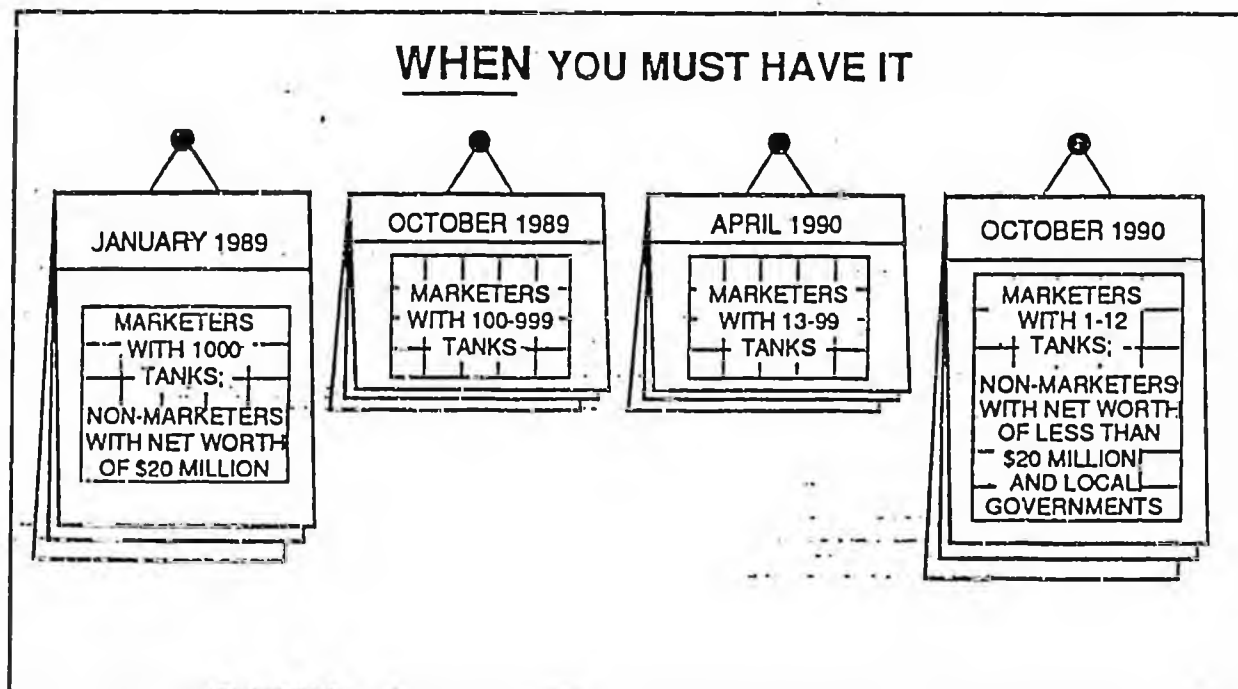
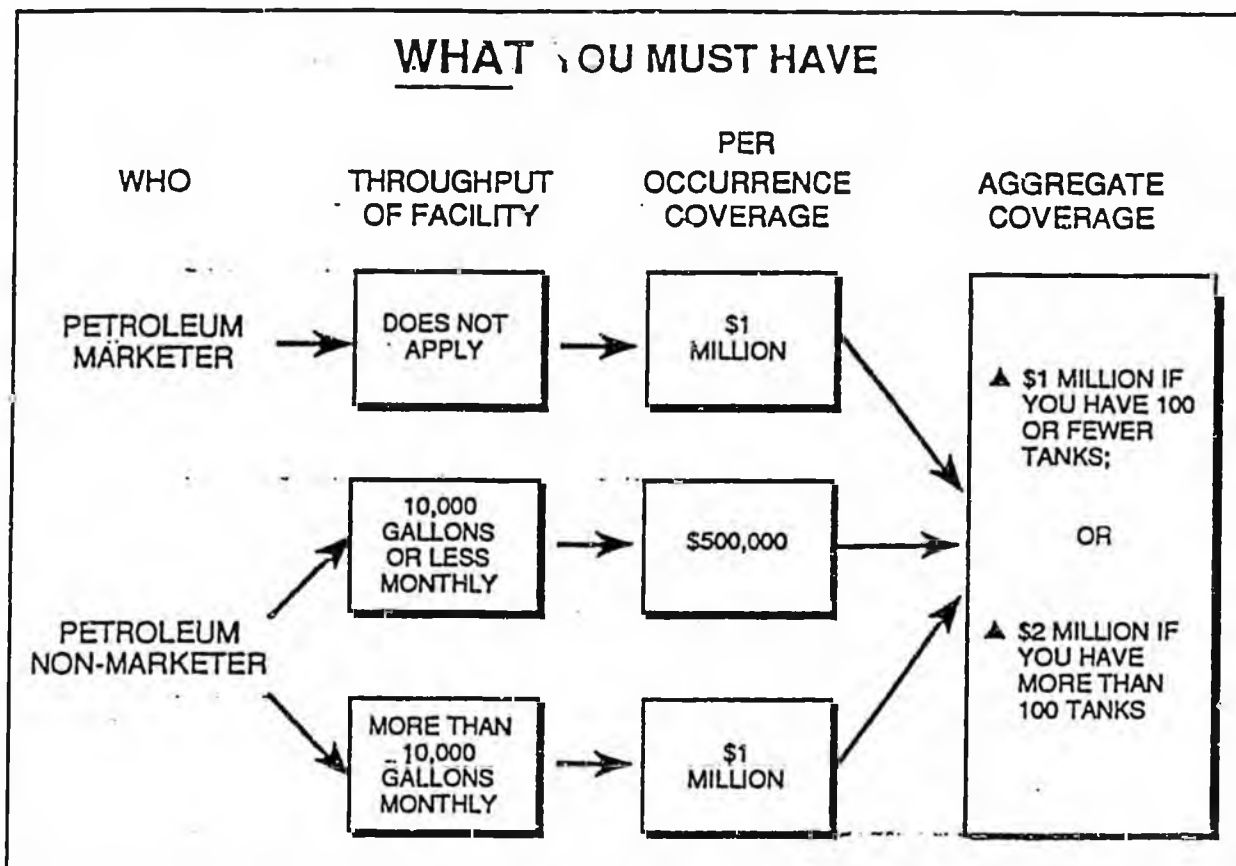


**BRIEFING -
UNDERGROUND
STORAGE
TANK
TELECONFER
-ENCE**

IMPORTANT REQUIREMENTS AND MINIMUM DEADLINES FOR YOUR FINANCIAL RESPONSIBILITY





ALASKA STATE LEGISLATURE
HOUSE OF REPRESENTATIVES
RESEARCH AGENCY

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January 31, 1989

MEMORANDUM

TO: Representative Mike Davis

FROM: Brad Pierce *BP*
Legislative Analyst

RE: Underground Petroleum Storage Tanks: Financial Responsibility
Research Request 89.120

Recent Environmental Protection Agency (EPA) regulations require owner/operators of underground storage tanks (USTs) to demonstrate one million dollars worth of financial responsibility to cover potential damage caused by leaks. You expressed concern that these rules could drive many gas station owners in Alaska out of business. You asked what other states are doing to comply with these rules and what could be done in Alaska to help owners of small businesses comply with these regulations.

We begin with a brief background discussion of the national UST situation, then explain enabling federal legislation and EPA financial responsibility regulations. Pollution insurance and other means of compliance, including a range of potential state assurance programs, are described. The final section focuses on the situation in Alaska and alternative means to fund a state financial assurance program to comply with EPA rules.

Attachment A contains summary descriptions of various state loan or grant programs to assist owner/operators of USTs to meet EPA technical requirements. Attachment B summarizes existing and proposed state financial assurance programs to cover the costs of cleaning up petroleum releases. Attachment C contains a series of letters and memorandums from various Alaska insurance and petroleum companies to DEC officials and legislators on the petroleum UST insurance situation in the state.

SUMMARY

Leaking underground storage tanks are a serious national problem. EPA financial responsibility rules will require small businesses (1 - 12 tanks) and municipal owner/operators of USTs to meet liability standards by October 24, 1990. Large petroleum firms will have little difficulty meeting financial assurance requirements. The EPA has not yet issued self-insurance requirements for municipalities, so their ability to meet requirements is unknown. The private UST insurance market for small owner/operators in Alaska may require some form of state financial assurance program.

States are allowed wide latitude in designing financial assurance programs. At least eight states have proposed or established loan or grant funds to assist UST owner/operators to meet technical requirements and make their tanks more insurable. The structure of a state financial assurance program influences the degree of compliance with federal requirements and will impose varying financial burdens on owner/operators and the general public. The two basic types of state assurance programs are insurance and guarantee programs. In general, guarantee programs that cover costs owner/operators cannot pay are the least expensive to the state and easiest to administer. Minnesota has a model guarantee program that provides incentives for insurers to enter the market by limiting their risk and for UST owner/operators to upgrade their tanks.

There are 4,954 recorded USTs in Alaska. Of the 72.3 million gallon UST volume in the state, the federal government owns 49 million gallons. Who pays for a state financial assurance program involves thorny public policy and political issues. Per tank or volume registration fees place the financial burden on UST owner/operators, while a motor fuels tax or general appropriation places the burden on the public. A per tank registration fee of \$100 (on eligible tanks) would generate \$430,000, a tank volume fee of one cent per gallon would generate approximately \$712,000, and a one cent increase in motor fuels tax would generate about \$475,000. There is a great deal of uncertainty in the UST situation in Alaska and a state financial assurance program deserves careful study and assessment of potential public costs.

General Background

Leaking underground storage tanks (USTs) are a significant source of hazardous waste contamination and pose a serious threat to groundwater quality.¹ Since over one-half of the U.S. population depends on groundwater for its primary source of drinking water, protection of the resource has become a national

¹Larry Morandi, "Underground Storage Tanks: State-Federal Relationship in Protecting Groundwater Quality," State Legislative Report, National Conference of State Legislatures, Vol. 13, No. 32, October 1988, p. 1.

issue. Gasoline and chemicals that leak from USTs have become one of the largest sources of groundwater pollution.² Overall, there are three to five million underground tanks in the U.S. that contain some type of hazardous substance. Of the 1.4 million USTs containing gasoline at nearly 500,000 facilities nationwide, about 80 percent are constructed of unprotected bare steel.³ The Congressional Research Service estimates that 75,000 - 100,000 of these tanks and their piping may be leaking and up to 350,000 could begin leaking within the next five years.

Federal Legislation

In 1984, Congress added a new section to the Resource Conservation and Recovery Act (RCRA) requiring the EPA to develop a comprehensive regulatory program for USTs. The program covers all USTs that store petroleum and substances defined as hazardous under the Comprehensive Environmental Response, Compensation and Liability Act (CERCLA, also known as Superfund). The RCRA provisions apply to any combination of tanks and pipes with 10 percent or more of their volume underground. Farm or residential tanks containing heating oil and USTs of 1,100 gallons or less used for storing motor fuel for noncommercial purposes are exempt.

Subtitle I of RCRA requires the EPA to establish UST regulations for tank notification, leak detection, record maintenance, reporting tank releases, corrective action, tank closure, financial responsibility and new tank performance standards. States can assume regulation of USTs from EPA by certifying that their program is no less stringent than federal requirements and provides for adequate enforcement. In 1986, Congress expanded the scope of the UST program with adoption of the Superfund Amendments and Reauthorization Act (SARA) that provides federal funds to clean up leaking USTs (commonly

²EPA experts have testified before Congress that one gallon of gasoline per day leaking into a groundwater source can pollute the water supply of a community of 50,000.

³Rena I. Steinzor, "Local Governments Must Comply with Tank Financial Responsibility Rules," Resource Recovery, Vol. 2, No. 5, December 1988, p. 28.

referred to as LUSTS). The act establishes a \$500 million, five-year LUST-Trust Fund to be financed via a 1/10 of one cent per gallon federal tax on motor fuels. The act requires the EPA to distribute the money to the states over a five-year period which began in the spring of 1987. Congress intended that the combination of a financial responsibility requirement and a fund to pay costs exceeding the amount of insurance coverage would encourage early reporting of releases and reduce financial uncertainty.⁴

EPA Financial Responsibility Requirements

Financial responsibility regulations for USTs containing petroleum products were published in the Federal Register on October 26, 1988 and become effective January 24, 1989.⁵ The new rules "require UST owners or operators to demonstrate financial responsibility for the costs of corrective action and compensation of third parties arising from release of petroleum from USTs." Owner/operators of USTs at facilities engaged in petroleum production, refining, or marketing with an average monthly throughput of more than 10,000 gallons must obtain financial assurance of at least \$1 million per occurrence.⁶ Those with USTs at facilities not engaged in petroleum marketing, etc. and with a monthly throughput of less than 10,000 gallons must obtain financial assurance of \$500,000 per occurrence. All owner/operators must maintain an annual aggregate of \$1 million or \$2 million, depending on the number of USTs assured.

The EPA recognizes that requiring all tank owners to comply with financial responsibility rules three months after their promulgation would result in massive noncompliance and create a heavy administrative burden on the agency. Pollution insurance is not yet available to a majority of tank owners. To allow time for states to develop funds, for insurers to develop and market policies aimed at different classes of tank owners, and for tank owners to meet insurers' criteria for coverage, the EPA is offering the following phased-in compliance schedule by category of tank owner:

⁴"SUPERFUND: Insuring Underground Petroleum Tanks," United States General Accounting Office Report to the Congress, January 1988, GAO/RCD -88-39, p. 13.

⁵ Environmental Protection Agency, "Underground Storage Tanks Containing Petroleum-Financial Responsibility Requirements and State Program Approval Objective; Final Rule," Federal Register, Wednesday, October 26, 1988.

⁶Two classes of owner/operators of petroleum USTs are exempt from financial responsibility requirements. These are 1) federal or state entities, and 2) those who are excluded from technical standards, e.g., farm or residential tanks of 1,100 gallons or less.

Table 1

Category of Tank Owner	Compliance Time After October 26, 1988 Promulgation			
	3 Months	12 Months	18 Months	24 Months
Petroleum Marketers by Number of Tanks	> 1,000	100 - 999	13 - 99	1 - 12
Other Businesses by Net Worth	> \$20 million	--	--	< \$20 million
Municipalities	--	--	--	All

UST owner/operators must submit documentation of financial responsibility if requested by the implementing agency (state agency or EPA). Additionally, they must notify the agency of their methods to demonstrate financial responsibility upon installation of new tanks and maintain records of their financial assurance methods on-site or at their place of business. Self-insurance criteria for municipalities will be issued at some unspecified future date. The EPA administrator may suspend enforcement of financial responsibility in certain states if owner/operators of USTs can demonstrate that 1) methods of financial responsibility are not generally available for USTs in their class or category, and 2) steps are being taken to establish either a risk retention group (RRG) or a corrective action and compensation fund. A suspension of enforcement may not exceed 180 days.

General Discussion of Insurance and Other Means of Compliance

Nationwide, approximately 52 percent of petroleum USTs (695,000 tanks) are located at retail motor fuel facilities. Of these, 24 percent are owned by major oil companies, 24 percent are jobber owned outlets, 8 percent convenience stores and 44 percent open dealers and independent gas station outlets. Large corporate owners of USTs should have little difficulty in self-insuring as reflected in the compliance schedule above. The EPA is in the process of developing a self-insurance test for municipalities. For most small businesses, pollution insurance and state financial assurance programs are expected to be the most feasible mechanisms to comply with the regulations. As a precondition of coverage, some insurers require that USTs be in compliance

⁷"Proposed Rules on Underground Storage Tanks Containing Petroleum: Financial Responsibility Requirements," Federal Register, Vol. 52, No. 74, Friday, April 17, 1987.

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with federal and state technical requirements (e.g., have leak detection and monitoring systems). At least eight states have established or proposed state loan or grant funds to assist UST owner/operators upgrade or replace old or deficient USTs to meet new federal technical requirements. Attachment A contains a summary description of these state UST loan and/or grant funds.

The National Association of Insurance Commissioners (NAIC) reports that as of October 1, 1988, there were six active UST insurers nationwide. The availability of insurance coverage in each state is dependent upon a variety of factors, e.g., geography, state environmental and insurance regulations, state legal decisions, tank population characteristics, etc. It is very unlikely that owner/operators of petroleum USTs over 20 years old will be able to obtain insurance on the open market. Most estimates appear to place the annual premium cost of UST insurance coverage for an average gas station in the \$2,000 - \$5,000 range, depending on the extent of coverage. The EPA expects markets for UST insurance to increase as states come into compliance with technical requirements, leaking tanks are identified and cleaned up, and insurers become more familiar with risks.

The EPA rules provide for a number of alternative methods (other than insurance) to assure financial responsibility. Alternatives are listed in Table 2.

Table 2

Methods Other Than Insurance to Demonstrate
Financial Responsibility

<u>Method</u>	<u>Definition</u>
Financial test of self-insurance	A firm must demonstrate that it has a large reserve of assets adequate to meet its obligations.
Risk-retention groups	Groups or associations of individuals who have a similar risk profile form a pool to provide liability coverage for members, usually because insurance coverage is otherwise unavailable.
State cleanup funds and other assurances	State-financed programs are permitted under financial responsibility rules if they are approved by EPA.
State-required mechanism	UST owner/operators may use a means that does not resemble any federally required mechanism if EPA determines it provides sufficient assurance of financial responsibility.
Letter of credit	A bank or other financial institution may issue a line of credit (or other financial instrument) to meet liability obligations of the customer.
Guarantee	One firm promises to pay scheduled debts or perform specified obligations of another firm, should the first party fail to perform.
Indemnity contract	A contract between two firms in which one firm promises to pay actual losses or damages which might be sustained by the other firm in the future.
Surety bond	A surety company makes an agreement with a tank owner guaranteeing that if the owner fails to perform corrective action or compensate injured third parties, the surety will perform.

The Range of State Assurance Program Options⁸

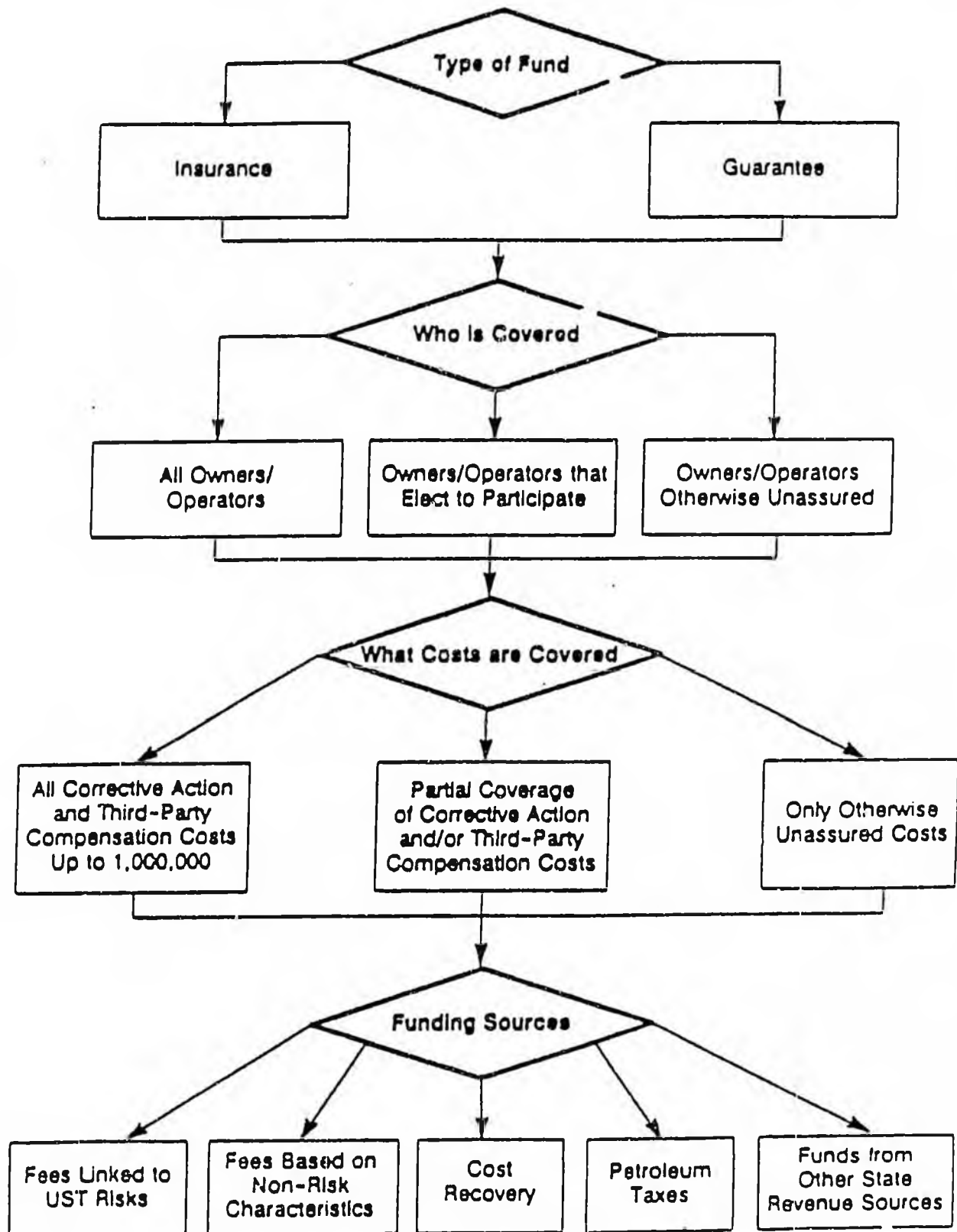
Under EPA financial assurance rules, states are allowed wide latitude in designing assurance programs. The structure of a state's program may influence the degree of compliance with financial responsibility requirements. It can also impose varying financial burdens on UST owner/operators, create incentives to prevent leaks and will affect taxpayers to differing degrees. The EPA has identified five main components of state assurance programs. Each of these components is briefly discussed below. Figure 1 shows how the various components relate to each other. Attachment B contains a national survey of state financial assurance programs for petroleum USTs.

1) Type of assurance. The two basic types of state assurance programs are insurance and guarantee programs. As an insurer, a state program pays for corrective costs and/or third-party compensation regardless of an owner/operator's ability to pay. A state insurance program could pay for all corrective action costs above a certain amount (e.g., \$100,000). Alternatively, the state could act as a reinsurer for private insurance companies and limit their liability to a certain amount (e.g., \$300,000). A guarantee program pays only if the owner/operator is unwilling or unable to pay. As a guarantor, the state could have the right to recover costs from the owner/operator.

2) Who participates in the program. The EPA has identified three broad approaches to who could participate in a state assurance program. First, the state may require all UST owner/operators to participate in the program. This would relieve owner/operators of locating and obtaining other financial assurance mechanisms for costs covered by the program. Where a program does not cover all requisite costs under federal rules (e.g., third-party compensation), owner/operators would have to obtain additional coverage. A second option is voluntary participation, where owner/operators have a choice of participating in the state program or utilizing other mechanisms to comply with federal rules. A third approach is allowing only those UST owner/operators who are otherwise unassured to join a state program. Thus, the state program might cover owner/operators who have coverage for third-party compensation but not for corrective action costs, or if an owner/operator could obtain only \$500,000 of coverage, the state program might cover the remaining liability up to \$1 million.

⁸Much of this section is taken directly from "Financial Assurance Programs: A Handbook for States," EPA, Office of Underground Storage Tanks, October 1988.

FIGURE 1
Potential Components of State Funds



Source: U.S. E.P.A. Office of Underground Storage Tanks, "Financial Responsibility for Underground Storage Tanks: A Handbook for State Financial Assurance Programs" October 1988

3) Costs covered by the program. There are several options for determining which costs should be covered by a state assurance program. In the most encompassing case, the state could cover all financial responsibility costs required by federal regulations including corrective action costs and third-party compensation costs. In the early years of the UST program when other mechanisms may not be available, this type of state assurance may be the only means that some owner/operators will have of complying with federal requirements. Some states (e.g., California) may offer an initial grace period during which all corrective action costs are covered to encourage cleanup of existing problems. The grace period and amount of coverage could be dependent on state receipt of LUST-Trust funds.

Another option would be for the state program to provide partial coverage for corrective action and/or third-party compensation costs greater than a set amount (perhaps \$100,000) and less than some ceiling (e.g., \$1 million). Figure 2 shows how this option could work with available state and federal funds to pay for clean up of a major discharge. A final option would be for a state program to cover only those costs that are otherwise unassured. Under this approach, the UST owner/operator would have to obtain coverage on his/her own and turn to the state program as a last resort, e.g., an owner/operator might be able to obtain \$500,000 coverage for corrective action and third-party liability costs and the state could provide the remaining amount of financial responsibility coverage. Several combinations and variations of these basic options for covering costs are possible.

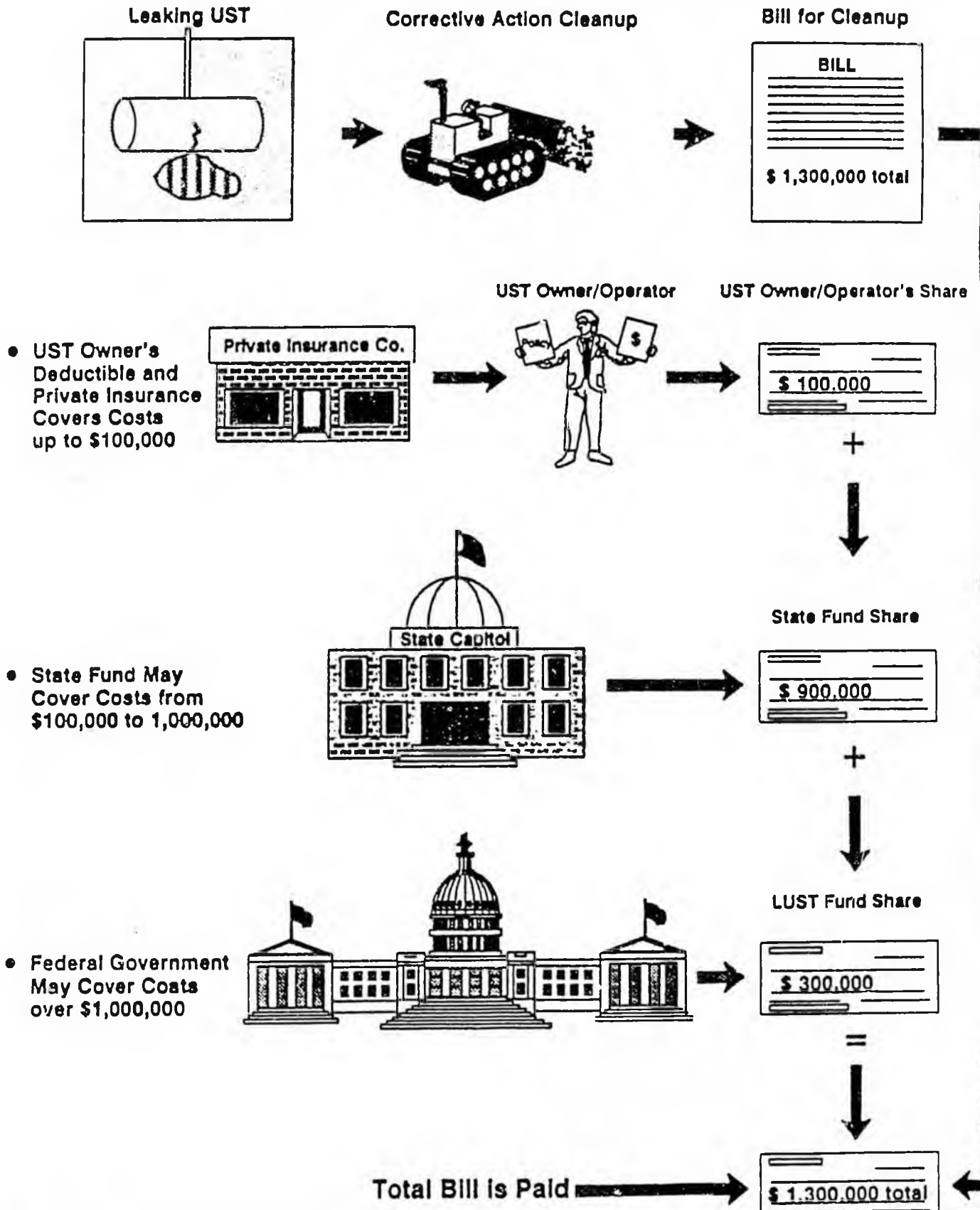
4) The method of financing the program. Funding sources to pay for state assurance programs can be separated into four categories. These are:

- risk-based fees;
- nonrisk based UST fees;
- petroleum taxes; and
- state general funds.

These options can be used in combination or at different times to finance a state assurance program. For example, a fund could be financed 1) by a combination of general fund appropriations and fees assessed on UST owner/operators or 2) initially by general revenues and later replaced by risk-based fees.

FIGURE 2

Paying for Corrective Action (assuming cleanup qualifies for State and Federal funds)



Under a risk-based fee approach, UST owner/operators could pay fees based on the risk posed by their tanks--based on volume, age, construction material, internal and external protection, piping material of the tank as well as the substance it contains--much like a regular insurance program. The state could charge participants an initial capitalization fee to build up the fund's reserves, similar to the charges necessary to set up a risk retention group. The advantage to this approach is that owner/operators with higher risk USTs would pay higher fees.

Under a nonrisk based approach, several financing sources could be used. These include tank registration fees, license fees, inspection fees and taxes on revenues of owner/operators of USTs. Alternatively, a state assurance program could be financed via taxes on petroleum production, distribution and/or sales. Finally, general appropriations, bond issues, property taxes or other state general funds not tied to petroleum or a UST owner/operator's activities could be used to finance an assurance program.

5) Duration of the program. It is likely that a state would want to scale-down or phase-out its financial assurance program as private insurance and other mechanisms become increasingly available. One means would be to have the amount of state financial assurance coverage decrease over a given period, (e.g., by increasing the deductible from \$100,000 to \$500,000 over five years) or have it end completely at a given date. Through a phase-out or sunset, a state can minimize its involvement in the UST insurance market.

The major concerns to state government of offering a financial assurance program to UST owner/operators is the program cost and ease of administration. In general, guarantee programs that cover costs the owner/operator cannot pay are likely to be the least expensive to the state and easiest to administer. Costs are also dependent on the type of financial method selected, with those financed primarily by owner/operators via tank or petroleum fees being less expensive to the state than general revenues or bonds.

Owner/operators of USTs are no less concerned with costs of the various approaches to state financial assurance programs. Approximately 90,000 firms nationwide operate retail motor fuel businesses from only one outlet.⁹ For these firms, insurance and other financial assurance mechanisms are not widely available at the present time. Generally speaking, the more UST owner/operators share in the costs of an assurance program, the greater the incentive

⁹"Financial Responsibility for Underground Storage Tank Releases: Financial Profile of Retail Motor Fuel Marketing Sector, Meredian Research, Inc. and Versar, Inc., (EPA Contract No. 68-01-7053).

they will have to control the risks posed by their tanks. Thus, guarantee programs, cost-recovery requirements and programs that require payments from tank owners (e.g., premiums paid to state-run insurance programs) are likely to be incentives for proper tank management.

An additional consideration is the fairness of a state assurance program. A program that is financed via fees levied only on UST owner/operators (e.g., tank fees) may be viewed as more equitable by the public than a petroleum tax, although consumers pay for the program (through higher petroleum product prices) under both options.¹⁰ Among different categories of UST owner/operators there may be disagreement over the fairness of various financing mechanisms. A fee based on petroleum volume might be opposed as unfair by large marketers because they may be able to self-insure rather than rely on a state fund. Conversely, smaller marketers and dealers might favor such a fee because the burden of financing the state fund would be spread across a larger group.

Finally, the design of a state assurance fund may affect the current and future availability of private UST insurance. If a mandatory state assurance fund acts as an insurer, UST owner/operators may be able to obtain coverage at attractive rates and the state could become highly competitive with private insurers. This could raise public policy questions about the proper role of government. On the other hand, if an assurance program acts only as a guarantor, competition with insurers may be low. Where states establish limited coverage funds (e.g., to pay corrective costs above \$100,000), private insurers will have their liability limited and may offer complementary coverage (i.e., for amounts up to \$100,000). This increases the predictability of expected losses, reduces capitalization costs, and provides an incentive for private insurers to enter the market.

¹⁰Note that with declining crude oil prices, the margins of petroleum refiners and wholesalers have increased in recent years as they have not passed on their lower input costs to consumers of motor fuels at the retail level. Thus, a petroleum tax applied at the wholesale level might be at least partially absorbed by primary distributors and not completely passed along to consumers, depending on the competitive environment in the state.

The Situation in Alaska

According to the DEC, there are 4,954 recorded USTs in Alaska, located at 1,836 facilities statewide.¹¹ The average site has 2.6 tanks. Of the 72.3 million gallon total UST volume in Alaska, the federal government owns 49 million gallons and state government owns 1.2 million gallons of tank volume. Both are exempt from EPA financial responsibility requirements. Table 3 provides a statistical summary of the characteristics of USTs in the state. The DEC is presently in the initial stages of developing a comprehensive statewide UST program. The Governor plans to introduce legislation which provides the DEC with authority to regulate USTs.

As in other states, large petroleum UST owner/operators in Alaska should have little difficulty meeting financial assurance criteria. It is also likely that municipalities in the state could organize to form some kind of risk retention group, depending on the final formulation of EPA self-insurance rules. According to Stan Osborne, UST Program Manager, the market for affordable private UST insurance for small owner/operators in Alaska is dismal. To meet the EPA compliance schedule for small owner/operators, some form of state assurance program will almost certainly be necessary.¹² Additionally, the legislature may decide that a loan or grant program is needed to assist small UST owner/operators in upgrading and retrofitting their tanks to meet technical requirements (and make them insurable).

¹¹DEC officials speculate that their records account for approximately 70 percent of UST owners in Alaska. Source: Stan Osborne, UST Program Manager, January 1988.

¹²From the comments received by EPA on the financial responsibility regulations, it is likely that the compliance schedule for small UST owner/operators will have to be lengthened beyond October 24, 1990. However, Alaska cannot count on this and the DEC must demonstrate that it is developing a state assurance program (even if the agency can prove that private insurance is unavailable) to get an extension on compliance from EPA.

TABLE 3

-WARNING- No rows satisfy the WHERE clause

UST DATABASE SUMMARY STATISTICS REPORT as of 16:19:40 13 JAN 1989

Type of Owner:	Current:	1,822
	Former:	5
	State/Local Govt:	350
	Fed Govt:	165
	Private/Corp:	1,320
	Uncertain:	8

Number of Facilities:	1,836
Number of Tanks:	4,954

Number of Facilities on Indian Reservations:	7
Number of Amended or Subsequent Forms:	16

Tank Status:	Currently In Use:	4,393
	Temp Out of Use:	257
	Perm Out of Use:	301
	Brought Into Use After 5/8/86:	136

Average Age:	12.2 Years	Tanks with Unknown Age:	395
Average Capacity:	96,998 Gallons	Tanks with Unknown Capacity:	84

Tank Age Distribution:

0 to less than 5 years:	1,196	25 to less than 30 years:	202
5 to less than 10 years:	1,031	30 to less than 40 years:	349
10 to less than 15 years:	827	40 to less than 50 years:	106
15 to less than 20 years:	445	50 to less than 75 years:	7
20 to less than 25 years:	389	75 to less than 99 years:	5
Missing Age	2		

Material of Construction:

Steel:	4,463
Concrete:	36
Fiber Glass-Plastic:	123
Unknown:	341
Other:	70

Internal Protection:

Cathodic Protection:	125
Interior Lining:	206
None:	1,875
Unknown:	2,698
Other:	73

External Protection:

Cathodic Protection:	325
Painted:	2,530
Fiberglas-Plastic:	120
None:	564
Unknown:	1,506
Other:	144

Piping Material:

Bare Steel:	1,403
Galvanized Steel:	1,879
Fiberglas-Plastic:	98
Cathodic Protection:	138
Unknown:	1,158
Other:	593

Substance:

Empty:	223
Petroleum-Diesel:	1,545
Petroleum-Kerosene:	86
Petroleum-Gasoline:	2,377
Petroleum-Used Oil:	352
Other:	592
Hazardous:	25
Unknown:	77
Mixture of Products:	14

Availability of insurance. From a private insurer's viewpoint, Alaska's geographic location and small market makes servicing accounts difficult and costly. At least one insurer lists the state's legal climate as a significant deterrent (see Attachment C). Secondary insurers such as Lloyd's of London have (understandably) shown little inclination to get involved in the pollution insurance market in the U.S., which means that a primary insurer of USTs must bear the entire policy risk with little actuarial information upon which to measure the extent of their exposure. This makes private insurers very cautious about entering the UST market, particularly in Alaska, where climatological factors add to the uncertainty. For a UST owner/operator, the cost of extensive engineering inspection and adjustment fees required by even a willing insurer (in addition to policy premiums) can be prohibitive.

Mr. Osborne thinks that a program similar to the Minnesota Petroleum Tank Release Cleanup Fund might be the best approach for a state assurance fund in Alaska (see Attachment A for a summary description of the Minnesota program). This fund provides for reimbursement of 75 percent of eligible corrective action costs greater than \$10,000 but less than \$100,000.¹³ It does not cover third-party damages or releases that occurred before a specified date. To qualify for reimbursement, UST owner/operators must be in compliance with state and federal technical requirements at the time of the release.

The Minnesota program is very well conceived. By providing state coverage for the type and range of corrective action costs that most closely correspond to average claims experienced by existing private insurers, it provides a substantial hedge against risk and an incentive for insurance companies to enter the market. It also provides incentives for UST owner/operators to comply with technical requirements in a timely manner. The Alaska legislature might direct the DEC and Division of Insurance to draft regulations for a similar guarantee program (based on experience to date with UST clean up costs in the state) and solicit responses from private insurers.

¹³ According to the GAO, the two major U.S. insurers of USTs report that claims incurred against them have averaged less than \$30,000 for one and between \$80,000 and \$100,000 for the other; most were under \$25,000. As of August 1987, the largest claim incurred by one was \$3.5 million and \$500,000 by the other. Virtually all claims have been paid for clean up and only a few claims have been for third-party damages. Source: "SUPERFUND", p. 24.

Existing funds. Any state assurance program would complement existing clean up funding. Presently, the DEC administers three special cleanup funds which could be used for corrective action costs of UST spills not otherwise covered under a financial assurance program. These are described below.

- LUST-Trust federal funding may be used for UST problems only. During FY 87 and 88, the DEC received \$1.158 million and expended approximately \$830,000 to clean up 11 sites. The DEC expects to receive another \$1,63,000 during (federal) FY 89.
- The Oil and Hazardous Substance Response Relief Fund can be used for cleaning up all hazardous wastes and has a current balance of \$1.593 million after expending approximately \$330,000 in FY 88 to clean up 11 large spills and 51 smaller spills.
- The FY 89 Kenai Special Projects Fund was a \$851,000 appropriation to clean up hazardous waste contamination of all types in the Kenai Peninsula area. The money was used for an inventory of potential sites, investigation and clean-up of three major spills. DEC is seeking \$1.292 million to continue this project in FY 90.

Financing a state assurance fund. Who pays for a state assurance program presents thorny political and public policy issues. An argument can be made that UST pollution is everyone's problem and therefore a state clean-up assurance fund should be paid for via general appropriations or a petroleum tax. Small UST owner/operators would clearly favor this approach because it would not cost them anything and would not favor larger operators who could self-insure. Since there is no individual income or state sales tax in Alaska, the public might favor general appropriations over use taxes that would affect them personally. On the other hand, an argument can be made that UST leaks are primarily caused by irresponsible tank operating practices and that the burden of financing an assurance program should fall on owner/operators.

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The DEC may be able to charge a permit or registration fee on tanks that are exempt from financial responsibility requirements. Since the federal government owns 68 percent of the volume of USTs in Alaska, this could shift some of the burden of financing an assurance program off of small operators and onto the federal government. The DEC presently has no means to collect or administer a fee program. Administration and collection of fees or taxes for an assurance program could be performed by another state agency.

There appear to be three basic funding options to capitalize and/or operate a state assurance fund. Excluding 347 state-owned tanks from the 4,650 USTs statewide currently in use (or temporarily out of use), a per tank registration fee of \$100 would generate about \$430,000. Another option is a volume-based registration fee. The average statewide tank capacity recorded by DEC is 96,998 gallons. Excluding state tank volume of 1.2 million gallons, a penny per gallon fee would generate approximately \$711,000. (Gas stations generally have three tanks of 10,000 - 12,000 gallons each, which would cost \$300-\$360 to register under this fee schedule.) A UST motor fuels tax could be applied on top of existing motor fuel taxes. According to the Department of Revenue, the total taxable distribution of motor fuels in FY 88 was 47.5 million gallons. Thus, a one cent per gallon increase in the motor fuel tax would have generated approximately \$475,000.¹⁴

¹⁴Under As 43.40.010, motor fuel taxes are charged on gasoline used in aircraft -4 cents per gallon, other fuel used in aircraft -2.5 cents per gallon, fuel used in or on watercraft -5 cents per gallon, and fuel used in an internal combustion engine other than marine and aviation engines -8 cents per gallon. Sixty percent of aviation fuel taxes collected each year are shared with municipalities having airport facilities, with the remainder paid into the aviation fuel tax account of the general fund. Other fuel taxes are deposited into separate accounts of the state general fund.

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The appropriate level of funding for a state assurance program will depend on the extent of coverage. We have offered a variety of program options in this memorandum. Among states with existing assurance programs, there have been some notable failures (e.g., Florida) where state government has offered a comprehensive insurance type program and been overwhelmed with corrective action costs. It is likely that an initial capitalization of an assurance program fund (perhaps several million dollars) could be used up fairly quickly if the DEC were to adopt strict enforcement and inspection procedures. The DEC may not even be aware of some of the highest risk USTs. There is a great deal of uncertainty about the magnitude of the LUST problem in Alaska. An extensive assurance program could potentially incur large public liabilities.

* * *

The issues involved for state governments in meeting EPA financial assurance requirements are extremely complex and deserve careful consideration. The federal rules and their implications are new to DEC personnel and will take time to understand. There are many unanswered questions at this time. The Governor's Office is in the final stages of drafting a bill to allow the DEC to regulate USTs. The figures provided in this memorandum should allow any number of potential funding scenarios to be developed. I regret that I have not been able to fully articulate the state's options in this memorandum because of time constraints. I urge you and your staff to contact Karen Paulick or Stan Osborne at DEC (465-2630) if you have questions.

Attachments

Certification Work Draft

1 IN THE HOUSE

BY MENARD

2 HOUSE BILL NO.

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 persons who perform work relating
7 to petroleum and chemical storage tanks; and provid-
8 ing for an effective date."

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

10 * Section 1. AS 08.18 is amended by adding a new section to read:

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13 contractor to install, repair, and test petroleum and chemical storage
14 tanks if the applicant for endorsement meets the requirements that the
15 department establishes by regulation and pays the applicable fee.

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18 section. The requirements may include training, education, experi-
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20 tions, and other appropriate factors. The requirements must be
21 designed to ensure that a person with an endorsement issued under this
22 section is qualified to install, repair, and test petroleum and
23 chemical storage tanks in a manner that complies with standards
24 established by the Environmental Protection Agency.

25 (c) An endorsement issued under this section expires at the same
26 time as the certificate of registration to which it attaches. An
27 endorsement may be renewed upon satisfactory completion of continuing
28 education requirements established by the department by regulation.

29 (d) A person may not install, repair, or test or offer to

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2 an endorsement issued under this section. A person who violates this
3 subsection is guilty of a class A misdemeanor.

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4 substance is a solid waste;

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13 through processes of separation, conversion, upgrading, and finishing,
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17 devices that are designed to contain an accumulation of petroleum or
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* Sec. 11. Except as provided in secs. 9 and 10 of this Act, this Act takes effect January 1, 1990.




Alaska State Legislature

HOUSE OF REPRESENTATIVES
COMMITTEE ON RESOURCES

POUCH V
JUNEAU, ALASKA 99811
(907) 462-3715

MEMORANDUM

To: All House Members
From: Rep. Curt Menard 
re: Leaking Underground Storage Tanks (LUST)
Date: February 23, 1989

Attached are two bills which I will be introducing over the next few days. These bills address the problem of leaking underground storage tanks. There have been 72 sites of documented, human-caused ground water contamination in Alaska to date, 68% of which are due to petroleum products.

In response to a national ground water contamination problem, the Environmental Protection Agency in November of 1988, promulgated regulations that required underground storage tank owners to upgrade their tanks, install leak detection and monitoring and obtain 1 million dollars worth of pollution liability insurance. For tank owners such as gas station owners and other small businesses, these costs will be prohibitive and may force many into bankruptcy if they also must pay the costs of cleaning up contaminated soil and water. Presently in Alaska it is virtually impossible to obtain liability insurance for underground storage tanks.

The first piece of legislation requires the certification of installers who perform work related to underground storage tanks. It is very important that tank owners are assured that when they spend thousands of dollars to install new tanks, lines and leak detection, that the installers are qualified and that the equipment works properly and prevents future releases.

The second piece of legislation would give the Alaska Department of Environmental Conservation the authority to prevent and abate the problems caused by leaking underground storage tanks. Presently they only have authority to regulate tanks of 10,000 barrels or greater. Tanks of small and medium sizes can pose as great a risk to drinking water as larger tanks.

The bill would also assist small tank owners in complying with the standards required by EPA through technical assistance, state guaranteed loans and short term financial assistance for

clean up of contaminated sites. The financial assistance will help in addressing the million dollar liability requirement by EPA and will provide an incentive for tank owners to report spills. Many other states have already implemented similar programs or are in the process of passing this type of legislation. Attached is a summary of legislation in other states.

The bill sets up an account in the Hazardous Substance Release Response Fund to provide clean up funds and financial assistance. It would be funded by a 2 cent per gallon increase in the motor fuels tax as well as fees assessed on individual tanks.

Unless we take some affirmative action, the state of Alaska will continue to face million dollars of clean up costs in the future due to contamination of ground water.

These bills are not in set in stone. We would appreciate any comments and proposed changes which you may have. Please contact Marilyn Heiman, 465-4944 in my office if you have any comments, questions or would like to co-sponsor either piece of legislation.

Table 1. Summary of Alaska Inventory of Contaminated Aquifers (AICA),
October 1986 to June 1987.

Site no. ^a	Site name	Site location	Contaminated public water supplies	Type of contamination	Volume of spill or leak (gal)	Contaminant found	Aquifer	Depth to water table (ft)
NORTHERN REGION								
2-5	Air North Terminal	Fairbanks	1	Fuel	40	Benzene, ethylbenzene, xylenes	-	-
1-10	Campion AFS ^b	Galena	0	Fuel	-	-	Sand and gravel	-
1-7	Chevron Tank Farm	Nome	0	Fuel	-	Fuel	-	-
2-12	Eielson AFB ^c	Eielson	1	Fuel	-	Lead, oil, and grease, TOH ^d	Sand and gravel	5-10
1-16	Eielson ski lodge	Eielson	1	Fuel	-	Benzene	-	-
2-4	Fairbanks MUS ^e	Fairbanks	1	Fuel	-	Benzene	Sand and gravel	10-20
2-3	Fairbanks bulk plants	Fairbanks	0	Fuel	-	Fuel	Sand and gravel	14
2-6	Fairbanks landfill	Fairbanks	0	Leachate	-	Sodium chloride, iron, manganese	Sand and gravel	6-19
1-5	Ft. Yukon School District	Ft. Yukon	1	Fuel	-	Diesel oil	-	-
1-9	Galena airfield	Galena	1	Fuel	-	Benzene	Gravel and sand	14-21
2-8	Hazels Highlights	North Pole	1	Bacteriological	-	Coliform	-	-
1-4	Indian Mtn. AFS ^b	Hughes	0	Fuel	140,000	Fuel	-	-
1-2	Kotzebue	Kotzebue	0	Fuel	200,000	#2 diesel	-	6
1-3	Kotzebue AFS ^b	Kotzebue	0	Fuel	-	Fuel	-	-

^a Figure number - Location number on figure

^b Air Force Station

^c Air Force Base

^d Total Organic Halogens

^e Municipal Utilities System

^f Petroleum Oil and Lubricants

^g Public Health Service

^h Trans-Alaska Pipeline System

ⁱ University of Alaska

^j Ukpogvik Inupiat Corporation/Naval Arctic Research Laboratory

^k U.S. Coast Guard

^l Department of Health and Human Services

- Unknown or not applicable

Table 1. (con.)

Site no. ^a	Site name	Site location	Contaminated public water supplies	Type of contamination	Volume of spill or leak (gal)	Contaminant found	Aquifer	Depth to water table (ft)
1-13	Manley Hot Springs	Manley	0	Fuel	-	Fuel	-	-
2-10	Mapco Petroleum Company	North Pole	1	Fuel	100,000	Petroleum products	-	-
1-15	Minto School	Minto	1	Fuel	6,000	#1 diesel	Bedrock	40
2-11	Petro Star Refinery	North Pole	1	Fuel	-	Benzene	Sand and gravel	-
2-7	POL ^f Tank Farm	Ft. Wainwright	1	Fuel	-	Fuel oil	-	-
1-6	Q Trucking	Nome	0	Fuel	30,000	Unleaded gas	-	-
1-20	Sourdough Roadhouse	Gakona	1	Fuel	-	Benzene	-	-
1-19	State Trooper housing	Tok	1	Solvents/ detergents	-	Paradichloro- benzene, LES (detergents)	-	-
2-9	Stage Stop Texaco	North Pole	1	Fuel	-	Benzene, ethyl- benzene, toluene, xylene	-	-
1-11	Tanana PHS ^b Hospital	Tanana	1	Fuel	-	Fuel	-	-
1-12	Tanana Well #2	Tanana	1	Bacteriological	-	Coliform	-	-
1-14	TAPS ^h check valve 68A	Milepost 430, TAPS ^h	0	Fuel	3,780	Crude oil	-	4-18
1-17	Tok River campground	Tok	1	Fuel	-	Oil and grease	-	-
2-2	UAF ⁱ Geist Well	Fairbanks	1	Fuel	-	Benzene	-	-
2-1	UAF ⁱ warehouse	Fairbanks	1	Fuel	-	Benzene	-	-
1-1	UIC/NARL ^j facility	Point Barrow	0	Fuel	830,000	Fuel	Gravel and sand	3
1-18	USCG ^k Loran Station	Tok	1	Fuel	-	Fuel	-	-
1-8	White Mtn. Washeteria	White Mountain	1	Fuel	2,500	Fuel oil	-	-

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Site no. ^a	Site name	Site location	Contaminated public water supplies	Type of contamination	Volume of spill or leak (gal)	Contaminant found	Aquifer	Depth to water table (ft)
SOUTHCENTRAL REGION								
1-24	Akiak	Akiak	1	Fuel	-	Oil and grease	-	-
3-5	Alaska Husky Battery	Anchorage	0	Chemical	-	Sulfates	Sand and gravel	8-11
3-7	Alaska Railroad Yard	Anchorage	0	Fuel, chemical	-	Benzene, xylenes, arsenic, chromium	Sand and gravel	9-10
1-35	Amchitka Island	Amchitka Island	0	Radioactivity	-	Gross alpha, gross beta, tritium	Rock	-
4-8	Anchor Point	Anchor Point	1	Fuel	100	Aromatic hydrocarbons, benzene	Gravel and sand	24-52
4-1	Arness Dock	Nikiski Wharf, Kenai Peninsula	0	Fuel	3,000	Fuel	-	-
4-4	Buckingham Well	Kenai	0	Fuel	50	#2 fuel oil, benzene	-	-
1-27	Rutte landfill	Matanuska-Susitna Borough	0	Leachate	-	Iron, manganese	-	-
1-29	Chitina Cafe	Chitina	1	Fuel	-	Oil and grease, other hydrocarbons	-	-
1-23	Chuathbaluk	Chuathbaluk	1	Fuel	-	Oil and grease	-	-
3-2	Debora/Schroeder	Municipality of Anchorage	1	Bacteriological	-	Coliform, nitrate, chloride, fluorescein	-	-
3-10	DIHS ¹ 12A	Anchorage	0	Bacteriological	-	Coliform	Sand and gravel	5-12
3-9	DIHS ¹ 33	Anchorage	0	Bacteriological	-	Coliform	Sand and gravel	7-8
3-3	Elmendorf AFB ^C	Anchorage	0	Fuel	148,000	Fuel	-	-

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1-25	Fishhook West Subdivision	Wasilla	1	Bacteriological	-	Coliform	-	-
3-8	International Airport landfill	Anchorage	0	Leachate	-	Iron, manganese, DOC	-	-
4-6	Iron's Subdivision	Soldotna	0	Fuel spill	-	Benzene	Sandy gravel	-
1-33	King Salmon AFS ^b	King Salmon	0	Fuel	-	Fuel	-	spring
1-28	Knik Bar	Wasilla	1	Bacteriological	-	Coliform	-	-
1-31	Koliganek	Koliganek	1	Fuel	-	Ethylbenzene, xylenes	-	-
1-21	Marshall	Marshall	1	Fuel	-	oil	-	-
1-22	Mekoryuk	Nunivak Island	1	Bacteriological, salt-water intrusion	-	-	-	-
3-6	Merrill Field	Anchorage	0	Leachate	-	-	-	-
4-3	Old Kenai dump	Kenai	0	Leachate	-	Oil and grease, iron, manganese, chromium	Sand	20-30
3-1	Peters Creek	Municipality of Anchorage	2	Fuel	-	Benzene, toluene, xylene	Sand and gravel	80-110
4-7	Poppy Lane	Soldotna	0	Drilling fluids	2,500	Drilling mud, glycol, gas-field condensate	Sand and gravel	8-12
3-4	Port of Anchorage	Anchorage	0	Fuel	-	Fuel oil, oil and grease	Sand and gravel	9-32
4-5	Sadler's Furniture Store	Sterling	1	Fuel	-	Benzene	-	-
1-34	Shemya AFB ^c	Shemya	0	Fuel, saltwater intrusion	-	Fuel, saltwater	-	-

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1-32	Sparrevohn AFS ^b	SW Alaska	0	Fuel	-	Diesel fuel	-	-
4-2	Union Chemicals	Kenai	0	Processing waste	-	Arsenic, ammonia, nitrate, nitrite, urea	-	-
1-30	Whittier Creosote	Whittier	0	Creosote	-	Creosote	-	-
SOUTHEASTERN REGION								
5-2	Bayview Apartments	Auke Bay	1	Bacteriological, saltwater intrusion	-	Coliform, saltwater	-	-
5-5	Charlies Marine	Juneau	0	Fuel	-	Benzene, chlorobenzene, ethylbenzene	-	-
5-4	Gamon Duplex	Juneau	1	Fuel	20	Benzene, ethylbenzene	Sand and gravel	20-30
5-1	Indian Cove	Juneau	2	Saltwater intrusion	-	Sodium chloride, dissolved solids	Bedrock	20-110
1-36	Ocean Cape	Phipps Peninsula	0	Saltwater intrusion	-	Chloride	Gravel and sand	24
5-3	Taco Bell	Juneau	1	Fuel	20	Benzene, toluene	-	-
1-37	Ketchikan Union 76	Ketchikan	0	Fuel	-	Fuel	-	-

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6-0693E.
Lauterbach
2/23/89

Work Draft on Assistance to tank owners

By Menard

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7 cal storage tanks, and containment and cleanup of oil
8 and hazardous substances; and providing for an effec-
9 tive 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 regulate petroleum and chemical
13 storage tanks and to establish mechanisms that will assist the owners of
14 small underground petroleum storage tanks to comply with federal and state
15 requirements governing their tanks. The legislature recognizes that these
16 owners may be faced with expenses that they cannot immediately afford for
17 liability insurance, the costs of upgrading or replacing their tanks, and
18 the costs of cleaning up past contamination related to their tanks. The
19 legislature intends to help these owners through a combination of technical
20 assistance, loan guarantees, and other program features, but only if these
21 owners have complied with previous state and federal laws and only if they
22 promptly comply with the new requirements of this Act.

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

24 Sec. 43.40.015. ADDITIONAL TAX LEVY ON MOTOR FUEL. (a) In
25 addition to the tax levied by AS 43.40.010, there is levied an excise
26 tax of two cents a gallon on all motor fuel subject to tax under
27 AS 43.40.010.

28 (b) The tax imposed by (a) of this section shall be collected
29 and remitted in the same manner as the tax levied and collected under

1 AS 43.40.010 except that the proceeds of the tax may not

2 (1) be returned to municipalities under AS 43.40.010(e);

3 (2) be deposited in any special account authorized under
4 AS 43.40.010, but shall be remitted to the commissioner of revenue for
5 deposit into the general fund.

6 (c) The commissioner of administration shall separately account
7 for the proceeds of the tax collected under this section and deposited
8 into the general fund. The legislature may use the annual estimated
9 balance in the account to make appropriations to the Department of
10 Environmental Conservation for the underground petroleum storage tank
11 account established under AS 46.08.015.

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

13 (a) A person who resells fuel on which the tax under AS 43.40.-
14 010(a) or (b) or 43.40.015 was previously paid is entitled to a credit
15 or refund of the tax if (1) the resold fuel is not motor fuel and the
16 requirements of AS 43.40.010(1) have been fulfilled; or (2) the amount
17 of tax previously paid exceeds the tax due on the resale. The amount
18 of the credit or refund under this section is equal to the amount of
19 tax previously paid on the resold fuel less the amount of tax pre-
20 scribed by AS 43.40.010(a) or (b) or 43.40.015.

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

22 ARTICLE 6A. PETROLEUM AND CHEMICAL STORAGE TANKS.

23 Sec. 46.03.350. APPLICABILITY. AS 46.03.350 - 46.03.450 apply
24 to aboveground and underground petroleum or chemical storage tanks,
25 and, along with implementing regulations adopted by the department,
26 may be enforced against a person who owns, possesses, or controls a
27 tank described in this section.

28 Sec. 46.03.360. REGULATION OF STORAGE TANKS. (a) The depart-
29 ment shall develop and implement a program to prevent and abate

1 pollution from aboveground and underground petroleum and chemical
2 storage tanks through the adoption of regulations. Consistent with
3 other provisions in AS 46.03.350 - 46.03.450, the regulations may
4 govern

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

18 (b) The department may distinguish between the sizes, types,
19 classes, and ages of storage tanks in the regulations adopted under
20 (a) of this section. The department may also distinguish between
21 persons who own or operate only a few storage tanks and persons who
22 own or operate many storage tanks.

23 (c) The state may delegate authority to a municipality to imple-
24 ment a program with regulatory requirements at least as strict as
25 those in AS 46.03.350 - 46.03.450 and the regulations adopted under
26 those statutes.

27 Sec. 46.03.370. INSPECTIONS. An aboveground or underground
28 petroleum or chemical storage tank regulated under AS 46.03.350 -
29 46.03.450 is subject to inspection by the department to ensure

.1 compliance with AS 46.03.350 - 46.03.450 and the regulations adopted
2 under those sections.

3 Sec. 46.03.380. TECHNICAL ASSISTANCE. The department shall
4 contract for services to be provided to persons who own at least one
5 but fewer than 11 small underground petroleum storage tanks to assist
6 them in understanding how to comply with federal and state laws and
7 regulations applicable to their tanks. A representative of the de-
8 partment designated to give advisory or consultative services under
9 this section may not have enforcement authority.

10 Sec. 46.03.390. LOAN GUARANTEES. The department may guarantee
11 up to 90 percent of a loan made to a person who owns at least one but
12 fewer than 11 small underground petroleum storage tanks for the costs
13 of labor and materials for

14 (1) site inspection and evaluation of the status of a small
15 underground petroleum storage tank;

16 (2) cleanup costs, including restoration of the environ-
17 ment, associated with a release from a small underground storage tank;

18 (3) retrofitting, repairing, or replacing a small under-
19 ground petroleum storage tank to meet federal or state requirements;
20 and

21 (4) installing leak detection and monitoring devices for a
22 small underground petroleum storage tank.

23 Sec. 46.03.400. NOTIFICATION AND REGISTRATION REQUIREMENTS. A
24 person who intends to install a storage tank shall notify the depart-
25 ment at least 30 days before installing the tank. After installing a
26 storage tank, the owner shall register the tank with the department on
27 a form provided by the department. The owner shall annually renew the
28 registration. The owner shall specify on the registration form, to
29 the extent known by the owner, the location, size, type of

1 construction, and age of the tank and the type of petroleum or chemi-
2 cal stored in the tank. If the tank is not in operation, the owner
3 shall also specify on the registration form, to the extent known by
4 the owner, the date the tank was taken out of operation and the quan-
5 tity of petroleum or chemical left in the tank when it was taken out
6 of operation. For a storage tank installed after July 1, 1989, the
7 registration required under this subsection shall be within 120 days
8 after the installation.

9 Sec. 46.03.410. REGISTRATION FEE. At the time of registration
10 and renewal of registration under AS 46.03.400, the owner shall pay to
11 the department a registration fee of \$.01 per gallon based on the
12 capacity of the tank being registered. The department shall deposit
13 fees collected under this subsection in the general fund. The commis-
14 sioner of administration shall separately account for fees deposited
15 under this subsection. The legislature may appropriate the annual
16 estimated balance of the account to the underground petroleum storage
17 tank account established under AS 46.08.015.

18 Sec. 46.03.420. EXEMPTIONS. (a) AS 46.03.350 - 46.03.450 do
19 not apply to a storage tank with a capacity of 1,100 gallons or less
20 at a farm, or at a residence that is a single-family dwelling or
21 duplex, if the storage tank is used for storing motor fuel that is not
22 intended for resale.

23 (b) AS 46.03.350 - 46.03.450 do not apply to a storage tank with
24 a capacity of 1,100 gallons or less if the storage tank is used for
25 storing heating oil for consumptive use on the premises where it is
26 stored.

27 (c) AS 46.03.350 - 46.03.450 do not apply to a storage tank used
28 for storing heating oil at a farm, or at a residence that is a single-
29 family dwelling or duplex, if the oil is held for consumptive use on

1 the premises where it is stored.

2 (d) AS 46.03.350 - 46.03.450 do not apply to the storage of
3 hazardous waste that is being managed under 42 U.S.C. 6901 - 6991i
4 (the Solid Waste Disposal Act).

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

7 Sec. 46.03.450. DEFINITIONS. In AS 46.03.350 - 46.03.450

8 (1) "chemical" means any substance defined in 42 U.S.C.
9 9601(14) (sec. 101(14) of the Comprehensive Environmental Response,
10 Compensation, and Liability Act of 1980), as amended, and any sub-
11 stance having the characteristics identified or listed under 42 U.S.C.
12 6921 (sec. 3001 of the Solid Waste Disposal Act), regardless of wheth-
13 er the substance is a solid waste;

14 (2) "farm" means a tract of land devoted to the production
15 of crops or raising animals, including fish, and associated residences
16 and improvements; "farm" includes fish hatcheries, rangelands, and
17 nurseries with growing operations;

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

25 (4) "small underground petroleum storage tank" means a
26 storage tank designed to contain an accumulation of petroleum, the
27 capacity of which is 12,000 gallons or less and the volume of which,
28 including the volume of underground pipes connected to it, is 10
29 percent or more beneath the surface of the ground;

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

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

7 (c) Except as provided in AS 46.08.015, the [THE] fund shall be
8 used for actual expenses incurred under AS 46.08.040. Except as
9 provided in AS 46.08.015, the [THE] fund may not be used for capital
10 improvements.

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

12 Sec. 46.08.015. UNDERGROUND PETROLEUM STORAGE TANK ACCOUNT. (a)
13 There is established in the fund an underground petroleum storage tank
14 account. The account consists of money appropriated to it.

15 (b) The commissioner may use money from the underground petro-
16 leum storage tank account for

17 (1) the costs of containment and cleanup of a release or
18 threatened release of petroleum from a small underground petroleum
19 storage tank;

20 (2) the costs of containment and cleanup of a release or
21 threatened release of a hazardous substance that poses a direct and
22 substantial threat to public health;

23 (3) loan guarantees under AS 46.03.390; and

24 (4) the department's costs for administering AS 46.03.380 -
25 46.03.410.

26 (c) The commissioner may not use more than \$1,000,000 per con-
27 tainment and cleanup action under (b)(1) or (b)(2) of this section if
28 the release or threatened release is from a small underground petro-
29 leum storage tank.

.1 * Sec. 7. AS 46.08.900 is amended by adding a new paragraph to read:

2 (11) "small underground petroleum storage tank" has the
3 meaning given in AS 46.03.450.

4 * Sec. 8. Notwithstanding AS 46.03.400, enacted by sec. 4 of this Act,
5 the registration required under AS 46.03.400, enacted by sec. 4 of this
6 Act, is due on September 1, 1989, for a tank installed before July 1, 1989.

7 * Sec. 9. (a) To the extent that the response costs for a release or
8 threatened release from a small underground petroleum storage tank in-
9 stalled before July 1, 1989, exceed \$5,000, the Department of Environmental
10 Conservation may expend up to \$1,000,000 from the account established under
11 AS 46.08.015 by sec. 6 of this Act if the owner of the tank

12 (1) owns at least one but fewer than 11 small underground petro-
13 leum storage tanks;

14 (2) has complied with state and federal laws applicable to the
15 tank and releases from the tank;

16 (3) meets the time requirement for registration under sec. 8 of
17 this Act; and

18 (4) reports by October 1, 1989, a release or threatened release
19 from a tank registered under sec. 8 of this Act.

20 (b) To the extent that the response costs for a release or threatened
21 release from a small underground petroleum storage tank installed before
22 July 1, 1989, exceed \$10,000, the Department of Environmental Conservation
23 may expend up to \$1,000,000 from the account established under AS 46.08.015
24 by sec. 6 of this Act if the owner of the tank

25 (1) owns at least one but fewer than 11 small underground petro-
26 leum storage tanks;

27 (2) has complied with state and federal laws applicable to the
28 tank and releases from the tank;

29 (3) meets the time requirement for registration under sec. 8 of

1 this Act; and

2 (4) reports by October 1, 1990, a release or threatened release
3 from a tank registered under sec. 8 of this Act.

4 (c) The first \$10,000 of response costs under (a) of this section and
5 the first \$10,000 of response costs under (b) of this section shall be paid
6 by the owner of the tank.

7 (d) Notwithstanding AS 46.03.760, AS 46.08.070, or other law, the
8 state may not seek to recover from the owner response costs incurred under
9 (a) or (b) of this section or other law unless the state shows that the

10 (1) release or threatened release was a result of the owner's
11 grossly negligent, reckless, or intentional conduct; or

12 (2) owner is financially able to bear some or all of the re-
13 sponse costs.

14 (e) The Department of Environmental Conservation may adopt regula-
15 tions governing:

16 (1) procedures that must be followed by an owner to demonstrate
17 that the owner has met the conditions of (a) or (b) of this section;

18 (2) how the department will determine whether an owner is finan-
19 cially able to bear response costs under (d)(2) of this section; and

20 (3) criteria that will be used by the department for determining
21 priorities for responding to releases or threatened releases reported under
22 this section.

23 (f) In this section, "small underground petroleum storage tank" has
24 the meaning given in AS 46.03.450, as amended by sec. 4 of this Act.

25 * Sec. 10. This Act takes effect July 1, 1989.

EXHIBIT 7-2

STATE FUND OR OTHER STATE ASSURANCE PROGRAMS
COVERING PETROLEUM RELEASES

(as of September 1988)

State/Fund Title	Eligibility/Description	Revenue Source	Coverage For	
			Corrective Action	Third-Party Liability
Alabama Groundwater Protection Trust Fund	Establishes a \$10 million fund to provide for the cleanup of LUSTs during a two-year grace period, after which the State will set financial responsibility requirements with an owner/operator responsible for a maximum of \$10 million for corrective action (CA) and \$300,000 for third-party compensation coverage (with a \$500,000 per occurrence limit). Also provides for an insurance pool for those unable to secure cleanup and/or liability insurance.	1. Motor fuels fee	Yes During the two-year grace period, all CA costs are covered; subsequently, costs will be covered according to the yet-to-be established financial responsibility requirements.	Yes Covers all third party claims over \$300,000 with a per occurrence limit of \$400,000.
California State Underground Tank Insurance Fund (PROPOSED)	Establishes a board of directors that will determine the eligibility requirements and the amounts of coverage for CA and third-party liability. Authorizes the board to act as a reinsurer as well.	1. State appropriations 2. Premiums 3. Interest income on the fund 4. Cost recovery 5. Revenue bonds	Yes To be determined.	Yes To be determined.
Storage Tank Cleanup Fund (PROPOSED)	Owners and operators must file claims for reimbursement of covered costs from the fund.	1. Fees 2. Interest income on the fund 3. State appropriations 4. Cost recovery	Yes Covers costs of CA from \$100,000 to \$1 million per occurrence.	No
Colorado Underground Storage Tank Fund (PROPOSED)	The bill would allow the State insurance commissioner to establish a program to assist owners and operators in complying with the financial responsibility requirements.	1. Registration fees 2. Civil penalties 3. Certification fees 4. Gifts 5. Reimbursements 6. State appropriations 7. Interest income on the fund	To be determined.	To be determined.
Delaware Leaking Underground Petroleum Storage Tank Response Fund	Nonlapsing revolving fund; Covers remedial cleanup costs after a \$2,500 deductible if LUSTs are reported by December 1988. After that date, the trust fund covers cleanup costs up to \$1 million after a \$100,000 deductible. Establishes a \$100,000 environmental liability limit for owners and operators and a \$300,000 limit for third-party claims.	1. Cost recovery from the owner/operator 2. Expenses, costs, and judgments recovered pursuant to the Act 3. Interest income from fund 4. Reimbursements under Federal law 5. Tank registration fees	Yes Remedial costs over \$2,500 for LUSTs reported by 12/88. After that date, \$100,000 to \$1 million per occurrence per facility.	Yes \$300,000 to \$1 million per occurrence per facility.

EXHIBIT 7-2 (continued)

STATE FUND OR OTHER STATE ASSURANCE PROGRAMS
COVERING PETROLEUM RELEASES

(as of September 1988)

State/Fund Title	Eligibility/Description	Revenue Source	Coverage For	
			Corrective Action	Third-Party Liability
Florida Island Protection Trust Fund	Set up to allow the Dept. of Natural Resources to respond without delay to incidents of island petroleum contamination; nonlapsing, revolving fund.	<ol style="list-style-type: none"> 1. Tank registration and renewal fees 2. Excise tax on petroleum products 3. Penalties 4. Loan of five million dollars from the Florida Coastal Protection Trust Fund 5. Cost recovery 6. Interest income from the fund 	Yes Funds for State-sponsored CA only.	No
Early Detection Incentive Program (part of the Island Protection Trust Fund)	Amnesty period set up from 7/1/86 to 10/1/88 during which the State will clean up all reported leaks meeting certain criteria.	See above	Yes No defined limit; reimbursement at "reasonable rates for allowable costs."	No
Petroleum Liability Insurance Program	Provides \$1 million third-party liability insurance and \$1 million restoration insurance to qualified tank owner operators.	<ol style="list-style-type: none"> 1. Tank registration and renewal fees for restoration coverage 2. Excise tax on petroleum products for restoration coverage 3. Premium for third-party liability 	No	Yes
Georgia GSI Environmental Corrective Action Trust Fund	Dept. of Natural Resources Board establishes criteria for reimbursing tank owner/operators for corrective actions. Tank replacement and retrofit are not eligible costs.	1. Tank fees	Yes Owner/operator pays first \$10,000 and then after cleanup submits eligible CA costs for reimbursement.	No
Illinois Underground Storage Tank Fund	Only available to tank owners/operators who have registered their tanks and paid an annual fee of \$100. Funds are available for cleanup where the owner/operator refuses to comply, cannot be found, or there is an emergency.	<ol style="list-style-type: none"> 1. Annual \$100 fee from UST owners 2. Cost recovery 	Yes Covers CA costs from \$100,000 to \$1 million.	No
Indiana Underground Petroleum Storage Tank Trust Fund / Underground Petroleum Storage Tank Excess Liability Fund	The Trust Fund is designed for use by the Dept. of Environmental Management for costs incurred by the State for CA. The Excess Liability Fund may be used by owners and operators for CA costs between \$100,000 and \$1 million. Includes a study for future funding needs and the establishment of a risk retention group.	1. Annual registration fees	Yes Covers CA costs between \$100,000 and \$1 million.	No

EXHIBIT 7-2 (continued)

STATE FUND OR OTHER STATE ASSURANCE PROGRAMS
COVERING PETROLEUM RELEASES

(as of September 1988)

State/Fund Title	Eligibility/Description	Revenue Source	Coverage For	
			Corrective Action	Third-Party Liability
<p>Iowa Comprehensive Petroleum Underground Storage Tank Fund (PROPOSED)</p>	<p>Establishes a "deductible" or minimum financial responsibility requirement for owners and operators of \$20,000 for CA and third-party liability costs. An owner or operator may apply to the State for coverage above the deductible up to \$1 million per occurrence. Also allows an owner or operator to apply for full coverage by the fund under specified conditions. The minimum fund amount is \$5 million.</p>	<ol style="list-style-type: none"> 1. Risk-based premiums 2. Tank fees 3. Cost recovery and penalties 4. Interest income from the fund 5. Gifts, grants (including Federal grants), and appropriations 	<p>Yes Upon application to the State, an owner or operator may qualify for either full coverage or meet a \$20,000 "deductible" up to \$1 million per occurrence.</p>	<p>Yes Upon application to the State, an owner or operator may qualify for either full coverage or meet a \$20,000 "deductible" up to \$1 million per occurrence.</p>
<p>Louisiana Environmental Programs Trust Fund / Underground Storage Tank Trust Fund</p>	<p>The fund is set up to defray the cost of the State UST program, including State-initiated CA; also provides matching funds for Federal UST grant money.</p>	<ol style="list-style-type: none"> 1. Registration fees 2. Annual monitoring and maintenance fees 	<p>Yes Funds for State-sponsored CA only.</p>	<p>No</p>
<p>Coastal and Inland Surface Oil Cleanup Fund (CISOCF)</p>	<p>Revolving, revolving fund; Fund total is limited to \$4,500,000.</p>	<ol style="list-style-type: none"> 1. License fees 2. Funds loaned from the Ground Water Oil Cleanup Fund 3. Penalties 4. Interest income on funds invested 5. Cost recovery 6. Federal matching funds 7. Borrowing of funds by and between CISOCF 	<p>Yes Funds for State-sponsored CA only.</p>	<p>Yes No defined limit on the level of coverage; six month limitation on filing a claim after an occurrence.</p>
<p>Massachusetts Underground Storage Tank Petroleum Cleanup Fund (PROPOSED)</p>	<p>Funds will be provided at the discretion of the State for reimbursement of CA costs over \$5,000 up to \$1 million, including third-party claims. Eligibility is confined to those owners and operators who are in compliance with the State UST regulations.</p>	<ol style="list-style-type: none"> 1. Petroleum fee (suspended when fund balance is over \$38 million; reinstated at a balance of \$18 million) 2. Interest income on the fund 	<p>Yes Covers CA costs between \$5,000 and \$1 million.</p>	<p>Yes Covers third-party costs between \$5,000 and \$1 million.</p>
<p>Minnesota Petroleum Tank Release Cleanup Fund</p>	<p>Provides authority to the Pollution Control Agency to take or compel CA. Available to owners and operators who have taken corrective action in response to a release reported on or after 6/4/87. Provides for reimbursement of 75% of eligible CA costs greater than \$10,000 and less than \$100,000. UST owner or operator must be in compliance with all applicable State and Federal laws at the time of the release.</p>	<ol style="list-style-type: none"> 1. Cost recovery from responsible parties 2. Civil penalties 3. Certification fees 4. Gifts, grants other than Federal grants, reimbursements, or appropriations from any source intended to be used for the purposes of the fund 5. Interest inc 6. Petroleum tax cleanup fee (only if the fund balance falls below \$1 million) 	<p>Yes Reimbursement for 75% of CA costs greater than \$10,000 and less than \$100,000.</p>	<p>No</p>

EXHIBIT 7-2 (continued)

STATE FUND OR OTHER STATE ASSURANCE PROGRAMS
COVERING PETROLEUM RELEASES

(as of September 1988)

State/Fund Title	Eligibility/Description	Revenue Source	Coverage For	
			Corrective Action	Third-Party Liability
Mississippi Groundwater Protection Trust Fund	A revolving fund for the investigation and assessment of contamination sites, restoration and replacement of potable water supplies, and rehabilitation of contamination sites. The owner or operator is liable for the costs if he or she is not in "substantial compliance" on the date of discharge. When the balance of the fund reaches \$6 million, the funding fee will abate until the balance falls below \$4 million, at which point the fee is reimposed. Establishes a two-year grace period from the date of enactment (July 1, 1988), during which all CA costs are covered under specified conditions.	<ol style="list-style-type: none"> 1. Environmental protection fee on all motor fuel distributor sales and deliveries 2. Interest income on the fund 3. Federal grants 4. Tank regulatory fee 5. Cost recovery from owners not in substantial compliance on the date the release is reported 	Yes Reimbursement upon application--no \$1,000,000 limit during the grace period. After the two-year grace period, the State will establish minimum financial responsibility requirements for CA not exceeding \$100,000 per occurrence.	Yes \$1,000,000 per occurrence limit. After the two-year grace period, the State will establish minimum financial requirements for third-party liability not exceeding \$300,000 per occurrence. (The State will cover claims up to \$700,000).
New Hampshire Oil Discharge and Disposal Cleanup Fund	Provides partial reimbursement to owners and operators of OMTs (including home heating fuel tanks) with a capacity equal to or greater than 1,100 gallons and who are in compliance with the regulatory requirements. Reimbursement is provided for CA and third-party liability costs according to the number of facilities owned by the owner or operator. At \$5 million, the fee abates until the fund drops below \$2.5 million. Transfer and transport fee and cleanup fund will lapse on January 1, 1994.	<ol style="list-style-type: none"> 1. Per gallon fee on oil and oil product transfer or transport within or into the state 2. Per barrel license fee 	Yes Owners and operators of one facility are responsible for the initial \$5,000 of CA costs; two to nineteen facilities, the initial \$20,000; twenty or more, the initial \$30,000; coverage provided up to \$1 million.	Yes Owners and operators of one facility are responsible for the initial \$5,000 of CA costs; two to nineteen facilities the initial \$20,000; twenty or more the initial \$30,000; coverage up to \$1 million.
New Jersey Spill Compensation Fund	Money available to the NJDEP to pay for cleanups and indemnify its contractors in the event they cannot obtain insurance, indemnification by the DEP expires 1/1/88; also allows preventive measures by the DEP; Moulepaing, revolving fund.	<ol style="list-style-type: none"> 1. Spill Compensation and Control Tax 2. Penalties 3. Cost recovery 4. Automatic liens against the property of the discharger 5. Interest received on the fund 6. Federal government securities and interest 7. State appropriation 	Not for the owner or operator; only DEP initiated actions and reimbursement for third-party cleanups (including municipality cleanup where the DEP has approved the plans).	Yes No limitation on the level of coverage; also indemnification for contractors by the DEP was provided through 1/1/88.

EXHIBIT 7-2 (continued)

STATE FUND OR OTHER STATE ASSURANCE PROGRAMS
COVERING PETROLEUM RELEASES

(as of September 1988)

State/Fund Title	Eligibility/Description	Revenue Source	Coverage For	
			Corrective Action	Third-Party Liability
New Mexico Environmental Impairment Cleanup Fund	Provides reimbursement of 50% of owner/operator CA costs over \$150,000 up to \$750,000, and reimbursement for 100% of the costs from \$750,000 to \$1 million. The balance of the fund is set to range from \$5 million to \$2 million. Fund covers all State-registered USTs.	1. Gasoline and special fuels surcharge tax 2. Cost recovery	Yes Covers 50% of CA costs from \$150,000 to \$750,000, and 100% of CA costs from \$750,000 to \$1 million.	No
New York Environmental Protection and Spill Compensation Fund	Nonlapsing, revolving fund; claims against the fund have to be filed within three years of the date of discovery of damage and within ten years of the date of the incident which caused the damage. There is no limit on the amount of awards.	1. License fees 2. Surcharge on license fees 3. Penalties 4. Cost recovery 5. Interest received on the fund 6. Reimbursements	Yes Covers State-initiated CA; the discharger and the fund are liable for all cleanup and removal costs and all direct and indirect damages.	Yes No limit on the amount of awards.
Oregon Leaking Underground Storage Tank Cleanup Fund	Provides a source of funds for State-initiated CA; also matching funds for Federal CA under the Solid Waste Disposal Act Amendments of 1980.	1. Cost recovery 2. Penalties, fines, and damages recovered	Yes Funds for State-sponsored CA only.	No
Underground Storage Tank Insurance Fund	Provides the authority to establish a fee-supported fund covering the financial assurance requirements for owners and operators.	1. Annual Financial Responsibility (FR) fee (to be determined) levied on owners and operators	Yes Set according to the FR requirements.	Yes Set according to the FR requirements.
South Carolina State Underground Petroleum Environmental Response Bank Account (SUPERB)	Fund will reimburse owner/operator for cleanup expenditures due to early detection of releases from 12/31/87 to 12/31/89. After this grace period, the fund will reimburse from \$100,000 to \$1 million as long as funds are available.	1. Registration fee on regulated tanks 2. Interest income on the fund	Yes As long as funds are available	No
South Dakota Petroleum Release Compensation Fund	A \$5 million revolving fund created to cover the costs of administering the petroleum release program, to reimburse tank owner/operators for corrective action, and promote research and development efforts concerning cleanups.	1. Tank inspection fee 2. Cost recovery 3. Interest income on the fund 4. Gifts, grants 5. One-time interagency allocation	Yes Covers costs of CA from \$10,000 to \$90,000	No

EXHIBIT 7-2 (continued)

STATE FUND OR OTHER STATE ASSURANCE PROGRAMS
COVERING PETROLEUM RELEASES

(as of September 1985)

State/Fund Title	Eligibility/Description	Revenue Source	Coverage For	
			Corrective Action	Third-Party Liability
Tennessee Petroleum Underground Storage Tank Fund	Nonlapsing, revolving fund with a minimum balance of \$2 million and a maximum balance of \$5 million. After the first year the Act is in effect, the CA coverage will be set at a level between \$50,000 and \$100,000 by the State. Likewise, the third-party liability coverage will be set between \$150,000 and \$300,000 after the first year.	<ol style="list-style-type: none"> 1. Fees 2. Civil penalties and damages 3. Interest income from the fund 4. State appropriations 	Yes 100% of CA costs over \$75,000 up to \$1 million per occurrence.	Yes Covers all claims in excess of \$150,000 up to \$1 million per occurrence.
Vermont Petroleum Cleanup Fund	The fund provides assistance to uninsured owners and operators in meeting the State financial responsibility requirements. It also provides a source of funds for State-initiated CA in emergencies and other situations where there is no owner or operator found, or he or she cannot or will not take CA. In these cases, the fund allows for cost recovery where appropriate. The fund may be used to cover any cost in setting up a risk retention group that is in excess of "reasonable" contributions by the participants.	<ol style="list-style-type: none"> 1. Licensing fees 2. Interest income from the fund 3. Reimbursement and cost recovery 4. General fund appropriations 	Yes Covers CA costs between \$100,000 and \$1 million.	Yes Covers third-party compensation costs between \$300,000 and \$1 million.
Environmental Contingency Fund	Authorizes the Secretary of the VT Agency of Environmental Conservation (AEC) to take CA in cases where "the discharging party is unknown, cannot be contacted, is unwilling to take action or does not take timely action."	<ol style="list-style-type: none"> 1. Permit filing fees 2. Hazardous waste generator tax 3. Cost recovery 4. Federal matching funds 	Yes Funds for State-sponsored CA only; level of coverage not defined except for "individual non-emergency situations" where the limit is \$50,000/situation.	No
Risk Retention Pool	Authorizes owners and operators of USTs to set up insurance pools with the Banking and Insurance Commissioner's approval.	<ol style="list-style-type: none"> 1. Contributions from pool members 	Determined on a case-by-case basis.	Determined on a case-by-case basis.

EXHIBIT 7-2 (concluded)

STATE FUND OR OTHER STATE ASSURANCE PROGRAMS
COVERING PETROLEUM RELEASES

(as of September 1988)

State/Fund Title	Eligibility/Description	Revenue Source	Coverage For	
			Corrective Action	Third-Party Liability
Virginia Underground Petroleum Storage Tank Fund	The State will adopt financial responsibility requirements for owner and operators of not less than \$100,000 for CA and \$300,000 for third-party liability. The fund also is designed to assist in the administration of the State regulatory program for USTs and provides a source of funds for State-initiated CA and matching funds in accordance with the Water Resources Development Act of 1986 (P.L. 99-662). The fund contains \$5 million for 1988.	<ol style="list-style-type: none"> 1. Expenses, costs, and judgments recovered 2. Federal reimbursements 3. Interest income from fund 4. State appropriation 5. Cost recovery 	Yes \$100,000 to \$1 million per facility.	Yes \$300,000 to \$1 million per occurrence.
Wyoming Environmental Pollution Mitigation Account (EMOPMED)	The fund provides for prompt State response to UST releases or threats of releases, administrative costs, and reimbursement of responsible persons according to certain requirements. The fund does not allow for reimbursements that exceed the amount of money in the fund. Eligible responsible parties may be reimbursed for all CA costs in excess of \$50,000 and third-party liability costs in excess of \$100,000.	<ol style="list-style-type: none"> 1. Penalties and judgments 2. Reimbursements 3. Registration fees 4. Cost recovery 	Yes Provides reimbursement of CA costs in excess of \$50,000 for eligible responsible persons.	Yes Provides reimbursement of third-party liability costs in excess of \$100,000 for eligible responsible persons.

EXHIBIT 6-1

STATE LOAN OR GRANT FUNDS

(as of September 1988)

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State/Fund Title	Eligibility	Revenue Source	Interest Rate	Term of Loan	Expiration Date
California California Petroleum Underground Storage Tank Financing Authority (PROPOSED)	Small businesses unable to obtain loans from private lending sources. The amount of a loan may not exceed \$70,000. Loans may be used to upgrade or replace USTs.	<ol style="list-style-type: none"> 1. State appropriations 2. Application fees 3. Interest on outstanding loans 4. Federal appropriations 5. Interest income from the fund 	Equal to the cost of money to the State on the first day of the calendar quarter during which the loan is approved.	Not to exceed ten years.	January 1, 1992
California Petroleum Underground Storage Tank Financing Account (PROPOSED)	Provide loans to financially qualified small businesses to repair, upgrade, or replace UST to meet applicable State or Federal standards. The maximum amount of a loan may not exceed \$50,000.	<ol style="list-style-type: none"> 1. Petroleum tank fees 2. Interest received on outstanding loans 3. State and Federal grants 	Equal to the cost of borrowing money by the State on the first day of the calendar quarter during which the loan is approved.	The shortest feasible term commensurate with the repayment ability of the borrower.	July 1, 1990
California Underground Storage Facility Replacement Fund	Money in the fund may be used for direct loans for all or part of underground oil storage facility replacement projects according to criteria set by the State. Also provides funds, at the discretion of the State, for insuring mortgage payments for UST loans. The mortgage insurance is limited to an aggregate total of \$5 million.	<ol style="list-style-type: none"> 1. State appropriations 2. Interest income on the fund 3. Repayments 	To be determined.	To be determined.	To be determined.
New Jersey State Underground Storage Tank Improvement Fund	Revolving fund; low interest loans made to UST owners who have been directed by the NJDEP to repair or replace one or more of their USTs or install monitoring systems; loans issued based on economic hardship.	<ol style="list-style-type: none"> 1. State appropriation of \$5 million 2. Repayment of loans 	Not more than six percent; fixed rates.	Not to exceed ten years.	December 31, 1991
New York State Underground Petroleum Storage Facility Improvement Fund (PROPOSED)	Loans made to owners of facilities who are required pursuant to law or regulation to replace one or more underground storage tank facilities.	<ol style="list-style-type: none"> 1. State appropriation of \$5 million. 2. Interest from outstanding loans 	An annual rate equal to the Federal discount rate.	Not less than five years nor more than ten.	December 31 of the fifth full calendar year subsequent to the effective date of the Act.

6-2

P.22

EXHIBIT 6-1 (concluded)

STATE LOAN OR GRANT FUNDS

(as of September 1986)

State/Fund Title	Eligibility	Revenue Source	Interest Rate	Term of Loan	Expiration Date
Rhode Island Underground Storage Tank Replacement Revolving Loan Fund	Low interest loans to residential and commercial owners of USTs to remedy leaking tanks and replace tanks that are likely to leak; revolving fund.	1. State appropriations 2. Repayment of loans 3. Federal grants 4. Gifts, bequests, donations 5. Bond issues	Two points below the six-month Treasury Bill rate at the time the loan is awarded; fixed rates.	Depends on the income of the recipient and whether it is a commercial facility; ranges from five to fifteen years maximum.	No expiration date.
South Dakota Loan Program	Available to petroleum marketers to improve environmental safety of USTs; predominantly capital investment in equipment.	State revenue bond	No specific terms specified although rate would be lower than would otherwise be available.	No terms specified.	No expiration date.
Connecticut Underground Storage Tank Incentive Program	Grants up to \$5,000 for small retail gasoline outlets (sales <20,000 gallons/month) and municipalities (pop. <2,500) to aid in their compliance with State regulations for replacing USTs.	Funds authorized by the oil overcharge fund and from the petroleum cleanup fund for this purpose.	N/A	N/A	No expiration date.
Petroleum Cleanup Fund	Up to one-half of fund can be used to provide no interest loans (up to \$40,000) to small rural dealers and small municipalities for tank replacement.	1. License fees 2. Interest income from fund 3. Reimbursement and cost recovery	0%	10 years	No expiration date.

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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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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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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

FAIRBANKS Daily News - Miner

(ISSN 8750-5495)
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C. W. SNEDDEN
Board Chairman and Publisher
DAN JOHNSON CHARLES L. GRAY ANDREW W. WILLIAMS

SOLDOTNA TESORO
John T. Stubblefield
P. O. Box 773
Soldotna, Alaska 99639

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.

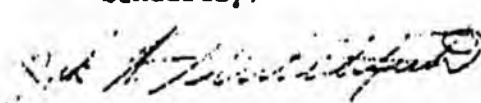
We find ourselves desperately in need of help. The regulations are necessary, as is the clean up and protection of our water and soil. But we cannot comply. We do not have the funds to do this. Where is it to come from? Are you just going to close us down? Sell our stations off to the oil companies for 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

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 Tork (located in my Juneau office) at 586-7619.

Sincerely,

A handwritten signature in black ink, appearing to read "Alvin L. Ewing", with a long, sweeping underline that extends to the right.

Alvin L. Ewing
Assistant Regional Administrator

Attachment(s)

Notification for Underground Storage Tanks

FORM APPROVED
OMB NO. 2058-0043
APPROVAL EXPIRES 6-30-88

FOR TANKS IN AK

RETURN COMPLETED FORM TO

Department of Environmental Conservation
PO BOX 0
Juneau, AK 99811 (907) 465-2653

ID 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 intrastate 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, 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)

- | | | |
|----------------------------------|--|---|
| <input type="checkbox"/> Current | <input type="checkbox"/> State or Local Gov't | <input type="checkbox"/> Private or Corporate |
| <input type="checkbox"/> Former | <input type="checkbox"/> Federal Gov't (GSA facility I.D. no. _____) | <input type="checkbox"/> 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
---	-----------	-------------

FROM PRE-PUBLICATION COPY OF "MUSTS FOR USTS"; FINAL PAMPHLET AVAILABLE OCT. 1988

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. →

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

WHEN DO YOU HAVE TO ACT? Important Deadlines

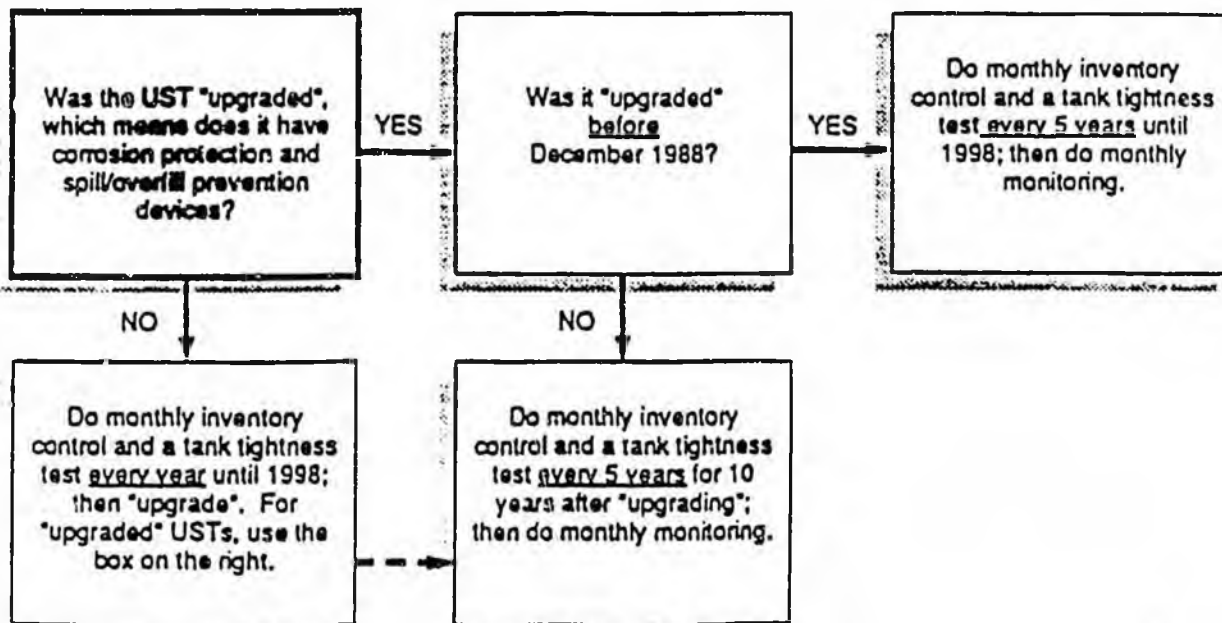
← For WHAT you have to do, see the chart on the left.

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.



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);

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.

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.

CONGRESS REQUIRED OWNERS/ OPERATORS NOTIFY...	designated State agency of where-abouts, 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 spill/overfill by 1998.

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.

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)

Notification for Underground Storage Tanks

FORM APPROVED
OMB NO. 2050-0049
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 _____
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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 intrastate 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, mineworking, 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)

<input type="checkbox"/> Current	<input type="checkbox"/> State or Local Gov't	<input type="checkbox"/> Private or Corporate
<input type="checkbox"/> Former	<input type="checkbox"/> Federal Gov't (GSA facility I.D. no. _____)	<input type="checkbox"/> 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
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CONTINUE ON REVERSE SIDE

VI. DESCRIPTION OF UNDERGROUND STORAGE TANKS (Complete for each tank at this location.)

Tank Identification No. (e.g., ABC-123), or Arbitrarily Assigned Sequential Number (e.g., 1,2,3...)	Tank No.	Tank No.	Tank No.	Tank No.	Tank No.
1. Status of Tank (Mark all that apply <input type="checkbox"/>) Currently in Use Temporarily Out of Use Permanently Out of Use Brought into Use after 5/8/86	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
2. Estimated Age (Years)					
3. Estimated Total Capacity (Gallons)					
4. Material of Construction (Mark one <input type="checkbox"/>) Steel Concrete Fiberglass Reinforced Plastic Unknown Other, Please Specify _____	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
5. Internal Protection (Mark all that apply <input type="checkbox"/>) Cathodic Protection Interior Lining (e.g., epoxy resins) None Unknown Other, Please Specify _____	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
6. External Protection (Mark all that apply <input type="checkbox"/>) Cathodic Protection Painted (e.g., asphaltic) Fiberglass Reinforced Plastic Coated None Unknown Other, Please Specify _____	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
7. Piping (Mark all that apply <input type="checkbox"/>) Bare Steel Galvanized Steel Fiberglass Reinforced Plastic Cathodically Protected Unknown Other, Please Specify _____	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
8. Substance Currently or Last Stored In Greatest Quantity by Volume (Mark all that apply <input type="checkbox"/>) a. Empty b. Petroleum Diesel Kerosene Gasoline (including alcohol blends) Used Oil Other, Please Specify _____ c. Hazardous Substance Please Indicate Name of Principal CERCLA Substance _____ OR Chemical Abstract Service (CAS) No. _____ Mark box <input type="checkbox"/> if tank stores a mixture of substances d. Unknown	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
9. Additional Information (for tanks permanently taken out of service) a. Estimated date last used (mo/yr) b. Estimated quantity of substance remaining (gal.) c. Mark box <input type="checkbox"/> if tank was filled with inert material (e.g., sand, concrete)	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

FROM PRE-PUBLICATION COPY OF "MUSTS FOR USTS"; FINAL PAMPHLET AVAILABLE OCT. 1988

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. →

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

WHEN DO YOU HAVE TO ACT? Important Deadlines

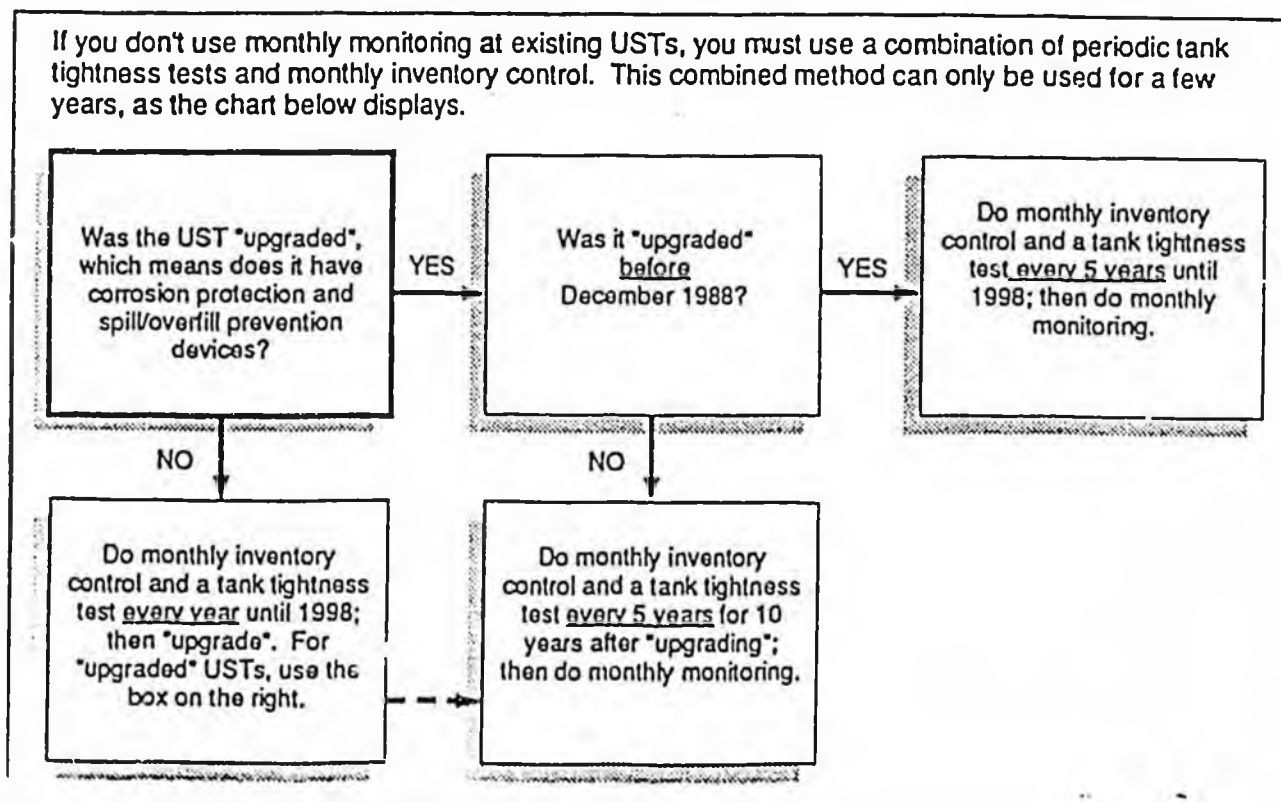
← For WHAT you have to do, see the chart on the left.

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.



TELECOPY COVERSHEET

KENAI PENINSULA LEGISLATIVE INFORMATION OFFICE

312 TYEE STREET

SOLDOTNA, AK 99669

OFFICE NUMBER: (907) 262-9364

TELECOPY NUMBER: (907) 262-1881

DATE: 2-9-89 TIME: 1:57 PM

TO: John L. D.O. For House Resources Committee

TITLE: _____ PHONE: _____

COMMENTS: Written Testimony For TELE 89-01-216
UNDEVELOPED TANKS

FROM: John Stubblefield

TITLE: Soldotna Taxes PHONE: _____

COMMENTS: _____

NUMBER OF PAGES FOLLOWING THIS COVERSHEET: 1

IF YOU DO NOT RECEIVE THE TOTAL NUMBER OF PAGES FOLLOWING THIS COVER LETTER, PLEASE TELEPHONE OUR OFFICE. OTHERWISE WE WILL ASSUME YOU HAVE RECEIVED THIS TRANSMITTAL SATISFACTORILY.

SENT BY: Alison

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.

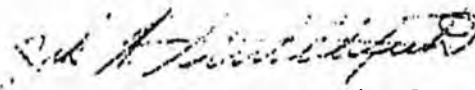
We find ourselves desperately in need of help. The regulations are necessary, as is the clean up and protection of our water and soil. But we cannot comply. We do not have the funds to do this. Where is it to come from? Are you just going to close us down? Sell our stations off to the oil companies for 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 then 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 then three whales trapped in the ice? Will someone come to our aid?

Sincerely,


John T. Stubblefield
SOLDOTNA TESORO

TELECOPY COVER SHEET

Fairbanks Legislative Information Office

Office • (907) 452-4448

Fax • (907) 458-3346

TO: HOUSE Resources Cmte. FAX: _____ PHONE: _____

FROM: Ed Anders PHONE: 488-6547

INSTRUCTIONS: Testimony for HRES 02/08 3pm Teleconference
on underground storage tanks Please copy + deliver
to House Resources. Thanks

RECEIVED: Date _____ Time _____

SENT: Date 02/08 Time 5:10 pm

DISPOSAL OF ORIGINAL: Discard _____ Hold for Pickup _____

NUMBER OF PAGES: 2 (Not counting cover sheet)

SENT BY: mjp



Alaska State Legislature

Please enter into the record my testimony to the HOUSE RESOURCES
 committee name
 committee on Underground Storage Tanks, dated 02/08/89
 bill/subject

I simply want to endorse earlier comments by the owner/operators of retail outlets. We are out of business if we have to meet these regulations as they are currently drafted. A "clean up" fund or pool created by a 2 or 3 cent a gallon tax is by far the best approach to the insurance against a serious liability issue. Rep. Davis certainly knows my operations at Valley Center and Anders Cache - I'm a low volume, clean, properly managed operation. I would welcome testing of my underground →

Signed: Ed Anders ED ANDERS

Testify for Anders Cache & Valley Center

Representing (Optional) 7785 C.H.S.R. Fldo.

Address 488-6547

Phone No.

storage tanks. If I am not leaking and am not polluting, then for crying out loud leave me alone. I really do believe that today's independent dealers are being victimized by the changing rules, and I sincerely believe that these new rules do represent a "knee jerk" over reaction on the part of the EPA to what is not yet a serious problem and that there are means by which we can insure safe drinking water without taking it out of the hide of Alaska's small business people.

Thank you —