

HB

220

# HOUSE COMMITTEE REPORT

(9)

Date Referred: March 15, 1989

FURTHER REFERRALS: FINANCE

Date of Committee Action: 4-7-89

The RESOURCES Committee considered:

HB 220

HOUSE BILL NO. 220 [UNDERGROUND STORAGE TANKS]

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

**RECOMMENDATIONS:**

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

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

ATTACHES NEW FISCAL NOTE(s):  
(Dept)

APPROVES PREVIOUS:

(Date/Dept)

- fiscal impact DEC 4/7/89
- [ ] zero fiscal note \_\_\_\_\_
- [ ] zero with analysis \_\_\_\_\_

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

**SIGNING DO PASS:**

\_\_\_\_\_  
*Carol Wengert*  
 \_\_\_\_\_  
*Bill Darden*  
 \_\_\_\_\_  
*George G. Galt*  
 \_\_\_\_\_  
*Mike Swane*  
 \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_

**SIGNING:**

(Check approp. column)

	Do Not Pass	No Rec	Amend
<i>Mike Galt</i>			<input checked="" type="checkbox"/>
<i>Bill Galt</i>			<input checked="" type="checkbox"/>
<i>Best Sharp</i>	<input checked="" type="checkbox"/>		
_____			
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\_\_\_\_\_  
*Carol Wengert*  
 Chairman's signature

## FISCAL NOTE

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

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

Agency Affected: Environmental Conservation  
BRU: Environmental Conservation

Components: Environmental Conservation

SPONSOR: House Resources Committee

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

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

CAPITAL		-0-	-0-	-0-	-0-	
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REVENUE						
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**FUNDING: (Thousands of Dollars)**

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

**POSITIONS:**

FULL-TIME		13.0	18.25	18.25	18.25	
PART-TIME						
TEMPORARY						

ANALYSIS : (Attach a separate page if necessary)

Prepared by: Dan Easton Phone: 465-2640  
Division: Environmental Quality Date: 06/07/89

Approved by Commissioner: *a.d. Hule* Date: 4/7/89  
Agency: DEC

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

HB 220: "An act relating to motor fuels, petroleum and chemical storage tanks, and investigation, containment, and cleanup of oil and hazardous substances; and providing for an effective date."

Section 4 of this legislation creates a loan guarantee program that allows the Department of Commerce and Economic Development to guarantee up to 75 percent of a loan made by a state or federally chartered financial institution to a person who owns an underground petroleum storage tank. All guarantees must be approved by the Commissioner of the Department of Environmental Conservation and the proceeds of the loan being guaranteed must be used for the cost of labor and materials for:

1. site inspection and evaluation of the status of an underground petroleum storage tank;
2. retrofitting, repairing, or replacing an underground petroleum storage tank to meet federal or state requirements; and
3. installing leak detection and monitoring devices for an underground petroleum tank.

HB 220 spells out a number of conditions that a loan must meet to be guaranteed including:

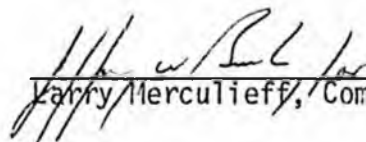
1. the term of the loan may not exceed 25 years;
2. the amount of the loan may not exceed \$50,000;
3. the aggregate amount of guaranteed loans made to any one individual cannot exceed \$50,000.
4. the loan must be secured by adequate collateral;
5. the borrower must have adequate cash flow to service the debt; and
6. the loan may not be used to refinance existing debt.

Section 6 of HB 220 establishes a guarantee subaccount within the underground petroleum storage tank account to be used as a reserve from fund equity. In addition, this section requires that before a loan guarantee is made the Commissioner of the Department of Environmental Conservation must approve the use of the loan funds. Once approved, 50 percent of the amount of the loan guarantee is encumbered in the guarantee subaccount of the underground petroleum storage tank account. The Commissioner of Commerce and Economic Development may use money in the guarantee subaccount to satisfy a default on a guaranteed loan, protect the State's security interest in collateral for a guaranteed loan, or defray expenses incurred by the State during foreclosure proceedings after a default on a guaranteed loan.

One key factor in the utilization of this program is the degree to which private financial institutions participate. The various requirements spelled out in the bill will affect how much these institutions want to be involved. For example increasing the percentage of the loan that can be guaranteed would generally be attractive to a financial institution because it reduces their risk. This would, however, increase the amount of risk borne by the State and reduce the total amount of guarantees that could be issued. Changes to the loan limits and terms could also play a large role in the private sector's desire to participate.

One other factor that may affect the degree to which financial institutions participate is the potential liability inherent in repossessing collateral containing motor fuels, petroleum and other hazardous substances. Financial institutions may be unwilling to accept this potential liability, especially in light of recent court decisions regarding lender liability that may extend financial responsibility beyond the collateral taken.

The Department of Commerce and Economic Development is neutral on this legislation.

  
Larry Mercurieff, Commissioner

Date: 3/24/89

LM/wfs0091q32189b

**REQUEST: FISCAL NOTE**

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

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

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

OPERATING	FY 89	FY 90	FY 91	FY 92	FY 93	FY 94
PERSONAL SERVICES	0	0	0	0	0	0
TRAVEL	0	0	0	0	0	0
CONTRACTURAL	80.0	80.0	80.0	80.0	80.0	80.0
SUPPLIES	0	0	0	0	0	0
EQUIPMENT	0	0	0	0	0	0
LAND & STRUCTURES	0	0	0	0	0	0
GRANTS, CLAIMS	0	0	0	0	0	0
MISCELLANEOUS	0	0	0	0	0	0
TOTAL OPERATING	80.0	80.0	80.0	80.0	80.0	80.0
CAPITAL	45.0	45.0	45.0	45.0	45.0	45.0
REVENUE	0	0	0	0	0	0

**FUNDING: (THOUSANDS OF DOLLARS)**

GENERAL FUND	80.0	80.0	80.0	80.0	80.0	80.0
FEDERAL FUNDS	45.0	45.0	45.0	45.0	45.0	45.0
OTHER	0	0	0	0	0	0
TOTAL	125.0	125.0	125.0	125.0	125.0	125.0

**POSITIONS:**

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

**ANALYSIS:** The bill would require registration of most storage tanks operated by the department. An annual fee of \$100.00 is to be charged. The department has approximately 800 tanks throughout the state. This yields an annual cost of \$80,000. In addition, there will be costs on construction projects for the "registration fees" for temporary tank installations and in the higher fuel costs borne by contractors. This is estimated to cost another \$20,000 in registration fees and \$25,000 in fuel surcharge fees. The majority of these construction related costs would occur on federal-aid construction.

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

Phone: 465-2951  
Date: March 22, 1989

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

Date: 3/22/89

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

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

**Tank Registration Fee:**

<b>Component</b>	<b># of tanks</b>	
Highway & Aviation Maintenance Facilities	400	
Equipment Fleet Tanks	100	
International Airports	25	
Harbors	75	
Buildings	200	
Total	800	
At \$100 per tank =		\$80,000

**Construction Related Tank Registration**

Estimate 50 projects per year with 4 tanks per project, average = 200  
At \$100 per tank \$20,000

**Construction Fuel Surcharge**

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

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

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

#### 1. Storage Tank Program Development

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

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

#### 2. Registration/Notification Program.

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

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

### 3. Public Information Program

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

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

### 4. Loan or Grant Program

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

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

### 5. Underground Storage Tank Account Cleanup Program

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

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

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

AMENDMENT

TO: C.S.H.B. 220

Page 1, Line 26,

after "AS 43.40.010", insert "except subsection (2),"

*Speed  
Invest*

A M E N D M E N T

OFFERED IN THE HOUSE

TO: CSHB 220(Resources)

Page 5, line 24, after "lower":

Insert ", subject to a maximum biennial fee of \$40,000 per facility"

Page 5, line 29, after "AS 46.08.015.":

Insert "In this subsection, "facility" means contiguous land and structures on or in the land containing petroleum and chemical storage tanks owned by the same person."



# Alaska Environmental Lobby, Inc.

P.O. Box 22151 Juneau, Alaska 99802

907-586-2345

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

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

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

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

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

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

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

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

Becky Achten 3-31-89

ALASKA CENTER FOR THE ENVIRONMENT • ALASKA CHAPTER, SIERRA CLUB • JUNEAU GROUP, SIERRA CLUB • SITKA GROUP, SIERRA CLUB  
KNIK GROUP, SIERRA CLUB • DENALI GROUP, SIERRA CLUB • ANCHORAGE AUDUBON SOCIETY • ARCTIC AUDUBON SOCIETY  
DENALI CITIZENS' COUNCIL • ALASKA FRIENDS OF THE EARTH • JUNEAU AUDUBON SOCIETY • KACHEMAK BAY CONSERVATION SOCIETY  
KENAI PENINSULA AUDUBON SOCIETY • KODIAK AUDUBON SOCIETY • LYNN CANAL CONSERVATION • ALASKA WILDLIFE ALLIANCE  
SITKA CONSERVATION SOCIETY • NORTHERN ALASKA ENVIRONMENTAL CENTER • SOUTHEAST ALASKA CONSERVATION COUNCIL  
KNIK KANOERS AND KAYAKERS

Alaska Water Resources Board  
Resolution No. 89-23

Support for House Bills 143 and 196

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

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

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

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

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

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



Peg Tileston, Chairwoman  
Alaska Water Resources Board



# Alaska Center for the Environment

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

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

Dear Representative Menard:

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

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

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

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

Thank you,

A handwritten signature in cursive script that reads "Kristine Benson". The signature is written in dark ink and is positioned above the typed name.

Kristine Benson  
Hazardous Waste Specialist



# Alaska Environmental Lobby, Inc.

P.O. Box 22151 Juneau, Alaska 99802

907-586-2345

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

Gasoline, fuel oil, and other toxic chemicals leaking from underground storage tanks are one of the most common causes of groundwater pollution in the nation with 72 such cases having occurred in Alaska. It is possible for a leak of only one gallon of gasoline to render one million gallons of water unpalatable and to continue to contaminate groundwater resources for decades.

The Alaska Environmental Lobby supports HB 220. This bill is designed to aid underground storage tank owners to meet mandated EPA standards for tanks and monitoring systems and to obtain mandatory liability insurance coverage.

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

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

To address these clean up costs, the bill establishes a hazardous substance release response fund which will provide partial reimbursement for clean up costs in some cases and may enable tank owners to secure the required liability insurance.

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

Becky Achten  
3-21-89

ALASKA CENTER FOR THE ENVIRONMENT • ALASKA CHAPTER, SIERRA CLUB • JUNEAU GROUP, SIERRA CLUB • SITKA GROUP, SIERRA CLUB  
KNIK GROUP, SIERRA CLUB • DENALI GROUP, SIERRA CLUB • ANCHORAGE AUDUBON SOCIETY • ARCTIC AUDUBON SOCIETY  
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SITKA CONSERVATION SOCIETY • NORTHERN ALASKA ENVIRONMENTAL CENTER • SOUTHEAST ALASKA CONSERVATION COUNCIL  
KNIK KANOEERS AND KAYAKERS

STATEMENT  
HB 220

MARCH 15, 1989

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

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

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

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

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

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

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

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

RESPECTFULLY SUBMITTED,

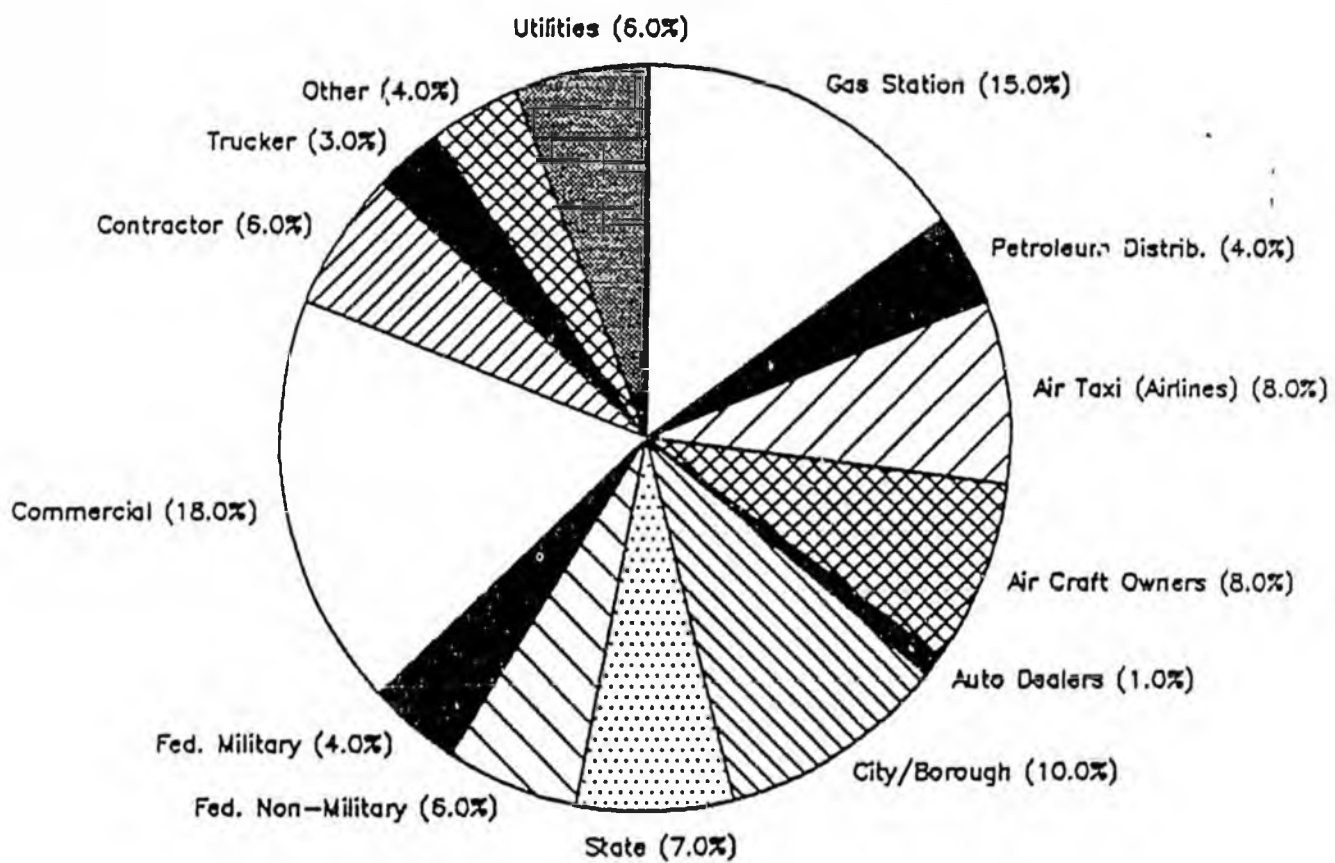


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G. B. WEBER  
TREASURER, AUTOO

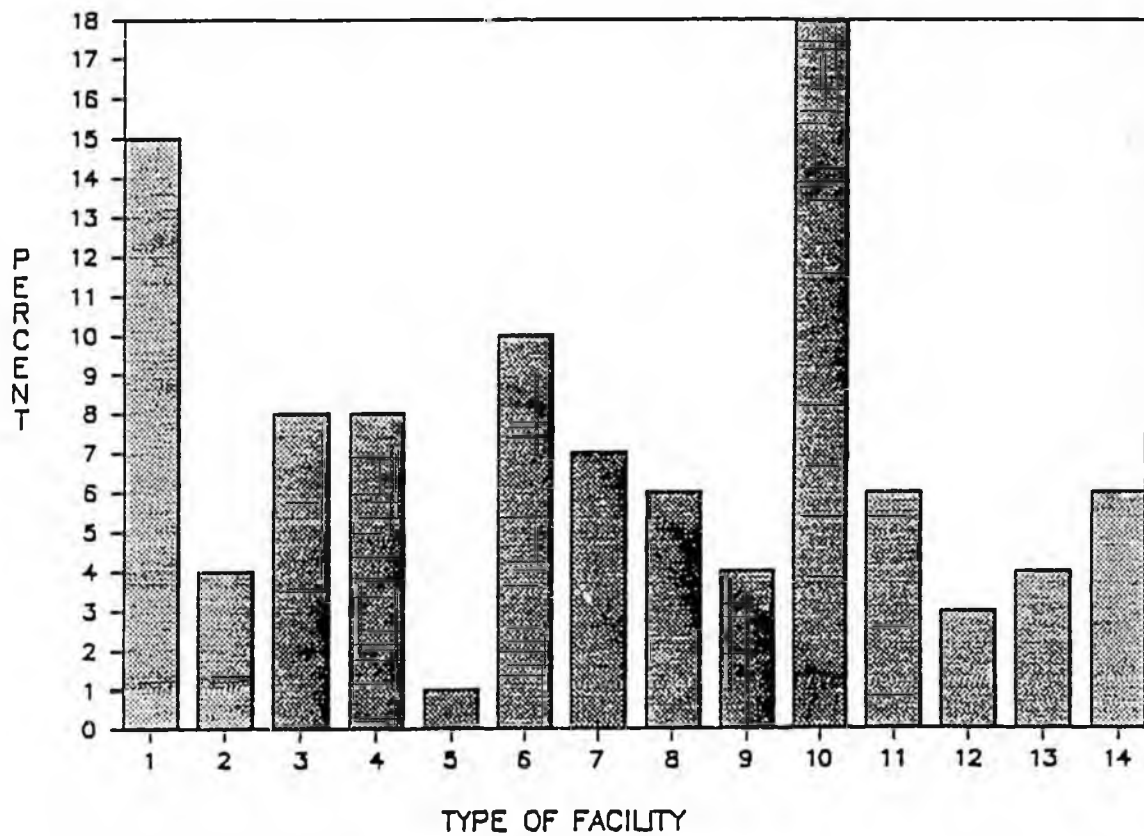
# UNDERGROUND STORAGE TANKS IN ALASKA

## Types of Facilities



# UNDERGROUND STORAGE TANKS IN ALASKA

## TYPES OF FACILITIES



### DEFINITION OF FACILITY TYPES

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



# ALASKA STATE LEGISLATURE

## REPRESENTATIVE CURT MENARD

165 E. Parks Hwy.  
Wasilla, Alaska 99687  
(907) 373-2878

P.O. Box V  
Juneau, Alaska 99811  
(907) 465-2679



### MEMORANDUM

To: House Resources Committee

From: Rep. Menard

Date: March 15, 1989

Re: HB 220, Petroleum and Chemical Storage Tanks

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

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

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

A storage tank registration fee of 1 cent per gallon based on the capacity of the tank per year plus a 2 cent increase on the motor fuels tax provide a potential revenue source for the underground petroleum storage tank account. The average cost to a consumer would be approximately \$15.00 a year, a small price to pay for the protection of our drinking water.

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Representing the  
Matanuska-Susitna Borough



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

## Underground Tanks

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

Virtually all states have either approved or are considering some sort of state-funded financial assurance program to provide liability insurance for damage caused by underground petroleum tank leaks, sources in the insurance industry and the Environmental Protection Agency told BNA Feb. 14.

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

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

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

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

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

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

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

#### No State Has EPA-Approved Program

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

## CURRENT DEVELOPMENTS

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

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

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

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

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

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

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

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



REPLY TO  
ATTN OF: A00

U.S. ENVIRONMENTAL PROTECTION AGENCY

REGION X  
ALASKA OPERATIONS OFFICE  
3200 HOSPITAL DRIVE  
SUITE 101  
JUNEAU, ALASKA 99801

March 22, 1989

The Honorable Curt Menard  
Co-Chairman House Resources Committee  
Alaska State Legislature  
P.O. Box V  
Juneau, Alaska 99811

RE: House Bill 220

Dear Representative Menard:

The U.S. Environmental Protection Agency (EPA) is encouraged by and supports the development of legislation aiming to prevent the contamination of water resources from petroleum and chemical storage tanks. As written, HB 220 provides noteworthy incentives for compliance by tank owners/operators. Positive incentives such as clean-up funds and loan programs are quickly gaining popularity nationwide; thirty-two states have developed or are in the process of developing such legislation.

Before presenting detailed comments, we would like to make the following general comments. HB 220 will provide an incentive for the development of storage tank insurance markets in Alaska. Insurance markets have not developed in the past because the risk to the insurer has not been adequately minimized. Insurance companies have been reluctant to insure a site for which they have not had previous oversight and which present a high risk of contamination. As written, HB 220 would reduce the risk of contamination and would provide a loan guarantee program for small business to add pollution control equipment to their facilities, thus shrinking the risk to the private insurer.

While it is hard to predict the effectiveness of the proposed clean-up fund and loan guarantees as incentives, EPA feels that the maximum incentive for insurance markets will be created when both are available. Therefore, EPA supports the development of a loan guarantee package.

EPA also strongly supports the inclusion of above ground and heating oil tanks in HB 220. Above ground tanks and heating oil tanks in the past have been the source of significant contamination (e.g., 500,000 gallons released from leaking oil tanks in Kotzebue during the 1970's). Presently, the U.S. Senate is considering legislation (SB 69) for above ground storage tanks that is modeled directly after the original Federal UST statutes (P.C. 98-616). Therefore, EPA anticipates that Federal law for above ground tanks will be promulgated in the near future.

## Sectional Analysis

### Section 4. 46.03.360 (b)

This clause would allow the State, in the process of developing regulations, to include or exclude tanks. The EPA, with a similar clause in the original Federal UST statutes, excluded a number of tanks that had been originally regulated by Congress. These tanks were excluded as EPA determined that certain classes of tanks (e.g., hydraulic lift tanks, machinery tanks, etc.) did not pose a significant environmental hazard.

### Section 46.03.390 LOAN GUARANTEES

The EPA supports and encourages the development of incentives (such as loan guarantees) for tank owners to upgrade tanks.

### Section 46.03.390

- (1) Is it the intent that loan guarantees be made available for assessing a site for contamination? If so, the word "inspection" may be misunderstood to mean an agency enforcement inspection. We suggest the Committee consider substituting word "assessment" for the word "inspection" to eliminate any possible misunderstanding.

Has the issue of providing loan guarantees for closure been considered? The proper closure of a tank is critical for preventing long-term releases. It seems possible that many small business tank owners may not be able to afford proper closure. Further, this class of owner may be the least attractive to lending institutions. If small business owners cannot get loans, they may improperly abandon tanks, leaving the State with clean-up and closure costs.

### Section 46.03.390 (b)(6) and (c)

The average cost of replacing or installing new USTs ranges between \$75,000 and \$100,000. The Committee may want to consider increasing the State loan guarantee limit to reflect these figures.

### Section 46.03.400 NOTIFICATION AND REGISTRATION REQUIREMENTS

- (a) "...Who intends to install or have a storage tank installed..."  
Recommend add: "...and parts thereof installed..."
- (c) Recommend add to "...type of construction,": "corrosion protection, piping, leak detection systems..."
- (d)(2) Recommend add: "and a site assessment has been completed and provided to the department." Site assessments are critical to the determination of whether a site has been adequately closed and/or requires further clean-up. Site assessments are currently required by Federal UST regulations; inclusion in HB 220 would make State statutes consistent with Federal Law.

Section 46.03.450 DEFINITIONS

- (3) In EPA's UST regulations, there has been some problem in the interpretation of heating oil as a non-regulated petroleum substance. For purposes of clarity, it may be appropriate to make a separate definition of heating oil, either at this point or in the development of regulations.

Section 6. 46.08.015 UNDERGROUND PETROLEUM STORAGE TANK ACCOUNT

Will the above named account be used for chemical releases? If so, will the title be amended to reflect this use?

Section 8

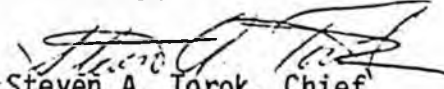
In regards to tank installed/closed before July 1, 1989, EPA suggest consideration of use of the effective date of Federal UST regulations (i.e., December 22, 1988). All USTs installed/closed after December 22, 1988 are required to meet Federal installation/closed requirements and theoretically should not pose a risk of a release. For this reason and for consistency with Federal requirements, EPA recommends the tank installation/closure date be changed to December 22, 1988.

Section 9

- (c)(2) Same comment as above.
- (c)(5) "...despite the owners best efforts...". EPA suggests that eligibility criteria be developed which an owner/operator would use to demonstrate the unavailability of insurance.
- (c)(6) "...the owner lacks sufficient assets to adequately self insure...". For purposes of clarity and consistency with Federal UST requirements, EPA recommends referencing 40 CFR 280.95 to define the financial test of self-insurance. (Generally, Section 280.95 states that to be self-insuring, a tank owner/operator must have a tangible net worth of \$10 million.)
- (c)(9) "...the owner agrees to upgrade all...". EPA suggests revision of this passage to read "...to upgrade or alternately close ..." (addition underlined). As mentioned previously, a significant number of owner/operators may be interested in properly closing out their tanks, but may not have the financial ability to do so without a loan package. This revision would give the owner the option of closing out the tank.

Thank you for the opportunity to comment. Please contact me if the Committee has any questions regarding these comments.

Sincerely,

  
Steven A. Torok, Chief  
State Operations Section

SECTIONAL ANALYSIS FOR HB 220,  
PETROLEUM AND CHEMICAL STORAGE TANKS

Prepared by House Resources Committee staff

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

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

Levies an additional surcharge of 2 cents per gallon on motor fuel which the Legislature may use to appropriate to the Underground Petroleum Storage Tank Account.

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

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

**46.03.380 Educational Assistance**

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

**46.03.390 Loan Guarantees**

Guarantees loans for site inspection and evaluation of an underground petroleum tank system, retrofitting, repairing or replacing an underground petroleum storage tank, and installing leak detection and monitoring. The maximum loan amount that is guaranteed may not exceed \$50,000.

**46.03.400 Notification and Registration Requirements**

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

#### **46.03.410 Registration Fee**

Requires tank owners to pay an annual fee of 1 cent per gallon based on the capacity of the tank or \$100, whichever is greater. These funds may be appropriated to the Underground Petroleum Storage Tank Account.

#### **46.03.410 Exemptions**

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

#### **46.03.450 Definitions**

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

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

##### **Section 6. 46.08.015 UNDERGROUND PETROLEUM STORAGE TANK ACCOUNT**

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

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

Defines underground petroleum storage tank for this section.

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

Gives storage tank owners 4 months from the effective date of this act to register petroleum and chemical storage tanks with the Department of Environmental Conservation.

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

Under this section, the owner of a qualifying underground petroleum storage tank may request funds from the Underground Petroleum Storage Tank Account to pay the costs of investigation, containment and clean up resulting from a release from or associated with an underground tank.

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

The owner would have to meet the following criteria to qualify for use of funds: 1) the release was reported before July 1, 1991, 2) the tank from which the release occurred was installed before July 1, 1989, 3) the tank from which the release occurred was registered with the Department of Environmental Conservation, 4) the owner is in compliance with all state and federal laws after the effective date of the act, 5) the owner could not obtain liability insurance, 6) the owner lacks sufficient assets to self-insure, 7) the owner pays the full amount of the deductible to the Department, 8) the petroleum release was not a result of negligence, gross negligence, or intentional misconduct, and 9) the owner agrees to upgrade all underground storage tank systems located at the facility from which the release occurred.

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

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

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

July 1, 1989

6-0693M  
Lauterbach  
4/7/89

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

1 IN THE HOUSE

BY THE RESOURCES COMMITTEE

2 CS FOR HOUSE BILL NO. 220 (Resources)

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 SIXTEENTH LEGISLATURE - FIRST SESSION

5 A BILL

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

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

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

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

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

29 (b) The surcharge imposed by (a) of this section shall be

1 collected and remitted in the same manner as the tax levied and col-  
2 lected under AS 43.40.010 except that the proceeds of the surcharge  
3 may not be returned to municipalities under AS 43.40.010(e) or depos-  
4 ited in any special account authorized under AS 43.40.010, but shall  
5 be remitted to the commissioner of revenue for deposit into the gener-  
6 al fund.

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

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

14 (a) A person who resells fuel on which the tax under AS 43.40.-  
15 010(a) or (b) and the surcharge levied under AS 43.40.015 were [WAS]  
16 previously paid is entitled to a credit or refund of the tax or sur-  
17 charge, or both, if (1) the resold fuel is not motor fuel and the  
18 requirements of AS 43.40.010(1) have been fulfilled; or (2) the amount  
19 of tax and surcharge previously paid exceeds the tax and surcharge due  
20 on the resale. The amount of the credit or refund under this section  
21 is equal to the amount of tax and surcharge previously paid on the  
22 resold fuel less the amount of tax prescribed by AS 43.40.010(a) or  
23 (b) and the surcharge prescribed by AS 43.40.015.

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

25 ARTICLE 6A. PETROLEUM AND CHEMICAL STORAGE TANKS.

26 Sec. 46.03.360. REGULATION OF STORAGE TANKS. (a) The depart-  
27 ment shall develop and implement a program to prevent and abate pol-  
28 lution from aboveground and underground petroleum and chemical storage  
29 tanks through the adoption of regulations. Consistent with other

1 provisions in AS 46.03.360 - 46.03.450, the regulations may govern

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

15 (b) The department may distinguish between the sizes, types,

16 classes, and ages of storage tanks in the regulations adopted under

17 (a) of this section.

18 (c) The commissioner shall appoint an advisory panel to assist

19 the department in developing regulations under this section. The

20 panel must include public members and persons who will be governed by

21 the regulations, such as storage tank owners and persons who install,

22 repair, or test storage tanks. Before a notice of proposed action may

23 be published under AS 44.62.190 for regulations required under this

24 section, the commissioner shall submit the proposed regulations to the

25 panel for review and comment. Before the commissioner adopts regula-

26 tions under this section, the commissioner shall consider the comments

27 of the panel. [D: 10/10/00, 10/10/00, 10/10/00]

28 Sec. 46.03.370. INSPECTIONS. An aboveground or underground

29 petroleum or chemical storage tank regulated under AS 46.03.360 -

1 46.03.450 is subject to inspection by the department to ensure com-  
2 pliance with AS 46.03.360 - 46.03.450 and the regulations adopted  
3 under those sections.

4 Sec. 46.03.380. EDUCATIONAL ASSISTANCE. The department shall  
5 provide to persons who own or operate underground petroleum storage  
6 tanks educational assistance to help them comply with federal and  
7 state laws and regulations applicable to the tanks. The department  
8 shall also provide the public with information to help the public  
9 understand the effects associated with the release of petroleum prod-  
10 ucts into the environment.

11 Sec. 46.03.390. GRANTS. (a) The department may issue a grant  
12 to the owner of an underground petroleum storage tank for the purpose  
13 of

14 (1) removing and properly disposing of all sludges from the  
15 tank and either filling the tank with inert material or properly  
16 dismantling and removing the tank from the ground; or

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

19 (b) A grant under (a)(1) of this section may be for up to 90  
20 percent of the costs approved by the department. A grant under (a)(2)  
21 of this section may be for up to 75 percent of the costs approved by  
22 the department.

23 (c) The department may adopt regulations to implement this  
24 section.

25 Sec. 46.03.400. NOTIFICATION AND REGISTRATION REQUIREMENTS. (a)  
26 A person who intends to install or have a storage tank installed shall  
27 notify the department in writing at least 30 days before installing or  
28 having the tank installed.

29 (b) The owner of a storage tank shall, within 30 days after

1 installing a storage tank, register the tank with the department on a  
2 form provided by the department. The owner shall biennially renew the  
3 registration.

4 (c) The owner shall specify on the registration form required  
5 under (b) of this section the location, size, type of construction,  
6 and age of the tank; the type of petroleum or chemical stored in the  
7 tank; and the total volume of petroleum or chemical stored in the tank  
8 during the previous 12 months.

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

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

13 (2) provide evidence satisfactory to the department that  
14 all petroleum and chemical products and sludges have been removed from  
15 the tank and properly disposed of, that the tank has either been  
16 filled with inert material or been properly dismantled and removed  
17 from the ground, and that the owner has otherwise complied with  
18 federal laws relating to taking a tank out of operation.

19 Sec. 46.03.410. REGISTRATION FEE. (a) At the time of registra-  
20 tion and renewal of registration under AS 46.03.400, the owner shall  
21 pay to the department a registration fee of \$.02 per gallon based on  
22 the capacity of the tank being registered or a fee of \$2,000, which-  
23 ever is lower. The department shall deposit fees collected under this  
24 section in the general fund. The commissioner of administration shall  
25 separately account for fees deposited under this section. The legis-  
26 lature may appropriate the annual estimated balance of the account to  
27 the petroleum and chemical storage tank account established under  
28 AS 46.08.015.

29 (b) The department may by regulation provide for exemptions from

1 the registration fee imposed under (a) of this section.

2 Sec. 46.03.420. EXEMPTIONS. (a) AS 46.03.360 - 46.03.450 do  
3 not apply to a storage tank with a capacity of 1,100 gallons or less  
4 at a farm, or at a residence that is a single-family dwelling or  
5 duplex, if the storage tank is used for storing motor fuel that is not  
6 intended for resale.

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

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

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

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

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

21 (1) "chemical" means any substance defined in 42 U.S.C.  
22 9601(14) (sec. 101(14) of the Comprehensive Environmental Response,  
23 Compensation, and Liability Act of 1980), as amended, and any sub-  
24 stance having the characteristics identified or listed under 42 U.S.C.  
25 6921 (sec. 3001 of the Solid Waste Disposal Act), regardless of wheth-  
26 er the substance is a solid waste;

27 (2) "farm" means a tract of land devoted to the production  
28 of crops or raising animals, including fish, and associated residences  
29 and improvements; "farm" includes fish hatcheries, rangelands, and

1 nurseries with growing operations;

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

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

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

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

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

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

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

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

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

29 (1) the costs of investigation, containment, and cleanup of

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

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

8 (3) grants under AS 46.03.390; and

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

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

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

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

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

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

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

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

28 (4) a detailed summary of department activities in re-  
29 sponses funded by the fund and the petroleum and chemical storage tank

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

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

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

17 \* Sec. 9. AS 46.03.390, enacted by sec. 4 of this Act, is repealed  
18 July 1, 1994.

19 \* Sec. 10. (a) Subject to (b) - (h) of this section, the owner of an  
20 underground petroleum storage tank may request the department to use funds  
21 from the account established under AS 46.08.015, enacted in sec. 6 of this  
22 Act, to pay the costs of investigation, containment, and cleanup resulting  
23 from a release of petroleum from, or associated with, an underground petro-  
24 leum storage tank.

25 (b) Payments made by the department under this section shall exclude  
26 a portion of the investigation, containment, and cleanup costs. The por-  
27 tion of costs not payable by the department under this section shall be  
28 based upon the total number of whole gallons of petroleum stored by the  
29 owner in all underground petroleum storage tanks during the 12-month period

preceding the date the owner reported the release to the department, as follows:

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

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

(1) the owner reported the release to the department before

(A) July 1, 1990, for a release that the owner establishes first occurred before July 1, 1989;

(B) July 1, 1994, for a release that the owner establishes first occurred on or after July 1, 1989, and before December 22, 1993;

(2) the tank from which the release occurred was installed before December 22, 1988;

(3) the tank from which the release occurred was registered with the department as provided in sec. 8 of this Act by December 1, 1989;

(4) the owner has, after July 1, 1989, been in compliance with all state and federal laws applicable to underground petroleum storage tanks;

(5) the owner lacks sufficient assets to adequately self-insure for the costs of investigation, containment, and cleanup resulting from

1 releases of petroleum from underground storage tanks as defined under  
2 applicable federal regulations; <sup>with</sup> liability to obtain liability insurance

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

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

8 (8) the owner agrees to

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

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

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

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

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

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

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

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

29 (f) The department shall determine which costs of investigation,

1 containment, and cleanup are eligible for payment under this section. The  
2 department shall give higher priority to investigation, containment, and  
3 cleanup under this section than to loan guarantees under AS 46.03.390,  
4 enacted by sec. 4 of this Act.

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

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

18 (i) The owner of an underground storage tank for whom the department  
19 makes payments under this section may not operate the underground storage  
20 tank system for which payments were received under this section for the  
21 costs of investigation, containment, and cleanup until the system meets the  
22 requirements of federal regulations that are applicable to storage tank  
23 systems installed after the date investigation, containment, and cleanup  
24 are completed.

25 (j) In this section,

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

28 (2) "underground petroleum storage tank" has the meaning given  
29 in AS 46.03.450, as enacted by sec. 4 of this Act, but does not include

1 storage tanks that are exempt under AS 46.03.420, enacted by sec. 4 of this  
2 Act, or regulations adopted under that section;

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

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