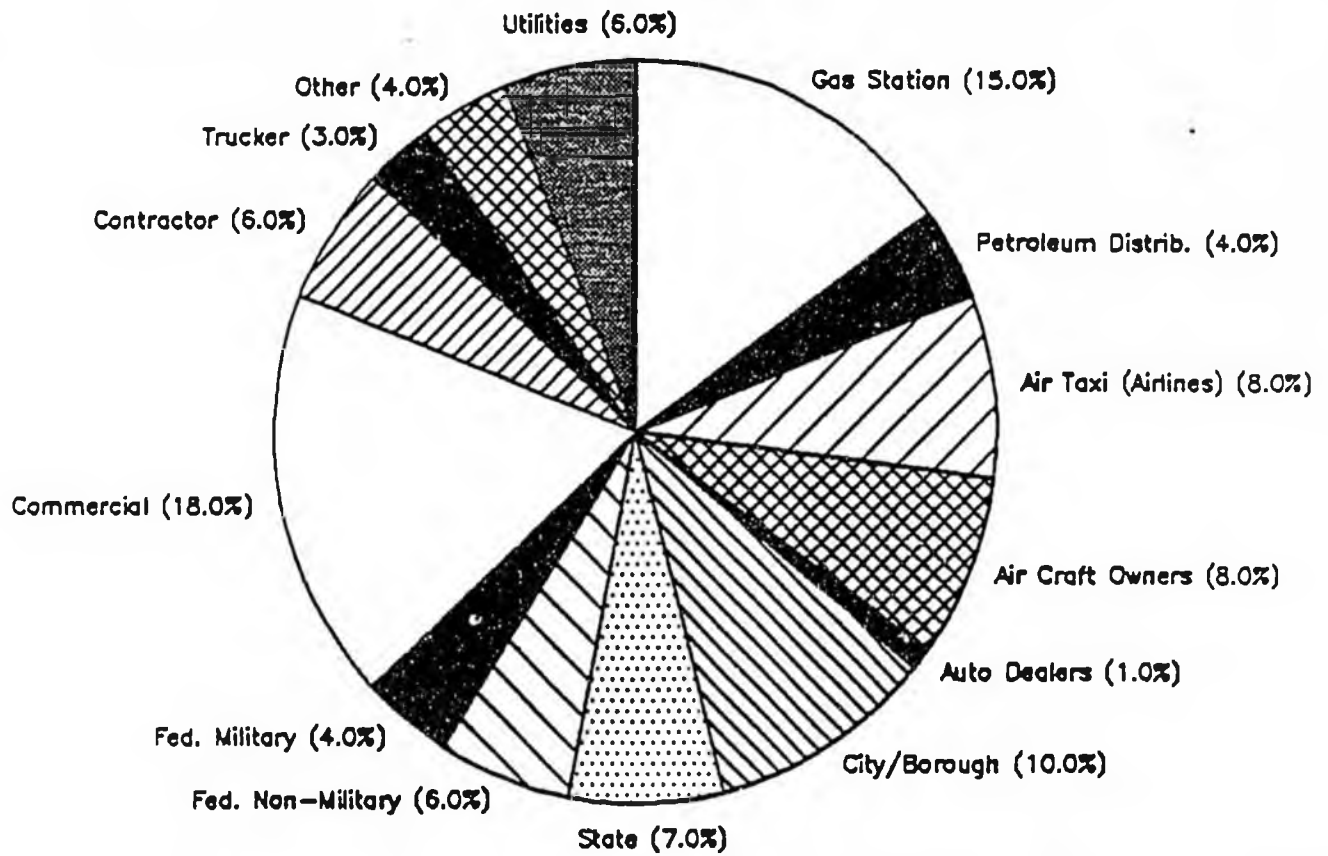


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G. B. WEBER  
TREASURER, AUTOO

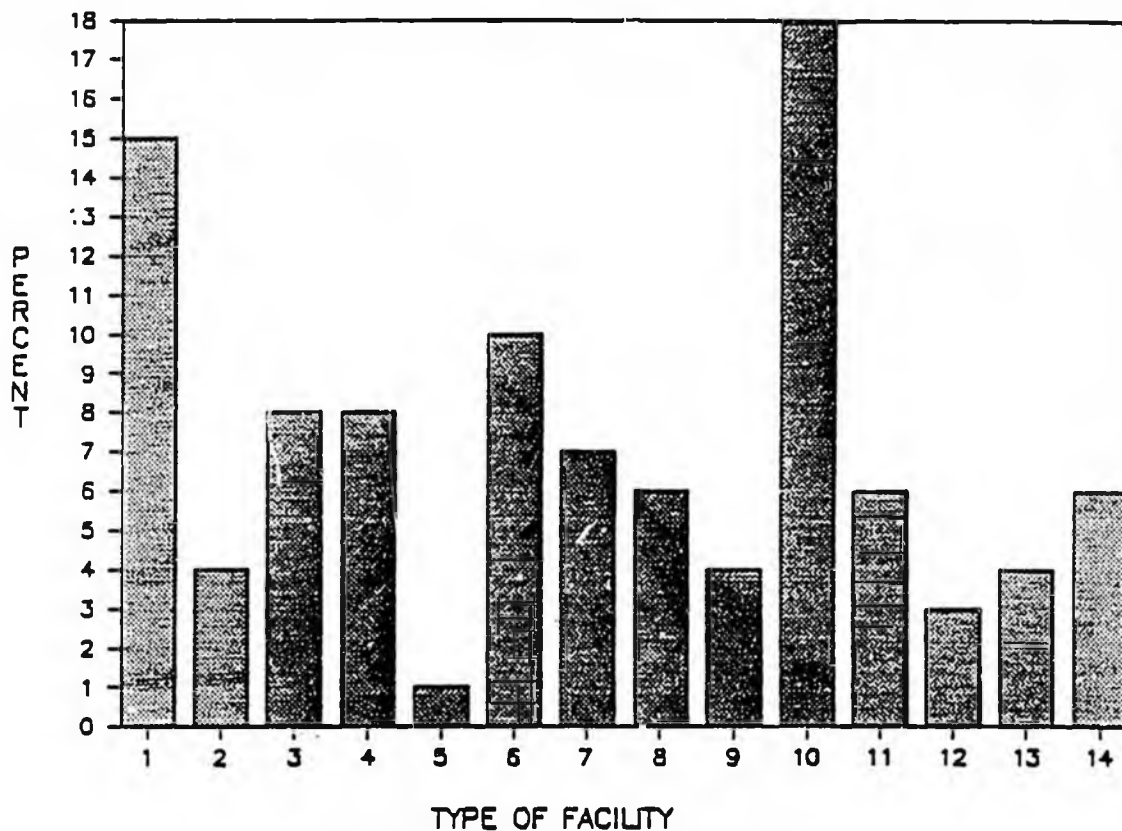
# UNDERGROUND STORAGE TANKS IN ALASKA

## Types of Facilities



# UNDERGROUND STORAGE TANKS IN ALASKA

## TYPES OF FACILITIES



### DEFINITION OF FACILITY TYPES

- |                         |                       |
|-------------------------|-----------------------|
| 1 = Gas Station         | 8 = Fed. Non-Military |
| 2 = Petro Distributor   | 9 = Fed. Military     |
| 3 = Air Taxi (Airlines) | 10 = Commercial       |
| 4 = Air Craft Owners    | 11 = Contractor       |
| 5 = Auto Dealers        | 12 = Truckers         |
| 6 = City/Borough        | 13 = Other            |
| 7 = State               | 14 = Utilities        |

Alaska Water Resources Board  
Resolution No. 89-23

Support for House Bills 143 and 196

WHEREAS: The Alaska Water Resources Board has received much information on the problems of petroleum storage tank leakage and consequent pollution of surface and ground water resources of the state.

WHEREAS: The Board adopted Resolution No. 89-3 urging the appropriate state agencies to include above ground-storage tanks in their regulations to prevent future petroleum storage tank leakage;

WHEREAS: The Board is concerned that both above-ground and underground petroleum storage tanks need to be properly installed and maintained to prevent leakage and contamination of surface and ground water resources.

NOW THEREFORE BE IT RESOLVED: The Alaska Water Resource Board supports passage of legislation specifically providing authority for the regulation of above-ground and underground petroleum and chemical storage tanks.

The Board further urges the legislature to adopt measures requiring facilities to be designed by registered engineers, constructed by licensed contractors, and inspected by personnel whose knowledge of this type of construction and the applicable codes and requirements are verified.

Adopted this 9th day of March, 1989  
Alaska Water Resources Board



Peg Tileston, Chairwoman  
Alaska Water Resources Board



# Alaska Center for the Environment

700 H Street, Suite 4 • Anchorage, Alaska 99501 • (907) 274-3621

Representative Curt Menard  
Resources Committee Co-Chair  
House of Representatives  
P.O. Box V  
Juneau, AK 99811

Dear Representative Menard:

Last week, I testified before your committee in conditional support of HB 220. I was told that the transmission was broken, so I am summarizing my comments here.

Alaska Center for the Environment is pleased to see what we believe to be improvements in the bill since the earlier work drafts. We agree that assistance to small businesses is needed in Alaska. We agree that HB 220 takes a good approach to the problem of LUST cleanups.

Primarily in response to the testimony of Gary Weber, of the Tank Owners association, we want to take exception to his comment that the bill is inequitable. We do not agree that the bill should treat all tank owners in the same manner, nor was it ever intended to. We support assisting small business in their efforts to cleanup and/or prevent environmental contamination, but do not believe it appropriate to tax consumers in order to assist large companies. Therefore, we agree with the graduated scale for "deductibles" set out in Section 9 (b) and the exclusion of self-insurers in Section 9 (c) (6).

In addition, the account established in Section 46.08.015 could be broadened to include aboveground as well as underground storage tanks. Other parts of the bill attempt to capture above and below ground tanks, so this is consistent.

Thank you,

A handwritten signature in cursive script that reads "Kristine Benson".

Kristine Benson  
Hazardous Waste Specialist



# Alaska Environmental Lobby, Inc.

P.O. Box 22151 Juneau, Alaska 99802

907-463-3333

## INCLUSION OF ABOVEGROUND TANKS IN HB 220

**The Alaska Environmental Lobby strongly opposes the deletion of aboveground storage tanks from the regulations portion of the current draft of HB 220 (4/25/89).**

Regulation of aboveground tanks would allow the state to take critical preventive action to stop the continuing destruction of Alaska's groundwater resources. There have been more documented cases of groundwater pollution by petroleum products due to aboveground tanks than due to underground tanks.

**Inclusion of aboveground tanks in HB 220 is necessary to protect the groundwater of Alaska.**

Alan Phipps 4/26/89

ALASKA CENTER FOR THE ENVIRONMENT • ALASKA CHAPTER, SIERRA CLUB • JUNEAU GROUP, SIERRA CLUB • SITKA GROUP, SIERRA CLUB  
 KNIK GROUP, SIERRA CLUB • DENALI GROUP, SIERRA CLUB • ANCHORAGE AUDUBON SOCIETY • ARCTIC AUDUBON SOCIETY  
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 KNIK KANOERS AND KAYAKERS



# Alaska Environmental Lobby, Inc.

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## AEL ISSUE PAPER HB 220 PETROLEUM AND CHEMICAL STORAGE TANKS

Gasoline, fuel oil, and other toxic chemicals leaking from storage tanks are one of the most common causes of groundwater pollution in the nation. It is possible for a leak of only one gallon of gasoline to render one million gallons of water unpalatable and to continue to contaminate groundwater resources for decades.

DEC data indicates that leaks from both aboveground and underground tanks pose serious problems. As of May 1988, 91 sites with groundwater pollution caused by petroleum products have been identified in Alaska. Of the 92 cases, 37 were caused by aboveground tanks; 32, from underground tanks; and 22 are of unknown origin. DEC and EPA personnel have testified that current statutes do not sufficiently address this problem.

The Alaska Environmental Lobby supports HB 220. This bill is designed to aid underground storage tank owners to meet mandated EPA standards for tanks and monitoring systems and to obtain mandatory liability insurance coverage, which otherwise may not be available to the smaller business owner.

The bill's provisions for educational assistance and for loan guarantees for tank upgrade promote compliance with EPA regulations and serve as measures which will prevent pollution and environmental damage.

According to DEC, industry sources estimate that the average clean up cost is \$70,000. When soil removal or treatment is required, costs may exceed \$100,000; if groundwater corrective actions are required, costs may exceed 1 million dollars.

To address these clean up costs, the bill establishes a hazardous substance release response fund which will provide partial reimbursement for clean up costs.

HB 220 is an important measure addressing protection of groundwater resources in a reasonable and fiscally responsible manner.

Becky Achten 3-31-89

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## ISSUE PAPER - HB 220

### **PETROLEUM AND CHEMICAL STORAGE TANKS**

**Gasoline, fuel oil, and other toxic chemicals leaking from storage tanks are one of the most common causes of groundwater pollution in Alaska. It is possible for a leak of only one gallon of gasoline to render one million gallons of water undrinkable.**

**As of May 1988, 91 sites with groundwater pollution caused by petroleum products have been identified in Alaska. Of these sites, 41% are known to be caused by leaking aboveground tanks; 35% by underground tanks.**

**DEC and EPA personnel have testified that current statutes do not sufficiently address leaking tank problems. HB 220 would fill the gap by requiring tank owners to take spill prevention measures. The bill is particularly valuable in that it includes aboveground tanks, which have caused such problems as groundwater contamination in North Pole due to leakage of an estimated 200,000 gallons of fuel.**

**HB 220 also provides for educational assistance and grants for tank upgrades which will promote compliance with new EPA regulations and prevent pollution and environmental damage. In order to assist small businesses in cleanup of leaking tanks, the bill establishes a fund which will provide substantial reimbursement for cleanup expenditures. Appropriately, this financial assistance decreases with business size (based on gallons handled each year).**

**The bill raises revenue for the fund by a very nominal tax on fuel consumption and a registration fee from tank owners. The fee for tank owners depends on tank size.**

**HB 220 is an important measure addressing protection of groundwater in a reasonable and fiscally responsible manner.**

**Becky Achten 4-17-89**

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• KNIK KANOERS AND KAYAKERS

HB 220  
ABOVEGROUND STORAGE TANK INFORMATION

MARCH 28, 1989

**GENERAL**

Groundwater in Alaska is affected more often by aboveground petroleum storage tanks than underground petroleum storage tanks. Based on Appendix IV in the Groundwater Quality Protection Strategy

1. As of May 1988 there are 120 sites with groundwater contamination in Alaska.
2. 75% of these sites (91 of 120) are contaminated by petroleum products.
3. Of these 91 sites
  - 41% of these sites (37 of 91) are aboveground tanks,
  - 35% of these sites (32 of 91) are underground tanks,
    - 75% of these sites (24 of 32) are underground tanks regulated by EPA regulations,
  - 24% of these sites (22 of 91) are of unknown origin.

**GROUNDWATER QUALITY PROTECTION STRATEGY**

In developing the Groundwater Quality Protection Strategy, DEC held two series of workshops to solicit public opinion on groundwater protection in Alaska. We had workshops in five towns, the number of people who attended are

Town	February 1988	October 1988
Juneau	14	11
Fairbanks	44	27
Wasilla	13	15
Anchorage	80	21
Soldotna	41	37
Total	192	111

This is more people than we usual get for public meetings.

Two primary concerns people voiced are

1. DEC should do more enforcement. DEC is not tough enough on polluters.
2. Concern about benzene in their drinking water. DEC should take a pro-active approach by developing regulations for all

fuel storage, including residential tanks and aboveground tanks. But take a different approach with each class of tank. Then make sure DEC goes out and enforces the regulations.

#### SITE SPECIFIC

This is not a comprehensive list. There are a number of sites that we could not get info on due to personnel gone to Valdez.

In general, the vast majority of aboveground tanks at a military facility have contaminated the underlying soil and groundwater. These are primarily due to years of careless spillage, valves left open, cracked or broken pipelines, or tank leakage at welds or bolts.

#### EXAMPLES OF SITES OF INTEREST

##### ANCHORAGE

Alaska Storage tanks for waste oil. Too small for contingency Pollution plan. In the process of contamination assessment. Control

Butler Tanks at the airport, unknown size. They are conducting Aviation contamination assessment. This is a contingency plan facility.

##### PORT OF ANCHORAGE--

Chevron Storage capacity = 389,000 barrels in use and 280,000 out of service. Chevron is in the process of submitting a contamination assessment work plan to ADEC for approval prior to implementation.

Butler Storage capacity = 550,000 barrels (complete turnover at Aviation least twice a month). Butler has been upgrading and improving their tanks farm facilities and recently put in liner. Butler had a pipeline leak into Chester Creek earlier this winter.

Tesoro Storage capacity = 219,000 barrels. No known contamination problems or assessment work done to date.

Mapco Storage capacity = 400,000 barrels (est.). This is the old Unocal facility and Unocal is responsible for all the assessment work.

Unocal Currently owned by Mapco. Unocal has submitted an

March 28, 1989

initial assessment report. The report shows highly contaminated soil (levels average in the 100's of ppm, with maximum levels up to 8,900 ppm). The groundwater shows three distinct plumes with BTEX levels ranging from 100 ppb to 10,000 ppb, and about 10 locations that show floating product on the groundwater.

Army The Army has done initial assessment work and is planning to start remediation this summer. They are working with ADEC.

Texaco Storage capacity = 500,000 barrels (est.). No known contamination problems or assessment work to date.

#### FAIRBANKS

Chevron Bulk fuel facility in town. They have floating product on the groundwater. Petroleum recovery since 1987.

Texaco Bulk fuel storage facility next to Chevron. They have contaminated the groundwater.

Mapco Refinery Have recovered more than two hundred thousand gallons of fuel from the groundwater under the refinery. They installed a series of product recovery wells and an air stripper to clean the groundwater.

#### NIKISKI

Tesoro Refinery The refinery has an estimated 700,000 gallons of product under the refinery in one large plume. Two additional plumes exist under the refinery of unknown size.

Chevron Refinery The refinery has installed a system to recover and treat contaminated groundwater. Don't know extent of contamination or how much they have recovered.

#### KING SALMON

Naknek Aboveground storage tanks owned by the Air Force are leaking into the river. The Air Force is developing cleanup plan.

Eskimo Creek Aboveground storage tanks owned by the Air Force are leaking into the river. The Air Force is developing cleanup plan.

TOGIAK

Togiak Aboveground storage tanks leaked into river an estimated 35,000 gallons. They settled out of court for \$180,000 in penalties.

ANIAK

Aniak The aboveground bulk fuel storage tanks are leaking fuel from the welds. There are 3 tanks, 20,000 gallons each.

VALDEZ

Chevron Chevron is in the process of developing a contamination assessment workplan. The extent of contamination is unknown at this time, several monitoring wells show floating product on the groundwater.

SECTIONAL ANALYSIS FOR HB 220 (RESOURCES)  
PETROLEUM AND CHEMICAL STORAGE TANKS

Prepared by House Resources Committee staff

**Section 1. PURPOSE. See bill.**

**Sections 2 & 3. 43.40 ADDITIONAL SURCHARGE ON MOTOR FUEL.**

Levies an additional surcharge of 2 cents per gallon on motor fuel which the legislature may use to appropriate to the Underground Petroleum Storage Tank Account. Marine Fuels are exempt from the tax.

**Section 4. 46.03 REGULATION OF PETROLEUM AND CHEMICAL STORAGE TANKS**

Requires the Department of Environmental Conservation to prevent and abate pollution from aboveground and underground chemical and petroleum storage tanks. The program would include notification, inspections, engineering standards, enforcement, corrective action and damage and cost recovery. A volunteer advisory panel is appointed to assist in the development of regulations pertaining to the program.

**46.03.380 Educational Assistance**

Provides assistance to tank owners in complying with and understanding the EPA regulations.

**46.03.390 Grants**

Establishes a grants for retrofitting, repairing or replacing or closing an underground petroleum storage tank to EPA's standards. Grants for closure would be for 90% of the costs and 75% for upgrade and retrofitting. The department will adopt regulations to determine the qualifications for a loan.

**46.03.400 Notification and Registration Requirements**

Requires a tank owner to notify the Department of Environmental Conservation 30 days before they intend to install the tank. Requires biennial registration of storage tanks which includes information on the location, size, type and age of the tank as well as the total volume of petroleum or chemical stored in the tank during the previous 12 months. Requires tank owners who take a tank out of operation to provide evidence that the contents of the tank have been removed and that the tank has been properly closed.

#### **46.03.410 Registration Fee**

Requires tank owners to pay a biennial fee of 2 cent per gallon based on the capacity of the tank or \$100, whichever is greater. There is a \$2000 per tank and \$40,000 per facility cap. These funds may be appropriated to the Petroleum and Chemical Storage Tank Account.

#### **46.03.410 Exemptions**

These requirements do not apply to a tank with a capacity of 1,100 gallons or less at a farm or at a single family dwelling or duplex residence if the tank is used for storing motor fuel not intended for resale. These requirements do not apply to a storage tank used for storing heating oil at a farm or single family dwelling or duplex if the oil is held for consumptive use on the premises where it is stored.

#### **46.03.450 Definitions**

##### **Section 5. AS 46.08.015**

Allows funds to be used out of the Petroleum and Chemical Storage Tank Account for capital improvements. Use of funds for capital improvements is presently prohibited in the Oil and Hazardous Substance Release Response Fund. Capital improvements which would be covered by the fund include grants for leak detection and monitoring, spill overfill prevention and corrosion prevention.

##### **Section 6. 46.08.015 PETROLEUM AND CHEMICAL STORAGE TANK ACCOUNT**

Establishes an account within the Oil and Hazardous Substance Release Response Fund called the Petroleum and Chemical Storage Tank Account. The Account can be used for costs of investigation, containment and clean up of a release from a petroleum or chemical storage tank, grants and costs for program administration.

##### **Section 7. 46.08.900**

Defines underground petroleum storage tank for this section.

##### **Section 8.**

Gives storage tank owners 6 months from the effective date of this act to register petroleum and chemical storage tanks with the Department of Environmental Conservation.

##### **Section 9.**

Under this section, the owner of a qualifying underground petroleum storage tank may request partial funding from the Petroleum and Chemical Storage Tank Account to pay the costs

of investigation, containment and clean up resulting from a release from or associated with an underground tank.

Payments for clean up will be based on the total number of gallons stored by the owner during the last 12 months.

The owner would have to meet the following criteria to qualify for use of funds: 1) the release was reported before July 1, 1994, 2) the tank from which the release occurred was installed before July 1, 1989, 3) the tank from which the release occurred was registered with the Department of Environmental Conservation, 4) the owner is in compliance with all state and federal laws after the effective date of the act, 5) the owner lacks sufficient assets to self-insure as defined in federal regulations, 6) the owner pays the full amount of the deductible to the Department, 8) the petroleum release was not a result of negligence, gross negligence, or intentional misconduct, and 9) the owner agrees to upgrade all underground storage tank systems located at the facility from which the release occurred.

The maximum payment under this section may not exceed \$1 million.

The department shall adopt criteria for determining priorities for responding to a release.

**Section 10. Effective date of the Act.**

July 1, 1989

GENERIC UST LEGISLATIVE BRIEFING

WHY AN UST PROGRAM?

Nationwide, over half of America relies on groundwater for domestic use.

In Alaska, 85% of water for public water systems comes from groundwater. Again in Alaska, 68% of the contamination of drinking water comes from petroleum (from all sources, including USTs).

In an EPA survey of 10,000 tanks nationwide, 25% FAILED tank tightness tests -- 84% of those failures were caused by piping failures.

THIS IS A PLUMBING PROBLEM OF IMMENSE CONSEQUENCES

EPA has estimated in the next 30 years, costs of clean-ups or replacing water systems will amount to \$52.8 BILLION dollars.

REPLACING WATER SYSTEM IS OFTEN ONLY REMEDY

Because removing gasoline from water is very expensive and often technologically impossible. Often times, new wells have to be drilled or new water systems installed.

Alaskan examples include Peters Creek spill, where a new water system was installed, and Anchor River, where new wells were drilled.

CONGRESSIONAL RESPONSE TO PROBLEM

Amended Resource Conservation and Recovery Act (RCRA) in 1984; established statutory regulations, directed EPA to develop UST regulations, and a grant program to help States develop their own UST programs. Also, interim requirements went into effect for new tanks on May 7, 1985, so there has been lots of advance notice on this program in the UST associated industries.

WHY STATE RUN PROGRAMS?

Congress felt problems of this nature are most acutely felt at State and local levels. State and local agencies are usually the first to respond, and ultimately responsible if no one is willing to clean up a tank polluting a water supply.

FEDERAL GRANT AS UST SEED MONEY

Congress provided federal grant funds to States to be used as seed money to develop UST programs for the prevention and detection of LUST's. Federal funding alone was never expected to be adequate to run a State program. States are therefore expected to develop their own funding mechanism.

(2)

AMOUNT OF UST GRANT MONEY  
ALLOCATED TO STATE OF ALASKA  
(FY 86-89)

\$500,000. (approximate)

EPA DIRECTED TO IDENTIFY  
STATE APPROVABLE PROGRAMS

Congress also developed a means by which States can take over UST programs from the EPA. Outlined in the new final UST regulations, a "state-approvable program" must meet or exceed the new Federal requirements.

CONGRESS SET UP LUST  
CLEAN-UP TRUST FUND

EPA provides LUST Trust Fund money to assist States in developing a program to clean-up leaking tanks. The prevention and corrective action programs together form a unified whole; there is little long term benefit gained by establishing a clean-up program if a prevention program is not established as well.

AMOUNT OF LUST TRUST  
FUND MONEY ALLOCATED  
TO ALASKA  
(since September 1987)

\$1.2 million

TRUST FUND LIMITS

Only for imminent health hazards where a responsible party cannot be found. Otherwise tank owner/operator (o/o) is expected to pay.

WHAT IS AN UST?

One or more tanks and associated piping used to hold petroleum sub tanks such as motor gas, aviation gas, JP-4, diesel fuel oils, and used oils.

CONGRESS EXCLUDED

Farm or residential tanks of 1,100 gallons or less;

Tanks used for heating oil;

Septic tanks, stormwater tanks, flow through manufacturing tanks, and other pipeline facilities.

WHY RESIDENTIAL/OIL  
TANKS EXCLUDED?

The imminent threat to large public drinking water sources are refined petroleum products that move quickly through the subsurface environment. Heating oil, especially in above ground tanks, is being considered for future regulations. Also, many States regulate fuel oil tanks.

(3)

CONGRESS REQUIRED OWNERS/  
OPERATORS NOTIFY...

designated State agency of where-about, age and construction of tanks by May 6, 1986.

NUMBER OF TANKS IDENTIFIED  
IN ALASKA...

may not be totally accurate: 4300 UST, 1800 O/O's (corporations, private individuals).

AVERAGE AGE

12 years old. Majority of failures occur after 13 years.

NUMBER OF TANKS OVER  
15 YEARS OLD

1,500

PERCENTAGE OF TANKS WITH  
NO CORROSION PROTECTION

80% plus (these and previously mentioned tanks run a significant risk of failure).

MAJOR CAUSES OF TANK  
FAILURE (NATIONWIDE)

Piping failure.

Corrosion of tanks.

Sloppy fuel handling; spilling and overfilling.

Improper tank installation.

REQUIREMENTS FOR NEW TANKS  
(CONGRESSIONAL MANDATE)

Corrosion protection (cathodic protection).

Spill/Overfill hardware  
(automatic shut-off valves, drip pans).

Monthly monitoring for leaks (with automatic tank gauging, soil vapor monitors, tank wall monitors, ground water monitors).

Owner/operators certify proper installation of facilities.

REQUIREMENTS FOR OLD TANKS

Monthly monitoring systems and tank tightness tests for oldest tanks first (25 years and older by December 1989).

20 to 25 year old tanks - 1990

15 to 20 year old tanks - 1991, etc. until all tanks have systems by 1993.

All tanks be tightness tested yearly until corrosion protection spill/overfill protection added.

All tanks have corrosion protection and

(4)

ALL TANK OWNERS MUST

Notify designated State agency of tank installation, or closure.

Do proper tank closure; check for and report contamination.

UST REGULATIONS BASED ON  
INDUSTRY CODES/STANDARDS

American Petroleum Institute; Petroleum Equipment Institute, etc. have had recommended practices for USTs installation and operation of for decades -- but widely unused. Now industry codes must be followed.

FINANCIAL ASSURANCE  
REQUIREMENTS

\$1 million for petroleum marketers;

\$500,000 for non-marketers.

phased in over next two years:

1000 + USTs - January 1989

100 to 999 USTs - October 1989

13 to 99 USTs - April 1990

1 to 12 USTs - October 1990

Can use insurance coverage, guarantees, surety bonds, risk retention groups, private trust funds, state sponsored assurance program.

HOW EPA WILL ACHIEVE  
COMPLIANCE

Education and technical assistance; information transfer to tank O/O's.

Helping States to develop programs.

Enforcing regulations until State's get enforcement authority.

MORE COMPLIANCE STRATEGIES  
("THE STICK")

State of Maryland annually notifies all UST owners/operators of requirements.

California and Massachusetts require operating permits.

Many states (Maine, New York, Florida) are operating installer and tester certification programs.

Oregon requires all tanks have a license tag; bulk handlers can legally fill an UST only if it has the tag.

Many states target inspections, issue informal enforcement letters, often receiving quick results.



# ALASKA STATE LEGISLATURE

## REPRESENTATIVE CURT MENARD


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### MEMORANDUM

To: House Finance Committee

From: Rep. Menard 

Date: April 14, 1989

Re: HB 220, Petroleum and Chemical Storage Tanks

HB 220 addresses the serious problem of contamination of soils and groundwater due to leaking underground and above ground petroleum and chemical storage tanks. In Alaska, there are already 72 occurrences of ground water contamination caused by petroleum products. According to national statistics 25% of underground storage tanks may now be leaking.

The U.S. Environmental Protection Agency recently adopted regulations which require underground tank owners to upgrade tanks to meet specific engineering standards including leak detection and monitoring, spill overfill prevention and tank corrosion protection. The regulations also require tank owners to obtain \$1 million worth of pollution liability insurance.

HB 220 gives the Department of Environmental Conservation the authority to prevent contamination associated with storage tanks through a regulatory, educational, and financial assistance program. The bill provides educational assistance to tank owners to help them understand and comply with the EPA regulations. It provides grants for tank owners to upgrade their tanks to the EPA specifications. HB 220 also creates an account within the Hazardous Substance Release Response Fund to provide funds for clean up of petroleum and chemical storage tank releases. The bill is designed to make insurance companies more willing to insure tank owners by providing that tank owners who report spills by July 1, 1994 and meet certain criteria will be eligible for partial reimbursement of clean up costs and grants to upgrade underground storage tanks.

A biennial storage tank registration fee of 2 cents per gallon based on the capacity of the tank plus a 2 cent increase on the motor fuels tax provide a potential revenue source for the Petroleum and Chemical Storage Tank Account. The average cost to a consumer would be approximately \$15.00 a year, a small price to pay for the protection of our drinking water.

Representing the  
Matanuska-Susitna Borough



Co-Chair  
House Resources Committee  
Member  
State Affairs Committee  
Budget Subcommittee

## UNDERGROUND STORAGE TANK FACT SHEET

- \* Nationwide, there are an estimated two (2) million regulated underground storage tanks (USTs) at over 700,000 facilities;
- \* Seventy-five percent (75%) of existing UST systems are made of bare steel;
- \* The US Environmental Protection Agency estimates that a leak of one gallon of gasoline can contaminate the water supply of a city of 50,000 people (1);
- \* State of Alaska trial courts have ruled that the storage of large quantities of gasoline in underground tanks in close proximity to private residences is an ultra-hazardous activity (2);
- \* With a similar ruling, the United States District Court of Colorado awarded seven million dollars in damages, including the purchase of 44 residential homes (3);
- \* The EPA estimates that "approximately twenty-five percent (25%) of existing UST systems are non-tight [leaking] when tested using current methods" (4);
- \* Nationwide, 130,000 to 260,000 motor fuel tanks (18 - 35% of the total) are estimated leaking (5);
- \* As of 1986, state regulatory agencies have reports of 12,444 leaks on file:
  - 65% of the incidents were from retail gasoline stations;
  - 95% involved operating as opposed to abandoned facilities;
  - 81% of leaking tanks were steel and 19% were fiberglass ((6);

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1. Italiano, Michael L., Liability for Underground Storage Tanks, Practising Law Institute, New York, 1977, p.3.

2. Personal communication, State of Alaska Office of Attorney General.

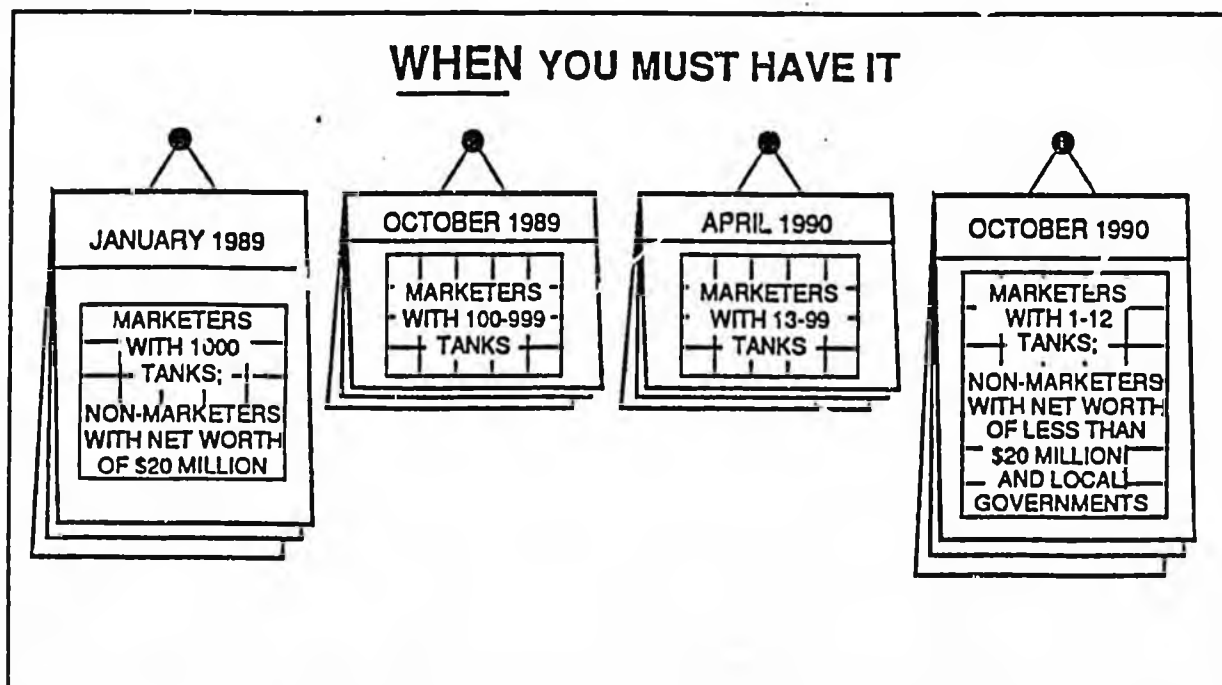
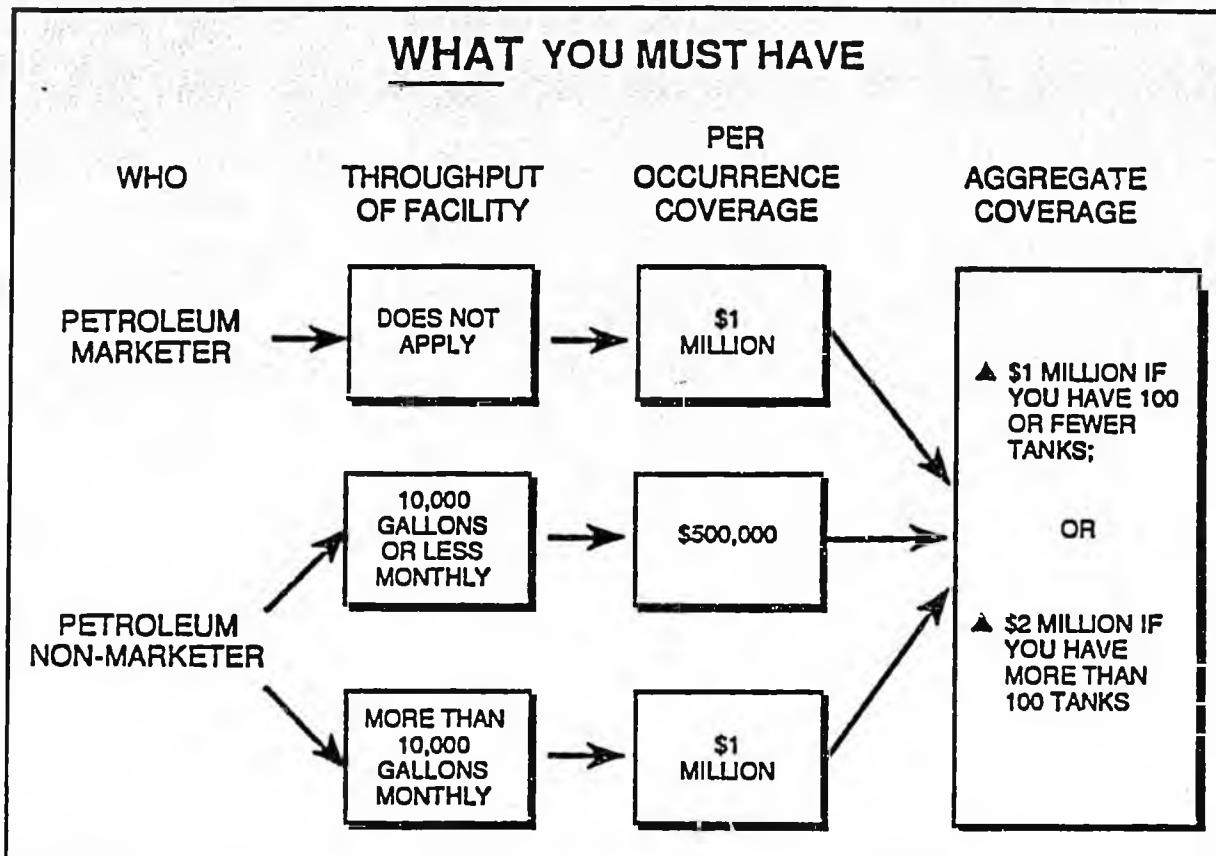
3. ibid., p.71.

4. 40 CFR 280 September 23, 1988, p.37086.

5. EPA, Underground Motor Fuel Storage Tanks: A National Survey 1986.

6. ibid., from EPA, State Incidence Report - Summary of State Reports on Releases from Underground Storage Tanks, 1986.

# IMPORTANT REQUIREMENTS AND MINIMUM DEADLINES FOR YOUR FINANCIAL RESPONSIBILITY



# WHEN DO YOU HAVE TO ACT? Important Deadlines

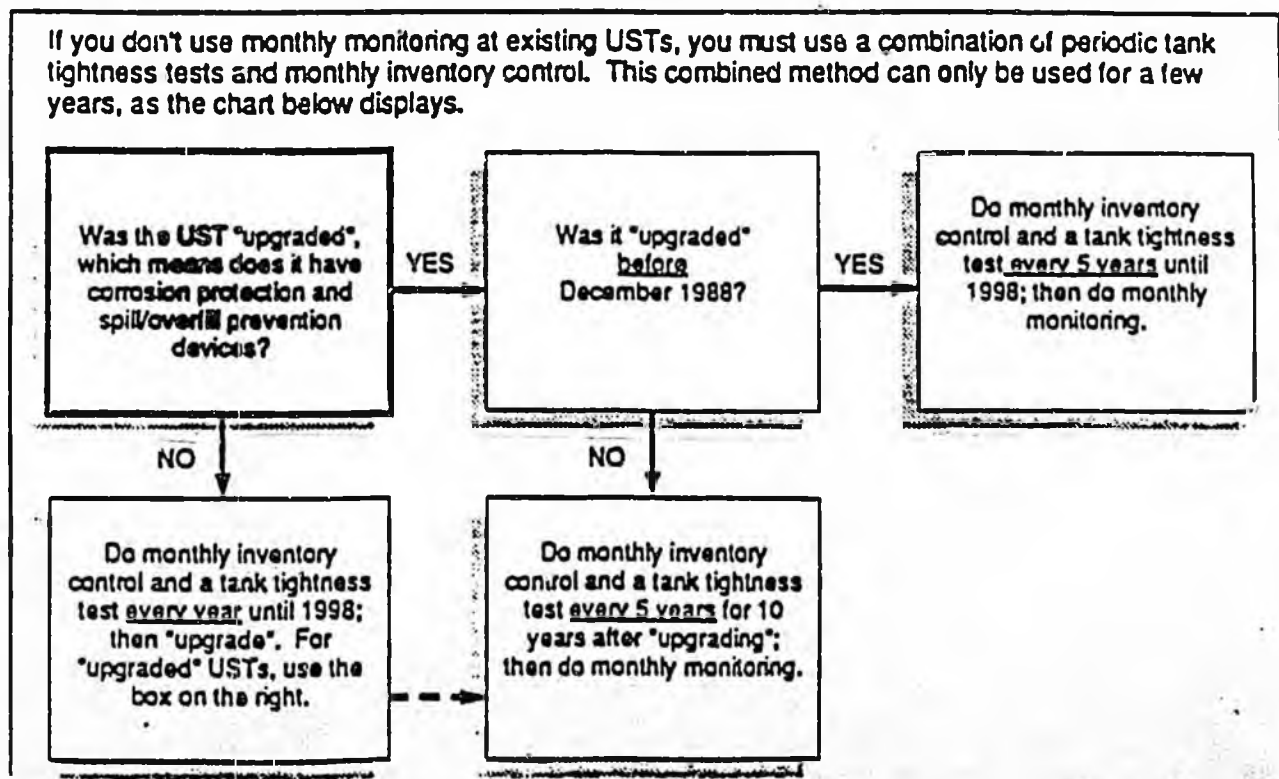
← For WHAT you have to do, see the chart on the left.

TYPE OF TANK & PIPING	LEAK DETECTION	CORROSION PROTECTION	SPILL / OVERFILL PREVENTION
New Tanks and Piping*	At installation	At installation	At installation
Existing Tanks** 25+ or unknown age 20 - 24 years 15 - 19 years 10 - 14 years Under 10 years	December 1989 December 1990 December 1991 December 1992 December 1993	} December 1998	} December 1998
Existing Piping** Pressurized Suction	December 1990 Same as existing tanks	December 1998 December 1998	Does not apply Does not apply

\* New tanks and piping are those installed after December 1988  
 \*\* Existing tanks and piping are those installed before December 1988

## IF YOU CHOOSE TANK TIGHTNESS TESTING AT EXISTING USTs . . .

If you don't use monthly monitoring at existing USTs, you must use a combination of periodic tank tightness tests and monthly inventory control. This combined method can only be used for a few years, as the chart below displays.



FROM PRE-PUBLICATION COPY OF "MUSTS FOR USTS"; FINAL PAMPHLET AVAILABLE OCT. 1989

**WHAT DO YOU HAVE TO DO? Minimum Requirements**

You must have Leak Detection, Corrosion Protection, and Spill/Overfill Prevention.

For **WHEN** you have to add these to your tank system, see the chart on the right. →

<b>LEAK DETECTION</b>	
<b>NEW TANKS</b> <i>2 Choices</i>	<ul style="list-style-type: none"> <li>● Monthly Monitoring*</li> <li>● Monthly Inventory Control and Tank Tightness Testing Every 5 Years (You can only use this choice for 10 years after installation.)</li> </ul>
<b>EXISTING TANKS</b> <i>3 Choices</i> <i>The chart at the bottom of the next page displays these choices.</i>	<ul style="list-style-type: none"> <li>● Monthly Monitoring*</li> <li>● Monthly Inventory Control and Annual Tank Tightness Testing (This choice can only be used until December 1998.)</li> <li>● Monthly Inventory Control and Tank Tightness Testing Every 5 Years (This choice can only be used for 10 years after adding corrosion protection and spill/overfill prevention or until December 1998, whichever date is later.)</li> </ul>
<b>NEW &amp; EXISTING PRESSURIZED PIPING</b> <i>Choice of one from each set</i>	<ul style="list-style-type: none"> <li>● Automatic Flow Restrictor</li> <li>● Automatic Shutoff Device -and-</li> <li>● Continuous Alarm System</li> <li>● Annual Line Testing</li> <li>● Monthly Monitoring* (except automatic tank gauging)</li> </ul>
<b>NEW &amp; EXISTING SUCTION PIPING</b> <i>3 Choices</i>	<ul style="list-style-type: none"> <li>● Monthly Monitoring* (except automatic tank gauging)</li> <li>● Line Testing Every 3 Years</li> <li>● No Requirements (if the system has the characteristics described in the final regulations)</li> </ul>
<b>CORROSION PROTECTION</b>	
<b>NEW TANKS</b> <i>3 Choices</i>	<ul style="list-style-type: none"> <li>● Coated and Cathodically Protected Steel</li> <li>● Fiberglass</li> <li>● Steel Tank clad with Fiberglass</li> </ul>
<b>EXISTING TANKS</b> <i>4 Choices</i>	<ul style="list-style-type: none"> <li>● Same Options as for New Tanks</li> <li>● Add Cathodic Protection System</li> <li>● Interior Lining</li> <li>● Interior Lining and Cathodic Protection</li> </ul>
<b>NEW PIPING</b> <i>2 Choices</i>	<ul style="list-style-type: none"> <li>● Coated and Cathodically Protected Steel</li> <li>● Fiberglass</li> </ul>
<b>EXISTING PIPING</b> <i>2 Choices</i>	<ul style="list-style-type: none"> <li>● Same Options as for New Piping</li> <li>● Cathodically Protected Steel</li> </ul>
<b>SPILL / OVERFILL PREVENTION</b>	
<b>ALL TANKS</b>	<ul style="list-style-type: none"> <li>● Catchment Basins -and-</li> <li>● Automatic Shutoff Devices -or-</li> <li>● Overfill Alarms -or-</li> <li>● Ball Float Valves</li> </ul>
<p>* Monthly Monitoring includes: Automatic Tank Gauging      Ground-Water Monitoring Vapor Monitoring                      Other Approved Methods Interstitial Monitoring</p>	

# Notification for Underground Storage Tanks

FORM APPROVED  
OSHA NO. 2020-0049  
APPROVAL EXPIRES 6-30-88

FOR  
TANKS  
IN  
**AK**

RETURN  
COMPLETED  
FORM  
TO

Department of Environmental Conservation  
P.O. BOX 0  
Juneau, AK 99811

(907) 465-2653

I.D. Number

STATE USE ONLY

Date Received

## GENERAL INFORMATION

Notification is required by Federal law for all underground tanks that have been used to store regulated substances since January 1, 1974, that are in the ground as of May 8, 1986, or that are brought into use after May 8, 1986. The information requested is required by Section 9002 of the Resource Conservation and Recovery Act, (RCRA), as amended.

The primary purpose of this notification program is to locate and evaluate underground tanks that store or have stored petroleum or hazardous substances. It is expected that the information you provide will be based on reasonably available records, or, in the absence of such records, your knowledge, belief, or recollection.

**Who Must Notify?** Section 9002 of RCRA, as amended, requires that, unless exempted, owners of underground tanks that store regulated substances must notify designated State or local agencies of the existence of their tanks. Owner means —

(a) in the case of an underground storage tank in use on November 8, 1984, or brought into use after that date, any person who owns an underground storage tank used for the storage, use, or dispensing of regulated substances; and

(b) in the case of any underground storage tank in use before November 8, 1984, but no longer in use on that date, any person who owned such tank immediately before the discontinuation of its use.

**What Tanks Are Included?** Underground storage tank is defined as any one or combination of tanks that (1) is used to contain an accumulation of "regulated substances," and (2) whose volume (including connected underground piping) is 10% or more beneath the ground. Some examples are underground tanks storing: 1. gasoline, used oil, or diesel fuel, and 2. industrial solvents, pesticides, herbicides or fumigants.

**What Tanks Are Excluded?** Tanks removed from the ground are not subject to notification. Other tanks excluded from notification are:

1. farm or residential tanks of 1,100 gallons or less capacity used for storing motor fuel for noncommercial purposes;
2. tanks used for storing heating oil for consumptive use on the premises where stored;
3. septic tanks;

4. pipeline facilities (including gathering lines) regulated under the Natural Gas Pipeline Safety Act of 1968, or the Hazardous Liquid Pipeline Safety Act of 1979 or which is an interstate pipeline facility regulated under State laws;

5. surface impoundments, pits, ponds, or lagoons;

6. storm water or waste water collection systems;

7. flow-through process tanks;

8. liquid traps or associated gathering lines directly related to oil or gas production and gathering operations;

9. storage tanks situated in an underground area (such as a basement, cellar, mine, shaft, drift, shaft, or tunnel) if the storage tank is situated upon or above the surface of the floor.

**What Substances Are Covered?** The notification requirements apply to underground storage tanks that contain regulated substances. This includes any substance defined as hazardous in section 101 (14) of the Comprehensive Environmental Response, Compensation and Liability Act of 1980 (CERCLA), with the exception of those substances regulated as hazardous waste under Subtitle C of RCRA. It also includes petroleum, e.g., crude oil or any fraction thereof which is liquid at standard conditions of temperature and pressure (60 degrees Fahrenheit and 14.7 pounds per square inch absolute).

**Where To Notify?** Completed notification forms should be sent to the address given at the top of this page.

**When To Notify?** 1. Owners of underground storage tanks in use or that have been taken out of operation after January 1, 1974, but still in the ground, must notify by May 8, 1986. 2. Owners who bring underground storage tanks into use after May 8, 1986, must notify within 30 days of bringing the tanks into use.

**Penalties:** Any owner who knowingly fails to notify or submits false information shall be subject to a civil penalty not to exceed \$10,000 for each tank for which notification is not given or for which false information is submitted.

## INSTRUCTIONS

Please type or print in ink all items except "signature" in Section V. This form must be completed for each location containing underground storage tanks. If more than 5 tanks are owned at this location, photocopy the reverse side, and staple continuation sheets to this form.

Indicate number of continuation sheets attached

### I. OWNERSHIP OF TANK(S)

Owner Name (Corporation, Individual, Public Agency, or Other Entity)

Street Address

County

City

State

ZIP Code

Area Code

Phone Number

Type of Owner (Mark all that apply )

Current

State or Local Gov't

Private or Corporate

Former

Federal Gov't (GSA facility I.D. no. \_\_\_\_\_)

Ownership uncertain

### II. LOCATION OF TANK(S)

(If same as Section I, mark box here )

Facility Name or Company Site Identifier, as applicable

Street Address or State Road, as applicable

County

City (nearest)

State

ZIP Code

Indicate number of tanks at this location

Mark box here if tank(s) are located on land within an Indian reservation or on other Indian trust lands

### III. CONTACT PERSON AT TANK LOCATION

Name (If same as Section I, mark box here )

Job Title

Area Code

Phone Number

### IV. TYPE OF NOTIFICATION

Mark box here only if this is an amended or subsequent notification for this location.

### V. CERTIFICATION (Read and sign after completing Section VI.)

I certify under penalty of law that I have personally examined and am familiar with the information submitted in this and all attached documents, and that based on my inquiry of those individuals immediately responsible for obtaining the information, I believe that the submitted information is true, accurate, and complete.

Name and official title of owner or owner's authorized representative

Signature

Date Signed

U.S. ENVIRONMENTAL PROTECTION AGENCY



ALASKA OPERATIONS OFFICE  
Room E535, Federal Building  
701 C Street, Box 19  
Anchorage, Alaska 99513  
Phone (907) 271-5083

RECEIVED JAN 26 1989

January 24, 1989

The Honorable Curt Menard  
House of Representatives  
P.O. Box V, Room 110  
Juneau, Alaska 99811

Dear Representative Menard:

On December 22nd of 1988, new Environmental Protection Agency (EPA) Regulations designed to protect groundwater from leaking petroleum underground tanks went into effect. Because these regulations will effect over 1800 facilities in Alaska, I want to update you on their content and make my staff available for further detailed briefings, if you so desire.

The Underground Storage Tanks (UST) regulations follow a 1984 mandate from Congress in Subtitle I of the Resource Conservation and Recovery Act. In Subtitle I, Congress directed EPA to develop a petroleum products UST Program. Congress was responding to an increasing number of cases in which drinking water aquifers were contaminated from leaking underground storage tanks (LUST). Complimenting the UST regulations, Congress designated a LUST Trust Fund in which Federal gasoline tax money is allocated for the clean-up of the most threatening spills. In Alaska alone, over two million dollars have been appropriated to the Department of Environmental Conservation for clean-ups since 1987.

Congress required that all tank owners and operators notify an EPA designated agency of their tank by May of 1986, or at the time of installation (See attachment 1). Congress also required that all new tanks installed have corrosion protection, and meet other basic engineering standards until the time the final regulations were promulgated. The UST program has been widely anticipated since 1984, and the EPA Alaska Operations Office has conducted a number of public outreach activities, including information meetings and technical assistance seminars.

The Technical Requirements of the UST program are found in the September 23, 1988 Federal Register (40 CFR Parts 280 and 281). Important exceptions that you should be aware of include farm and residential tanks of 1100 gallons or less, heating-oil tanks, and a number of other non-petroleum tank-like structures.

The Technical Requirements identify tank hardware and deadlines for the installation of the hardware (see attachment 2). Basically, all new tanks that go into the ground are required to have corrosion protection, spill/overflow preventive devices, and leak detection systems installed. UST systems in the ground are required to be upgraded on a phased basis, so all tanks meet leak detection requirements by 1993, and are otherwise protected by 1998.

Congress also mandated that tank owners and operators have adequate liability coverage in case water or soil clean-ups are needed. One million dollars of coverage was required by Congress since it is not unusual for clean-up costs to approach this amount in the case of catastrophic spills. These new Financial Responsibility Requirements will be phased in over the next two years (see attachment 3).

My staff and I are available at your request to discuss the implementation of this program in Alaska. Please feel free to contact me or Mr. Kevin Keeler, State UST Coordinator (271-5083), if you have questions or if you are interested in a detailed briefing. Additionally, if there are other environmental matters which arise during this legislative session for which EPA can provide information or assistance, please don't hesitate to call me or Steve Torok (located in my Juneau office) at 586-7619.

Sincerely,



Alvin L. Ewing  
Assistant Regional Administrator

Attachment(s)

SOLDOTNA TESORO  
John T. Stubblefield  
P. O. Box 773  
Soldotna, Alaska 99669

February 9, 1989

To Alaskan Senators and Representatives:

Due to the E.P.A. regulations that are now enforce, the owners and leasors of gas stations are in a financial situation that will be impossible to absorb. Most owners cannot afford to replace and upgrade their tank systems. The insurance will run most of us out of business and if that doesn't the clean up of contaminated ground will.

By E.P.A. standards, there is probably no station in the state that can comply 100% with the new regulations. E.P.A. has put the burden of all liability on the current owners regardless of the consequences. Has no one taken the time to consider what the effects will be on small businesses and also the economy? If we go under it will also mean job losses for an average of three employees per station.

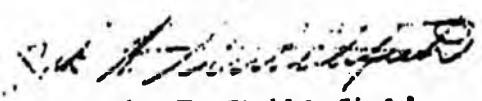
We find ourselves desperately in need of help. The regulations are necessary, as is the clean up and protection of our water and soil. But we cannot comply. We do not have the funds to do this. Where is it to come from? Are you just going to close us down? Sell our stations off to the oil companies for pennies on the dollar? The only ones that will come out on top of this are the large oil companies and corporations like Seven-Eleven. They will be the only ones able to afford the insurance and the upgrading.

The small independent service station owner is an endangered species. Do we as Americans and part of the human race have any less rights than any other endangered species?

I have been in Alaska for 30 years. I have all my lifes work tied up in my station. Along with many other station owners, I stand to loose it all if we cannot get some assistance from the State.

If ever there was a need for the representatives of the State to pull together and help a group of businesses and hard working people, this is the time to do it. Are we any less important than three whales trapped in the ice? Will someone come to our aid?

Sincerely,

  
John T. Stubblefield  
SOLDOTNA TESORO

form the study.

## Gas stations need help

A serious problem came to light in a recent hearing on new regulations by the Environmental Protection Agency for underground fuel tanks.

The regulations that went into effect in December require owners of commercial tanks that hold more than 1,100 gallons to get \$1 million in insurance and follow a stringent monitoring program to make sure their tanks do not leak.

Gas station owners testified that the new rules may present insurmountable problems. An owner in Fairbanks said it would cost up to \$300,000 to clean up his site and qualify for insurance. Others said insurance wasn't even available against leakage problems.

Most of the gas stations in the Fairbanks area were built without corrosion protection around their tanks. It is not unreasonable to expect that leakage problems from underground tanks are fairly common in our area.

Our community cannot afford to have its water table contaminated. To the extent that the new EPA regulations serve to identify sources of contamination and remove them, they are desirable.

But in many instances, gas station owners cannot afford the cost of complying with the regulations. They have appealed to the Legislature for help.

Where problems with fuel tanks exist, they have developed over many years, perhaps before the present owners bought them. A great public interest exists in cleaning them up. The Legislature should give close attention to the plight of the gas station owners and do what it can to help them.



Wright

## Pay raise

WASHINGTON—James Madison is in his grave, but a constitutional amendment he sponsored in 1789 goes marching on. The event went almost wholly unreported in the news, but on Feb. 7, Iowa became the 26th state to ratify the "put off the pay raise" amendment.

This is beginning to get exciting. To recapitulate a story that most of the country knows nothing about, Congress in September 1789 approved 12 proposed amendments to the Constitution. By 1791, 10 of them had been ratified by the states; we know them as the Bill of Rights. Two of the proposals failed of ratification at that time. One dealt with apportionment of the House of Representatives and is of no current interest.

This was the forgotten 12th: "No law varying the compensation for the services of the senators and representatives shall take effect until an election of representatives shall have intervened."

It is marvelously simple, is it not? Thirty states have similar provisions affecting their own state

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### Today's Thought . . .

In his book, "The Sound of Laughter," the late Bennett Cerf tells about a small-town editor who had repeatedly instructed his enthusiastic new reporter, "Always remember that names make news." The reporter's next assignment was about a fire and his account began: "Fire last night destroyed farmer Alvin Heimerdinger's barn, claiming the lives of three cows named Bossy, Bessie, and Gertrude."



By Rev. Paul Osumi

## Should

BOSTON—The protestors are gone now. The legal hit team has wandered off in search of another target. The television crews have moved to other sites and other stories.

The people who surround Nancy Klein these days are those who care about her. Not as a case study or a political focal point, but as a wife, a daughter, a mother. Her husband Martin visits with her as he has every day since the 32-year-old woman went into a coma. He tells her the simple things, how his day went, what he did, what their 3-year-old daughter did.

If some spark leads Nancy Klein out of the shadows of her coma, her

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FAIRBANKS

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C. W. SNEDDEN  
Board Chairman and Publisher

See next page



## Why Industry Is Focusing On Financial Responsibility

Not long after issuing the technical standards for underground storage tanks, the Environmental Protection Agency's Lee Thomas signed the final rules for financial responsibility requirements Oct. 26, 1988.

The federal regs will be phased-in over a two-year period depending on the number of tanks owned. The phase-in schedule is designed to give marketers additional time to come up with affordable pollution liability coverage or any one of the "mechanisms" approved by the EPA. These mechanisms for demonstrating financial responsibility include private insurance, self-insurance (subject to specific conditions), state funds, group trust funds and any other state-approved methods.

Marketers must show they are financially able to pay the cleanup from an underground storage tank system leak or spill, which not only includes cleaning up the petroleum leak, but also correcting environmental damage and compensating third parties for personal injury or property damage.

The final rules require that petroleum producers, refiners and marketers who own or operate USTs, demonstrate that at least \$1-million per occurrence (the amount of money available to pay the costs resulting from a leak) and an annual aggregate (total amount available to cover all releases in one year) of \$1-million or \$2-million, depending on the number of tanks owned. The aggregate breakdown is:

1-100 tanks:	\$1-million
101 or more tanks:	\$2-million

For example, if a marketer owns or operates five stations and has a total of 15 tanks, he must have \$1-million per occurrence and \$1-million per annual aggregate. Thus, if another marketer has 150 tanks at 50

stations, he must show \$1-million per occurrence and \$2-million annual aggregate. However, the minimum amount of financial responsibility that must be shown does not limit a marketer's total liability for damages caused by a leak or spill from a tank system.

Tanks that are not used in petroleum production, refining and marketing, and have only a monthly throughput of 10,000-gal. or less, must show financial assurance of at least \$500,000 per occurrence and \$1-million annual aggregate.

### The phase-in schedule

The EPA has classified the 24-month phase-in of the regulations into the following four categories:

- All petroleum companies owning 1,000 or more USTs, and any other UST owners reporting a "tangible" net worth of \$20-million or more to the U.S. Security and Exchange Commission (SEC), Dun and Bradstreet or the Energy Information Administration, had to show financial responsibility by Jan. 24, 1989, the day the rules became effective.
- Marketers owning 100-999 USTs must assure they are financially capable of paying for the costs of a petroleum release by Oct. 26, 1989.
- Tank owners of 13-99 USTs at more than one facility must show financial responsibility by April 26, 1990.
- And lastly, marketers owning 1-12 tanks, or owning only one facility with fewer than 100 USTs, must meet financial responsibility requirements by Oct. 26, 1990.

### Certifying coverage

Even though tank owners have a variety of options for demonstrating financial responsibility, finding someone to provide

that assurance is not readily available.

When a tank owner determines what mechanism or combination of mechanisms he intends to use, he must maintain a "Certification of Financial Responsibility," outlining the method of financial responsibility used and certifying that this method complies with EPA regs.

Large jobbers, independents and major oil companies will most likely self-insure their tanks. Because these companies are solvent enough to meet the financial responsibility requirements without obtaining pollution liability insurance, the EPA is allowing them to self-insure only if they pass one of the following two financial tests:

- The company: has a net worth of at least \$10-million; has a tangible net worth of at least 10 times the amount of the aggregate coverage; filed annual financial statements with the SEC, EIA, or the Rural Electrification Administration; reported an annual net worth to Dun and Bradstreet and received a rating of 4A or 5A; and files a letter from the chief financial officer, (see *Federal Register* for outline). In addition, the audited financial statements cannot have an adverse auditor's opinion or disclaimer of opinion.
- The company: has a net worth of \$10-million; has at least a tangible net worth of six times the aggregate coverage needed; has U.S. assets that are at least 90% of total assets; has working capital at least six times the required aggregate; files a letter from the chief financial officer *Federal Register* for outline); and has a bond rating of AAA, AA, A or BBB from Standard and Poor's, Aaa, Aa, A or Baa from Moody's; and has audited financial statements which do not contain an adverse auditor's opinion or disclaimer of opinion.

Tank owners can also obtain a guarantee

to satisfy the financial responsibility requirements. The company providing the guarantee must: possess a controlling interest in the tank owning firm and/or property; control ownership through stock by a common parent company which possesses a controlling interest in the owning or operating firm; issue a guarantee as an act incident to the business relationship. This guarantee must meet one of the previously mentioned financial tests (see *Federal Register* for more details). Also, marketers can obtain a surety bond or a letter of credit for the amount required to meet the financial responsibility requirements.

Where smaller companies can't afford to self-insure or do not have someone to give a guarantee, they must show that they meet the regs' stipulations through a qualified insurer or risk retention group.

Tank owners are required to obtain a guarantee for the amount that is required from the insurer, but the insurance company also must pass the previously described financial tests. Marketers must maintain a certificate of insurance from the pollution liability provider at the tank site or place of business.

The EPA is allowing marketers to rely on state cleanup funds to help meet financial responsibility requirements. However, insurance companies warn marketers to be prepared for the situation where state funds are not sufficient. The federal government is also allowing marketers to use any method approved by their respective states or to establish a fully-funded trust fund to cover the requirement or to use a combination of a trust fund with any of the other previously mentioned options.

Under the new federal standards a pollution liability insurer may only cancel insurance coverage after a marketer has received a certified letter stating the cancellation and has been given 60 days to find another insurer. Surety bonds or letters of credit must give 120 days notice. If a tank owner can't find insurance within the 60 days, he must notify the state regulatory agency.

Information on financial responsibility must be reported to the state regulatory agency in the following cases: installation of new tank systems, confirmation that a tank system is leaking, when insurance coverage is canceled and the marketer is unable to get other coverage, and/or upon request by the EPA or state regulatory agency. However, if financial responsibility cannot be found, the statute allows the implementing agency to suspend enforcement, but only in specific cases.

The regulatory agency will only suspend enforcement in the following circumstances: (1.) Methods of financial responsibility are not generally available for USTs in the class or category; and (2.) Steps are being taken to establish a RRG (risk retention group) for that class of tanks or the state is taking steps to establish a corrective action and compensation fund under the Reauthorization Act. Suspension of enforcement may not exceed 180 days.

### False security

Insuring your home, your car and even your life is a fairly easy task. It's unfortunate that marketers can't say the same when trying to track down pollution liability insurance.

In fact, the task has been so burdensome that some tank owners are either bailing out of the industry or they are planning to "run naked" and hope they don't get caught.

So far, pollution liability coverage has failed to become widely available; and where it is available, it's too costly for most smaller marketers. "Nobody's going to be able to get insurance; only those who really don't need it will be able to afford it," says Max Clay, Petromark manager.

Some insurance companies are attempting to enter the market, but very few meet the EPA's requirements. Currently, only two insurance companies have announced that they are complying with the EPA regulations.

On top of the pressure to find an affordable pollution liability package, marketers are now being advised to beware of insurance companies making "false claims." Some insurers are warning marketers not to be fooled by companies who claim to be meeting EPA standards, but in reality are not.

Here are a few suggestions from various insurance agents about what to look for when purchasing pollution liability coverage:

- Ask if the company meets the federal regs and have them put a statement to that effect in writing. If they don't meet the standards yet, get an endorsement from the company that they will bring the policy up to EPA standards.

- Start making inquiries of insurance companies. Find out what they offer, how much it costs and what it covers; i.e., on-site, off-site, third party and legal defense. Jim Ward, with R.W. Troxell & Co., Springfield, Ill., advises marketers to check their auto policies. "Pollution liability for truck spills and turn overs is no longer covered in most auto policies," says Ward. He recommends

making sure the auto policy has an endorsement to provide pollution coverage.

- Because financial responsibility regs are almost impossible to understand, ask a legal expert from your state or national association for advice. Ask the attorney to recommend an insurance company or for criteria a marketer should look for when selecting an insurer.

- Check the background of the insurance company. Find out how long it has been in business and how sound it is financially.

Insurance companies are also advising marketers to be wary of state cleanup funds. Even though many states have adopted state funds for cleaning up underground storage tank leaks, marketers shouldn't assume the fund will alleviate their financial requirements as set forth by the EPA, industry sources say.

In fact, many lawmakers, insurance companies and lawyers are instructing marketers not to let their pollution liability coverage lapse because of a "false security" they might have about state funds.

"These funds are not foolproof and there are a lot of problems with them," says Petromark's Clay.

Insurance agents say the state funds will help shave premiums, but marketers should be cognizant of state finances and on guard in case the state runs out of money. Agents are leery about who will pay for the clean up and what will happen if a tank leak exceeds the \$1-million maximum provided by state funds, especially since the Leaking Underground Storage Tank (LUST) fund does not automatically kick in.

Currently, 23 states have already adopted cleanup funds and the remainder are drafting legislation or intend to introduce bills in this year's legislative sessions. Also, many of the state funds require the marketer to pay the initial costs or deductibles first and then the fund will pay the balance up to a designated limit. However, some states, like Tennessee, pay the first dollar and then the marketer reimburses the state for the deductible.

Florida is one example of a state relying too heavily on state funds. The state established a cleanup fund two years ago, but only activated the fund in May 1988. Since December 1987, the fund has paid for the clean up of only one spill, according to state officials.

Part of Florida's problem is the reimbursement process, which some marketers say is not yet running smoothly, plus a lack of funds. State officials admit that money to cover the fund is only trickling in and there are more leaks than the fund can cover at this time.

Underground Tanks

STATES DRAFTING UST REGULATORY PROGRAMS  
TO MEET EPA TECHNICAL, FINANCIAL STANDARDS

Virtually all the states have proposals or are considering proposals for financial assurance programs to provide liability insurance for damage caused by underground petroleum tank leaks, sources in the insurance industry and the Environmental Protection Agency told BNA Feb. 14.

In addition, most states have begun preparing regulations to comply with new federal technical standards that, along with new financial requirements, were part of a package of underground storage tank regulations issued last fall, an EPA official told BNA.

However, an insurance industry official and an attorney with an environmental organization discussed potential problems with the program even at these early stages of development.

The federal rules were required under the Resource Conservation and Recovery Act. Technical standards were issued by the agency Sept. 23, 1988, and financial assurance requirements were issued Oct. 18, 1988.

The technical rules will require two million storage tanks to be retrofitted within 10 years through a state-run compliance program that must be approved by EPA (19 ER 1116).

The financial assurance rules require most owners and operators of underground petroleum storage tanks to show that they have at least \$1 million available to cover damages from tank leaks—enough to pay for cleanups of leaked products, environmental damage remedies, cleanups of drinking water supplies, and personal injury or property damage suffered by third parties. The agency stressed that a wide variety of instruments, ranging from insurance to state-funded trust programs, can be used to demonstrate financial assurance (19 ER 1236).

An insurance industry official who has watched as states develop financial assurance proposals warned that the wide differences among state programs may make it difficult for insurance companies to get involved even peripherally in writing policies for owners and operators of companies with petroleum tanks. The official, who wished to remain anonymous, also warned that states may find themselves shouldering more of the legal and financial responsibilities for poorly operating tank facilities than their newly created trust funds can cover.

The official also said it was too early in the process to draw many conclusions, noting that the agency recently had extended the time allowed states to develop and certify alternative financial assurance requirements (19 ER 2134).

No State Has EPA-Approved Program

Among the many states that are developing regulations, Illinois issued rules Feb. 2 "identical in substance" to the

CURRENT DEVELOPMENTS

recently released federal underground tank rules, according to documents from the state Pollution Control Board. The proposed rules cover both new financial assurance requirements and technical standards.

According to Mark Waiwada, an EPA underground storage tank program staff member in charge of state implementation, Illinois is one of many states working on writing new or modifying old state tank regulations. However, Waiwada said no state has gained EPA approval yet of its technical regulatory program to comply with the new rules.

He estimated that some 42 states have UST statutes on the books and 30 have UST-specific regulations, but these regulations in most cases are not in complete compliance with the new federal rules, Waiwada said.

But he added, "It is a little too early to know what states have put together now, since it's only been three or four months since the regulations were issued."

Kathie A. Stein, an attorney with the Environmental Defense Fund, told BNA that EPA was "too anxious to dump the program on the states" with the result that there may be too little federal oversight. She said the process for approving a state program had been "boiled down" to an examination by EPA of eight general categories rather than a detailed approval of all sections of a state's program.

For example, she said the states were allowed too much discretion in selecting the type of leak detection systems that may be used by a tank owner or operator in complying with the federal rules. She also cited variances in the phased-in schedule for adding leak detection systems for older tanks which, she said, left too much choice to the states.

"States will be under tremendous pressure from the oil industry to water down the program," Stein warned, adding they may cave in to industry demands.

Stein said, however, that EDF was not considering a legal challenge to EPA's interpretation of the rules, but instead would scrutinize each state program as it comes up for public comment.

# Yampa carries away 1,000 gallons of gas

by C. PATRICK CLEARY

More than 1,000 gallons of regular gasoline, from a leak at Stremel's Quick Mart at the corner of Lincoln Avenue and Third Street, flowed down the Yampa River during the past two weeks.

And now state environmental officials are conducting an engineering report, which includes both soil and water samples, to determine what must be done to remove the petroleum-saturated soil beneath the Texaco gas station.

While Routt County Environmental Health official Mike Zopf, on Feb. 27, said he believes the river probably received "no significant damage," he did confirm that over 1,000 gallons of gasoline went down the river in the last 10 days.

The Environmental Health Department was notified of a strong odor of gasoline and a sheen on the river by residents of Westland Trailer Park last week.

Health Department official Rick Barlow said the leak has probably been going on for quite some time.

Please see GAS page 8A



Routt County Environmental Health Department official Mike Zopf adjusts a polyethylene absorbent pad where Spring Creek joins the Yampa River. The pads absorb hydrocarbons.

8A THE STEAMBOAT PILOT, Steamboat Springs, Colo., Thursday, March 2, 1989

## GAS from 1A

"It's no secret underground storage tanks leak," he said.

Quick Mart owners Bob and Wally Ralston refused to comment.

Zopf indicated the gas probably seeped into the soil and made its way to the river through the Spring Creek culvert which crosses U.S. Highway 40 between the U.S. Post Office and the Steamboat Springs Health and Recreation Center, then goes beneath the Quick Mart before dumping into the river on the other side of Westland.

As of Tuesday, a strong odor of gasoline still lingered in the culvert.

On Monday, Steve Michels of Kubart Equipment and Service Co., Denver, was installing two 90-degree elbows on the gas line of the underground regular-gas tank. He said that line didn't have "swing joints," which allow the pipe to move with shifts in the soil. Apparently the threads had

worn out inside the existing elbow joint and the line may have broken during the recent cold spell, Michels said.

State Health Department regulations require that a pressure test be conducted to search for additional leaks in the tanks. The Denver firm was still conducting the test at press time Tuesday.

Zopf said he also notified the Colorado Division of Wildlife about the spill. Local DOW officers were unavailable for comment as of press time.

Assisted by the fire department, crews dredged the outlet of the culvert and placed polyethylene absorbent pads on the surface of the stream to curb any additional product that may continue to seep out of the soil and into the stream.

The pads are waterproof but pick up any hydrocarbons on the water's surface.

Zopf said once the regular pumps were shut off last week he felt that no new product was get-

ting into the soil. "We just have to deal with what is there," he said.

The Steamboat Springs Police Department received a report of the hazardous-materials spill on Feb. 23.

Police Chief Roger Jensen said gas station manager Richard Stremel was "devastated" that he had caused this incident. (He) did everything possible to reduce the leak immediately.

Scott Pieratt, a geologist with the Colorado Department of Health's Hazardous Materials and Waste Management Division, said his office, when notified of the incident, made some recommendations as to how to clean up what's left of the spill.

His office and the State Water Quality Division are overseeing any further testing and will determine what action must be taken to take care of any remaining petroleum product in the soil.

He estimated that the average cost for hazardous materials cleanup is \$50,000-\$75,000.

Under current Colorado law, the owners must foot the entire bill for such cleanups, Pieratt said.

# Petroleum legislation pending in statehouse

by C. PATRICK CLEARY

In 1984, the U.S. Congress passed legislation to develop a program to regulate underground storage tanks and adjoining piping in an effort to begin to deal with the growing concern of hazardous-materials spills.

And on Dec. 22, 1988 further federal legislation calling for the regulation of corrosion, overfill and leak detection of underground tanks came on the books. The new law, however, called for the states themselves to implement the programs.

Colorado finds itself in an enforcement dilemma when it comes to that legislation, Colorado Health Department official Scott Pieratt said.

In order to get those federal regulations on the state books, the state governing body is trying for the third year to implement legislation to set up the framework to adopt those federal rules, said Pieratt, a geologist with the Health Department's Hazardous Materials and Waste Management Division.

Those federal rules call for strict adherence to federal corrosion, overfill and leak-control standards by any new underground-tank installation.

And for existing tanks, depending on their age, owners have up until 1993 to implement those controls, he said.

While many of the control measures may be expensive, Pieratt said costs of hazardous-materials cleanup range anywhere from \$50,000 to \$300,000. "When groundwater contamination is involved, it's not an easy thing to clean up," he said.

The state seeks to handle the program independently of the Environmental Protection Agency. Currently, the EPA legally is required to make decisions and handle enforcement. But when calls about the program are placed to the EPA, it refers questions to the state, Pieratt said.

Colorado H.B. 1299 passed the Transportation and Energy Committee but still must go before the Appropriations Committee before the House rules on it, Pieratt said.

He said that piece of legislation would set up a state cleanup fund with \$10,000-deductible insurance for owners who incur spills. The cleanup fund would be financed through some sort of fee.

A phase-in program would take tank-owners up to 18 months to install federal controls.

Pieratt said the legislation did not pass in past years because the state body didn't feel it was appropriate to adopt its legislation before the new federal law was on the books. "We're breathing a little easier this year," Pieratt said.



Kubalt Equipment and Service Company employee Terry Michels installs elbow joints in the submerged pump hole at Stremel's Quick Mart at the corner of Third and Lincoln Ave.

**FISCAL NOTE**

**REQUEST:**

Revision Date: \_\_\_\_\_  
Title: An Act Relating to Motor Fuels and storage tanks and containment and cleanup of oil and hazardous substances; and providing for an effective date.

Agency Affected: Environmental Conservation  
BRU: Environmental Conservation  
Components: Environmental Conservation

SPONSOR: House Resources Committee

**EXPENDITURES/REVENUES: (Thousands of Dollars)**

OPERATING	FY 89	FY 90	FY 91	FY 92	FY 93	FY 94
PERSONAL SERVICES		492.0	756.3	756.3	756.3	
TRAVEL		51.5	93.8	93.8	93.8	
CONTRACTUAL		405.0	454.0	454.0	454.0	
SUPPLIES		30.5	46.3	46.3	46.3	
EQUIPMENT		102.0	141.3	141.3	141.3	
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
<b>TOTAL OPERATING</b>		1081.0	1491.7	1491.7	1491.7	

<b>CAPITAL</b>		-0-	-0-	-0-	-0-	
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<b>REVENUE</b>						
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**FUNDING: (Thousands of Dollars)**

GENERAL FUND						
FEDERAL FUNDS						
OTHER		1081.0	1491.7	1491.7	1491.7	
<b>TOTAL</b>						

**POSITIONS:**

FULL-TIME		13.0	18.25	18.25	18.25	
PART-TIME						
TEMPORARY						

**ANALYSIS : (Attach a separate page if necessary)**

Prepared by: Dan Easton Phone: 465-2610  
Division: Environmental Quality Date: 04/07/89  
Approved by Commissioner: *R.D. Hylleberg* Date: 4/7/89  
Agency: DEC (1)

Distribution (by preparer):  
Legislative Finance  
Legislative Sponsor  
Requester  
Office of Management and Budget  
Impacted Agency(ies)

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APR 11 1989

D.C.H.F.

The following is a summary of the main tasks under the proposed legislation and an explanation of the necessary services.

Revenue is expected from two sources as a result of this legislation; a tank registration fee and a gasoline tax.

#### 1. Storage Tank Program Development

During FY 90, three FTEs will be needed in this program. One professional position will manage to contract to develop an automated database of above and underground storage tanks, investigate financial responsibility options and program funding mechanisms, and prepare draft regulations in conjunction with an Advisory Panel. This position will manage these items once completed. One professional position will collect data, provide technical assistance to facility owner/operators, and assist with development of technical portions of the regulations. One clerical position will provide typing, filing, data entry, and assist with scheduling and administrative tasks associated with the Advisory Panel. Underground storage tank regulations will be completed in FY 90. Above ground regulations will be completed in FY 91.

FY 91 and ongoing tasks will include completion and implementation of regulations. Also required will be two additional professional positions and one additional clerical position. Major field tasks include: inspection of tank/piping and associated structures, installation and abandonment procedures, review of facility records for maintenance and operation activities, and technical assistance. The Department will examine means of contracting out functions.

#### 2. Registration/Notification Program.

During FY 90, three and one-half FTEs are estimated to be needed in this program. One-half professional position will oversee the development of the program, special databases, and associated procedures, and develop contracts and forms. One-half clerical position will provide needed assistance. One fiscal position will justify accounts and revenues. One and one-half clerical/administrative positions will receive forms, enter data, develop and send mailouts and perform followups. A consultant will be hired to set up a computer program and develop guidelines; the contractual line item includes \$40.0 for this. Extra funds (\$3.5) are included in supplies to cover materials and postage for mass mailouts. The equipment line includes \$17.0 for specialized computer equipment to gain access to AKSAS and to print mass mailouts and labels.

FY 91 and ongoing tasks will include sending out notices of renewal, contacting new establishments, receiving payments and upgrading the database to meet new needs. No additional positions will be needed for FY 91 and subsequent years. It may be possible to reduce staffing once the program is in place.

### 3. Public Information Program

During FY 90, one professional and one-half clerical FTEs will be needed in this program. One professional position, with the help of one-half clerical position, will identify and provide information and assistance to tank owners and will plan and conduct public information activities. Development of the program will be contracted out to assist tank owner/operators and the public directly through presentations and workshops. Contractual funds (\$15.0) are included for document development and printing costs, and \$6.0 is included for supplies, mailout materials and software.

These tasks will continue during FY 91 as the regulations are completed and program implementation begins. No additional positions for FY 91 are anticipated at this time.

### 4. Loan or Grant Program

During FY 90, one-half FTE will be needed in this program. This one-half professional position will assist the Department of Commerce and Economic Development in setting up a loan guarantee program, and approve the use of funds from the Underground Storage Tank Account (case by case) to guarantee a loan.

FY 91 and ongoing tasks will include continued approval of all loan guarantees or grants during the 10-year period that underground tanks have to upgrade. Additional one quarter FTE will be needed for this ongoing task.

### 5. Underground Storage Tank Account Cleanup Program

During FY 90, four and one-half FTEs will be needed in this program. Two professional positions and one-half clerical position will develop guidelines and review reported leaks, document leaks on computer, determine the extent of investigation, cleanup, and necessary upgrades to current facility equipment, and oversee cleanup contracts. One-half position in the fiscal section will help set up, receive, and deposit payments received. One administrative position will track costs, and justify that payments are correct and adequate. One-half professional position in the Solid Waste Program will develop permits for disposal of soils contaminated from releases. Additional contractual funds (\$21.0) are included for development and printing of forms, and medical monitoring physicals for the two staff involved in field work. The supplies line includes \$5.0 for postage and mailout supplies. The equipment line includes personal protective equipment (\$5.0) for two staff persons.

FY 91 and ongoing tasks will involve a considerable increase in the regional office efforts to monitor contracts for cleanup,

determine adequacy of cleanup, and assure appropriate tank upgrades following cleanup. Additionally, requests for contaminated soil disposal permits will begin. Three professional and one clerical FTE will be required for these purposes.

STATE OF ALASKA  
1989 LEGISLATIVE SESSION

BILL VERSION: CS HB 220 (RES)  
PUBLISH DATE: 4/10/89

FISCAL NOTE

REQUEST:

Revision Date: \_\_\_\_\_  
Title: An Act relating to Motor Fuels

Agency Affected: Revenue  
BRU: Income & Excise Audit

Sponsor: Menard, etc.  
Requestor: Resources and Finance

Components: Operating

EXPENDITURES/REVENUES: (Thousands of Dollars)

	FY 90	FY 91	FY 92	FY 93	FY 94	FY 95
<b>OPERATING</b>						
PERSONAL SERVICES	0	0	0	0	0	0
TRAVEL	0	0	0	0	0	0
CONTRACTUAL	25.0	0	0	0	0	0
SUPPLIES	0	0	0	0	0	0
EQUIPMENT	0	0	0	0	0	0
LANDS & STRUCTURES	0	0	0	0	0	0
GRANTS, CLAIMS	0	0	0	0	0	0
MISCELLANEOUS	0	0	0	0	0	0
<b>TOTAL OPERATING</b>	<b>25.0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>
<b>CAPITAL</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>
<b>REVENUE</b>	<b>16755.1</b>	<b>16755.1</b>	<b>16755.1</b>	<b>16755.1</b>	<b>16755.1</b>	<b>16755.1</b>

FUNDING: (Thousands of Dollars)

GENERAL FUND	25.0	0	0	0	0	0
FEDERAL FUNDS	0	0	0	0	0	0
OTHER	0	0	0	0	0	0
<b>TOTAL</b>	<b>25.0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>

POSITIONS:

FULL-TIME	0	0	0	0	0	0
PART-TIME	0	0	0	0	0	0
TEMPORARY	0	0	0	0	0	0

ANALYSIS: (Attach a separate page if necessary)

Prepared By: Steven E. Kettel *Steven E. Kettel* Phone: (907) 465-2320  
Division: Income and Excise Audit Date: April 11, 1989

Approved by Commissioner: Hugh Malone *Hugh Malone* Date: April 11, 1989  
Agency: Department of Revenue

Distribution (by preparer):  
Legislative Finance  
Legislative Sponsor  
Requestor  
Office of Management and Budget  
Impacted Agency(ies)

**RECEIVED**  
APR 12 1989

MB 210  
M. C. J.

HB 220  
Prepared by: Steven E. Kettel  
March 21, 1989

REVENUE PROJECTION

Under Section 2 of this bill a surcharge of 2¢ per gallon is levied on all motor fuel subject to tax under AS 43.40.010. Total gross taxable fuel sold or delivered in Alaska for FY 88 amounted to 951,923,460 gallons. No increase or decrease in consumption was estimated for future use.

Total Gross Gallons taxable under AS 43.40.010	837,755,216*
Tax Rate	<u>.02</u>
Total Revenue	<u>\$16,788,104</u>

\* Includes refund gallonage under current law.

FISCAL IMPACT \$25.0 CONTRACTUAL

One time cost for forms design, development, publication, postage and industry training. Additional costs for accounting of the proceeds from the surcharge will include data processing system upgrade and related equipment acquisitions.

**STATE OF ALASKA  
1989 LEGISLATIVE SESSION**

**BILL VERSION: CS HB 220  
PUBLISH DATE: 4/10/89**

**REQUEST: FISCAL NOTE**

Revision Date: \_\_\_\_\_ Agency Affected: DOT&PF  
 Title: An Act relating to motor fuels, petroleum and BRU: Engineering & Operations  
 chemical storage tanks, and investigation, ... Standards  
 Sponsor: Menard, M. Davis, Brown, et al. Components:  
 Requestor: House Finance

**EXPENDITURES/REVENUES: (THOUSANDS OF DOLLARS)**

OPERATING	FY 90	FY 91	FY 92	FY 93	FY 94	FY 95
PERSONAL SERVICES	0	0	0	0	0	0
TRAVEL	0	0	0	0	0	0
CONTRACTURAL	60.0	30.0	30.0	30.0	30.0	30.0
SUPPLIES	0	0	0	0	0	0
EQUIPMENT	0	0	0	0	0	0
LAND & STRUCTURES	0	0	0	0	0	0
GRANTS, CLAIMS	0	0	0	0	0	0
MISCELLANEOUS	0	0	0	0	0	0
<b>TOTAL OPERATING</b>	<b>60.0</b>	<b>30.0</b>	<b>30.0</b>	<b>30.0</b>	<b>30.0</b>	<b>30.0</b>

CAPITAL	65.0	65.0	65.0	65.0	65.0	65.0
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REVENUE	0	0	0	0	0	0
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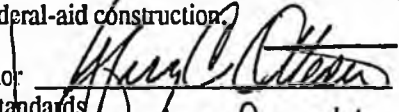
**FUNDING: (THOUSANDS OF DOLLARS)**

GENERAL FUND	60.0	30.0	30.0	30.0	30.0	30.0
FEDERAL FUNDS	65.0	65.0	65.0	65.0	65.0	65.0
OTHER	0	0	0	0	0	0
<b>TOTAL</b>	<b>125.0</b>	<b>95.0</b>	<b>95.0</b>	<b>95.0</b>	<b>95.0</b>	<b>95.0</b>

**POSITIONS:**

FULL-TIME	0	0	0	0	0	0
PART-TIME	0	0	0	0	0	0
TEMPORARY	0	0	0	0	0	0

**ANALYSIS:** The bill would require registration of most storage tanks operated by the department. An biennial fee of 2¢ per gallon of storage is to be charged. The department has approximately 800 tanks storing 3,000,000 throughout the state. This yields an biennial cost of \$60,000. In addition, there will be costs on construction projects for the "registration fees" for temporary tank installations and in the higher fuel costs borne by contractors. This is estimated to cost another \$40,000 in registration fees and \$25,000 in fuel surcharge fees. The majority of these construction related costs would occur on federal-aid construction.

Prepared by: Jeffery C. Ottesen, Director  Phone: 465-2951  
 Division: Engineering and Operations Standards Date: April 17, 1989

Approved by Mark S. Hickey, Commissioner:  Date: 4/17/89  
 Agency: Department of Transportation and Public Facilities

Distribution (by preparer):  
 Legislative Finance  
 Legislative Sponsor  
 Requestor  
 Office of Management and Budget  
 Impacted Agency(ies)

**Basis of Estimate**  
**Fiscal Note: CS HB 220**  
**Department of Transportation and Public Facilities**

**Tank Registration Fee:**

<b>Component</b>	<b># of tanks</b>
Highway & Aviation Maintenance Facilities	400
Equipment Fleet Tanks	100
International Airports	25
Harbors	75
Buildings	200
Total number of tanks	800
Total gallons of storage = 3,000,000	

At 2¢ per gallon =	\$60,000 first year
Every year thereafter =	\$30,000

Note: After the first year the department would pay one-half the registration early so that the amount required within the budget is constant after FY '90.

**Construction Related Tank Registration**

Estimate 50 projects per year with 4 tanks per project at 10,000 gallons per tank (average) =  
 $50 * 4 * 10,000 * 2¢ \text{ per gallon storage} =$  \$40,000

**Construction Fuel Surcharge**

Estimate 50 projects per year with 50,000 gallons average = 2,500,000 gallons fuel  
At 2¢ per gallon = \$50,000  
Less estimated allowance for fuel tax refunds (AS 43.40.030) @ 50% \$25,000