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SENATE COMMITTEE REPORT

FURTHER

5/8/89

DATE TURNED INTO OFFICE 5/3/90

Mr. President:

FINANCE

Committee considered CSHB 220 (FIN) am

motor fuels, petroleum and chemical storage tanks, and investigation, containment, and cleanup of oil and hazardous substances; efd

and recommended

replace with S CS CSHB 220 (Fin)) same title
 or adopt _____ CS _____) new title
 attached amendment(s) and technical title change (HB only)
 _____ letter of intent adopted

do pass

do not pass

no recommendation

individual recommendations

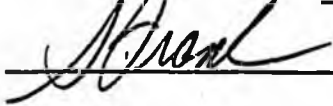
further referral to _____

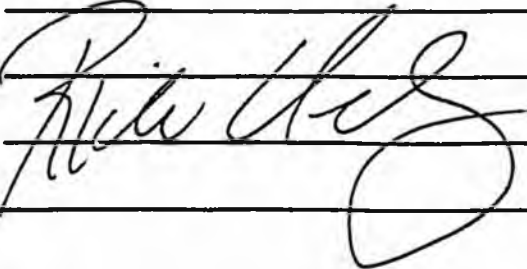
1-DEC 1,053.1 5/3/90
 2-DC&ED 25.7 5/2/90
 3-SFC/DEC 10mil 5/2/90

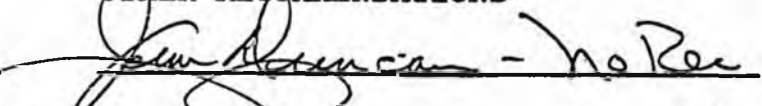
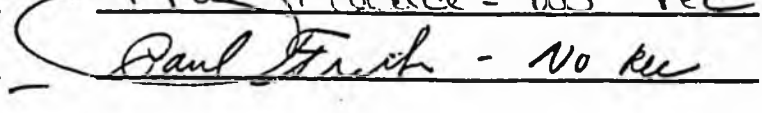
FISCAL NOTE(S) zero ³ fiscal impact appropriation no FN
 new updated previous
 same as previous fiscal note(s) published _____

MEMBERS SIGNING DO PASS

OTHER RECOMMENDATIONS





 Do Pass
 Chair signature and recommendation

Committee Backup attached

STATE OF ALASKA
1990 LEGISLATIVE SESSION

BILL VERSION: SCSHB220 (Finance)

PUBLISH DATE: 4/29/90

FISCAL NOTE

REQUEST:

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

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

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 91	FY 92	FY 93	FY 94	FY 95	FY 96
PERSONAL SERVICES	421.0	657.0	606.0	606.0	606.0	606.0
TRAVEL	71.1	70.1	65.1	65.1	65.1	65.1
CONTRACTUAL	502.0	152.0	144.0	144.0	144.0	144.0
SUPPLIES	14.0	19.0	18.0	18.0	18.0	18.0
EQUIPMENT	45.0	70.0	65.0	65.0	65.0	65.0
LAND&STRUCTURES	0.0	0.0	0.0	0.0	0.0	0.0
GRANTS,CLAIMS	0.0	0.0	0.0	0.0	0.0	0.0
MISCELLANEOUS	0.0	0.0	0.0	0.0	0.0	0.0
TOTAL OPERATING	1,053.1	968.1	898.1	898.1	898.1	898.1

CAPITAL	0.0	0.0	0.0	0.0	0.0	0.0
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REVENUE	1,568.0	1,541.0	1,487.0	1,379.0	1,164.0	732.0
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FUNDING: (Thousands of Dollars)

GENERAL FUND	1,053.1	968.1	898.1	898.1	898.1	898.1
FEDERAL FUNDS	0.0	0.0	0.0	0.0	0.0	0.0
OTHER	0.0	0.0	0.0	0.0	0.0	0.0
TOTAL	1,053.1	968.1	898.1	898.1	898.1	898.1

POSITIONS:

FULL-TIME	8.0	13.0	13.0	13.0	13.0	13.0
PART-TIME	0.0	0.0	0.0	0.0	0.0	0.0
TEMPORARY	2.0	2.0	0.0	0.0	0.0	0.0

ANALYSIS: (Attach a separate page if necessary)

See attached.

Prepared by: Lynn Kent
Division: Environmental Quality

Phone: 465-2630
Date: 5/2/90

Approved by Commissioner: A. D. Kyle
Agency: Environmental Conservation

Date: 5/3/90

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

Adopted

Senate CS for House Bill 220
Department of Environmental Conservation
Fiscal Analysis
4/29/90 Version

Section 1, 3, 4, 5, 7, 8

There is no fiscal impact to the Department from these sections.

Section 2 46.03.360 Board of Storage Tank Assistance

Section 46.03.360 establishes the Board of Storage Tank Assistance. The Board will employ a full-time Director (Ecologist III). One additional employee will serve as staff for the board. This position will be funded under an existing federal grant. Therefore, no new position or funding is shown in this fiscal note for this position.

Travel for board members is estimated at six trips per year for the seven members. Airfare (\$300 per trip) and seven days per diem (\$80 per day) has been included for a total of \$36.1. The number of times that the board needs to meet will be reduced to four times per year after the first year, for periods of three days. This reduces the cost to \$15.1 for the board from FY 92 on.

The Board is directed to develop underground storage tank program regulations, Tank Cleanup Program regulations, and Storage Tank Workers Certification regulations. These tasks will be contracted by the board during FY 91 at an estimated \$385.0.

Under Section 46.03.363 the Board is required to submit to the legislature an annual report covering personal and property damage, recommendations for regulations, information on loan availability for system upgrades, information on availability of insurance, summary of disputes, and recommendations for amendments or additions to AS 46.03.360 - 46.03.450. Section 46.03.410 (c) directs the commissioner to submit to each session of the legislature a report detailing monies received and expended from the Storage Tank Assistance Fund. Contractual funds (\$25.0) are included for the preparation of these reports.

After the regulations are developed by the Board, the Department will need additional staff in all of the regional offices to implement and enforce regulations and procedures developed by the Storage Tank Assistance Board for the various aspects of the underground storage tank program. This will include monitoring contracts for cleanup, determining the adequacy of the cleanup, assuring appropriate tank upgrades following cleanup, as well as permitting of contaminated soil disposal. Four professional and one clerical position will be required for these purposes beginning in FY 92.

FY 91

Position	100	200	300	400	500	Total
Ecologist III	51.0	5.0	8.0	1.0	5.0	70.0
Travel (Board)		36.1				36.1
Contractual (Regs)			410.0			410.0
TOTAL	51.1	41.1	418.0	1.0	5.0	516.1

FY 92 and following years:

Position	100	200	300	400	500	Total
Ecologist III	51.0	5.0	8.0	1.0	5.0	70.0
Env. Field Offi. (4 positions)	204.0	20.0	32.0	4.0	20.0	280.0
Clerk Typist	32.0		8.0	1.0	5.0	46.0
Travel		15.1				15.1
Contractual			25.0			25.0
TOTAL	287.0	40.1	73.0	6.0	30.0	461.1

46.03.370 Educational Assistance

The legislation requires the Department to develop a two phase public information program to assist tank owners and operators and the general public.

Central office staff (one half-time Public Information Officer) will be needed to plan public information activities, provide technical assistance to owners and operators and respond to public inquiries, prepare presentations to organizations, develop brochures, newsletters and other materials, and participate in workshops. \$15.0 in contractual funds will be used for development and printing of public information documents. Additional supply costs of \$5.0 would include materials for mass mailings and display materials.

FY 91 and following years:

Position	100	200	300	400	500	Total
.5 Information Officer	25.5	2.5	4.0	.5	2.5	35.0
Contractual			15.0			15.0
Supplies				5.0		5.0
TOTAL	25.5	2.5	19.0	5.5	2.5	55.0

46.03.375 Certification of Storage Tank Workers

The legislation requires the Board to develop requirements, including education, experience, training, a written test, and other appropriate measures, for persons who install, repair and test tanks.

\$35.0 was included in the FY 91 Storage Tank Assistance Board budget under contractual services to cover development of regulations and test materials for the Storage Tank Workers Certification Program.

46.03.380 Registration of Tanks and Tank Systems

Under this legislation all owners/operators of existing underground storage tanks subject to regulation will be required to register their tanks with the Department within six months of the effective date of the statute.

To establish the registration/notification system the Department would need one Ecologist. This position will come from a current federal grant. No new position or dollars are included in the fiscal note for this position. One Accounting Technician is included in the fiscal note. These two positions will ensure that all facilities receive and understand the registration forms, review registration forms submitted, provide accounting services for the registration fees, and conduct follow up for delinquent payments. Contractual costs in the amount of \$5.0 will be needed to develop, print and mail the registration forms.

The Department estimates that the revenue from the tank registration fee would total \$1,568.0 during FY 91 and gradually decrease as facilities are upgraded and become eligible for lower registration fees.

FY 91:

<u>Position</u>	<u>100</u>	<u>200</u>	<u>300</u>	<u>400</u>	<u>500</u>	<u>Total</u>
Accounting Tech.	51.0	5.0	8.0	1.0	5.0	70.0
Contractual			5.0			5.0
TOTAL	51.0	5.0	13.0	1.0	5.0	75.0

FY 92:

<u>Position</u>	<u>100</u>	<u>200</u>	<u>300</u>	<u>400</u>	<u>500</u>	<u>Total</u>
Accounting Tech.	51.0	5.0	8.0	1.0	5.0	70.0
TOTAL	51.0	5.0	8.0	1.0	5.0	70.0

46.03.415 Tank Tightness and Site Assessment Incentive Program

Under this section the Department will be reimbursing tank owners for tank tightness testing and site assessment work. One half Ecologist is included for conducting a technical evaluation of the completed work to determine eligibility for reimbursement.

FY 91 and following years:

<u>Position</u>	<u>100</u>	<u>200</u>	<u>300</u>	<u>400</u>	<u>500</u>	<u>Total</u>
.5 Ecologist	25.5	2.5	4.0	.5	2.5	35.0

46.03.420 Tank Cleanup Program

During FY 91 the Department will need 3 positions to develop and begin implementation of the Underground Storage Tank Account Cleanup Program (2 Ecologists and one Accounting Technician). Leak reports will need to be reviewed and evaluated to determine if they meet appropriate guidelines. The Department will also need to evaluate information regarding the extent of investigation, cleanup, and facility upgrades to meet current facility requirements. Oversight of cleanup contracts will also be required. The Accounting Technician will deposit payments received, track costs, and justify that payments are correct and adequate.

FY 91 and following years:

<u>Position</u>	<u>100</u>	<u>200</u>	<u>300</u>	<u>400</u>	<u>500</u>	<u>Total</u>
Ecologist	51.0	5.0	8.0	1.0	5.0	70.0
Ecologist	51.0	5.0	8.0	1.0	5.0	70.0
Accounting Tech.	51.0	5.0	8.0	1.0	5.0	70.0
TOTAL	153.0	15.0	24.0	3.0	15.0	210.0

Section 6

Reimbursement Program

The legislation provides for the administration of a reimbursement program to help pay the costs of cleanup and closure of leaking tanks, and upgrades to meet state and federal regulations.

All requests for reimbursement must be made with the initial tank registration. Staff in this program would consist of 2 positions (Ecologist and an Accounting Technician). These positions are funded in the fiscal note for the second half of FY 91 (6 months)

and the first half of FY 92 (6 months) only, during the time when initial registration forms are received. These positions will evaluate the requests for reimbursement during FY 91 and FY 92, and prioritize them for later payment as funding is available.

FY 91, 92:

<u>Position</u>	<u>100</u>	<u>200</u>	<u>300</u>	<u>400</u>	<u>500</u>	<u>Total</u>
Ecologist	25.5	2.5	4.0	.5	2.5	35.0
Accounting Tech.	25.5	2.5	4.0	.5	2.5	35.0
TOTAL	51.0	5.0	8.0	1.0	5.0	70.0

Two clerical staff would be necessary to support the Board and the program staff.

FY 91 and following years:

<u>Position</u>	<u>100</u>	<u>200</u>	<u>300</u>	<u>400</u>	<u>500</u>	<u>Total</u>
Clerk Typist	32.0	0.0	8.0	1.0	5.0	46.0
Clerk Typist	32.0	0.0	8.0	1.0	5.0	46.0
TOTAL	64.0	0.0	16.0	2.0	10.0	92.0

FISCAL SUMMARY

FY 91:

<u>Position</u>	<u>100</u>	<u>200</u>	<u>300</u>	<u>400</u>	<u>500</u>	<u>Total</u>
Prof. Staff 7 FTE	357.0	35.0	56.0	7.0	35.0	490.0
Clerical 2 FTE	64.0		16.0	2.0	10.0	92.0
Travel		36.1				36.1
Contractual			430.0			430.0
Supplies				5.0		5.0
Total	421.0	71.1	502.0	14.0	45.0	1,053.1

FY 92

<u>Position</u>	<u>100</u>	<u>200</u>	<u>300</u>	<u>400</u>	<u>500</u>	<u>Total</u>
Prof. Staff 11 FTE	561.0	55.0	88.0	11.0	55.0	770.0
Clerical 3 FTE	96.0		24.0	3.0	15.0	138.0
Travel		15.1				15.1
Contractual			40.0			40.0
Supplies				5.0		5.0
Total	657.0	70.1	152.0	19.0	70.0	968.1

FY 93, 94, 95, 96:

<u>Position</u>	<u>100</u>	<u>200</u>	<u>300</u>	<u>400</u>	<u>500</u>	<u>Total</u>
Prof. Staff 10 FTE	510.0	50.0	80.0	10.0	50.0	700.0
Clerical 3 FTE	96.0		24.0	3.0	15.0	138.0
Travel		15.1				15.1
Contractual			40.0			40.0
Supplies				5.0		5.0
Total	606.0	65.1	144.0	18.0	65.0	898.1

FISCAL NOTE

REQUEST:

Revision Date: _____
Title: An Act relating to motor fuels
petroleum and chemical storage tanks, and investigation
Sponsor: Rep. Menard, et al.
Requestor: Senate Finance

Agency Affected: Commerce & Econ. Dev.
BRU: Occupational Licensing
Components: Administration

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 91	FY 92	FY 93	FY 94	FY 95	FY 96
PERSONAL SERVICES	6.3	2.0	2.0	2.0	2.0	2.0
TRAVEL	3.2	1.5	1.5	1.5	1.5	1.5
CONTRACTUAL	16.2	4.0	4.0	4.0	4.0	4.0
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	25.7	7.5	7.5	7.5	7.5	7.5

CAPITAL						
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REVENUE	25.0	5.0	5.0	5.0	5.0	5.0
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FUNDING: (Thousands of Dollars)

GENERAL FUND						
FEDERAL FUNDS						
OTHER (GF/PR)	25.7	7.5	7.5	7.5	7.5	7.5
TOTAL	25.7	7.5	7.5	7.5	7.5	7.5

POSITIONS:

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

ANALYSIS : (Attach a separate page if necessary)

The bill requires individuals who install, test, repair, close or significantly change the configuration of an underground petroleum storage tank or tank system to first obtain certification to perform the appropriate activity.

(CONTINUED ON ATTACHED)

Prepared by: Jennifer Strickler, Administrative Officer
Division: Occupational Licensing

Phone: 465-2144

Date: May 2, 1990

Approved by Commissioner: Larry Merculieff
Agency: Commerce and Economic Development

Date: 5/2/90

Distribution (by preparer):

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

Adopted

CONTINUATION OF FISCAL NOTE ANALYSIS

SCS CSHB 220(Fin)

Unlike other licensing areas administered by the Division of Occupational Licensing, the responsibility given to the division under this bill relate only to certification, not licensure or registration, of storage tank workers. This means that division activities will be related to providing opportunities for training to meet the certification requirements established by the Board of Storage Tank Assistance (created by HB 220) and the Department of Environmental Conservation (DEC), rather than the division's usual examination, licensing, and renewal of licensing and continued competency activities.

We view the certification process described in HB 220 as a "one-time" event (i.e., once an individual has received the proper training, passed an exam, and been certified, there is no continuing responsibility of the division). Rather, we read the legislation to require the establishment and maintenance of a registry of persons who have completed the education and testing necessary for certification. Once on this list, any entity seeking to have a storage tank installed, tested, closed, repaired, or significantly reconfigured may only employ a person who is listed on the registry as having been certified to perform such work.

The costs involved in administering this certification program focus, then, on:

- 1) organizing or arranging for training courses that meet the Storage Tank Assistance Board's certification standards;
- 2) "assist[ing] residents of isolated communities who request assistance in becoming certified" (see Sec. 46.03.375(a); and
- 3) general operational costs.

It is difficult to estimate the potential number of persons who will seek certification as a storage tank worker under HB 220. However, DEC has suggested that at least fifty persons will seek initial certification. We further believe that a minimum number of persons will need to seek certification each year, in order for the state to offer the training program at a reasonable cost. The legislation provides that the division may contract with the University of Alaska, a vocational/technical school, or a regional nonprofit organization to provide the education and testing necessary for certification. Contracting is certainly the division's preferred approach.

In addition, we believe that language mandating the division to assist residents in isolated communities who request assistance in becoming certified storage tank workers requires the provision of financial assistance to those qualified residents, through the payment of travel costs, for example, or the presentation of courses in regional locations where there is local access to the training.

Finally, the requirement that a person be certified as a storage tank worker takes effect one year from the date the Board of Storage Tank Assistance and DEC together have promulgated regulations establishing certification standards, giving the division time to contract for and implement the necessary training and testing programs.

This fiscal note reflects the cost considerations discussed above. The personal services costs are based on a percentage of the division's total projected personal services costs in FY 91. The estimated number of persons (50) who will seek storage tank worker certification in FY 92 (the expected first year of operation) is compared to all of the division's licensees (25,140), thereby budgeting personal services costs at \$6.3 per year.

Travel costs reflect an estimate of the number of residents (7) of isolated communities who may seek assistance to attend certification training courses in the first year of operation. We selected isolated communities across Alaska in determining the travel costs. These funds can either be issued as assistance grants to trainees or made available to training staff to provide the program in rural locations, whichever is the more effective use of the available training dollars.

The contractual costs reflect the funds necessary to contract for the training and testing necessary to meet the board's requirements, plus funding for public notices for training sessions, printing of certification applications and public information about the program, and communication and miscellaneous (e.g., telephone, photocopying) office costs. We estimate a contract cost of at least \$300 per person for the training and testing program (\$15,000), based on an average cost of \$95.00 per day (cost estimates provided by the U of A's continuing education division).

Revenues are based on the assumption that at least 50 applicants seeking certification will pay a one-time certification fee of \$500, which will include the cost of the training course, examination, and certification by the division. Although relatively expensive at the outset, because there is no additional certification fee (i.e., no renewal fees, no continuing education expenses, etc.), we do not think the initial certification fee is out-of-line with other occupations, given their continuing, biennial costs.

It is also difficult to estimate program costs after the first year. We believe a minimum of ten persons must seek certification each year in order for the program to be feasible. Given that we do not anticipate more than ten persons after the first year, all costs are reduced to reflect the drop in activity. We have assumed that three rural residents may seek an assistantship, and that the division will contract for a minimum of ten training slots.

FISCAL NOTE

REQUEST:

Revision Date: _____ Agency Affected: Dept. of Environmental
Title: Cleanup of oil and hazardous BRU: Conservation
substances/storage tanks
Sponsor: Rep. Menard, et al
Requestor: Senate Finance Components: Storage Tank Assistance
Fund

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 91	FY 92	FY 93	FY 94	FY 95	FY 96
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS	\$10 million	0	0	0	0	0
MISCELLANEOUS						
TOTAL OPERATING	\$10 million	0	0	0	0	0
CAPITAL	0	0	0	0	0	0
REVENUE	0	0	0	0	0	0

FUNDING: (Thousands of Dollars)

GENERAL FUND	\$10 million	0	0	0	0	0
FEDERAL FUNDS						
OTHER						
TOTAL	\$10 million	0	0	0	0	0

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

ANALYSIS : (Attach a separate page if necessary)

Prepared by: Senator Rick Uehling, Co-chairman Phone: 465-4821
Division: Senate Finance Committee Date: May 2, 1990

Approved by Commissioner: _____ Date: _____
Agency: _____

Distribution (by preparer):

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

Adopted

Adopted

Lauterbach
6-069311

Original sponsor(s): REP. MENARD, M. Davis, Brown, Larson, Navarre, Cato, Koponen, Gruenberg, Spohnholz, Goll, Ellis, Foster, Jacko, Boyer, Boucher, Swackhammer, Kubina

IN THE HOUSE

BY THE FINANCE COMMITTEE

SENATE CS FOR CS FOR HOUSE BILL NO. 220 (Finance)

IN THE LEGISLATURE OF THE STATE OF ALASKA

SIXTEENTH LEGISLATURE - SECOND SESSION

A BILL

For an Act entitled: "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."

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

* Section 1. PURPOSE AND INTENT. (a) The purpose of this Act is to provide for

(1) establishment of technical assistance mechanisms that will assist the owners and operators of underground storage tank systems to comply with federal and state requirements governing their tank systems; and

(2) clean up of existing leaks and prevention of future leaks associated with underground petroleum storage tank systems in order to protect the public from contamination of drinking water and to protect the environment.

(b) The legislature recognizes that the regulations governing underground storage tank systems may not be easily understood and that some owners and operators will be faced with insurance requirements that they will not be able to satisfy because of contamination relating to their tank systems. It is the legislature's intent to help these owners and operators through educational, technical, and financial assistance, and to provide incentives for prompt compliance with the new requirements of this Act.

(c) It is the intent of the legislature that the owners and operators of underground petroleum storage tank systems train their employees in the

proper handling of petroleum products and the use of leak, spill, and overflow protection devices.

(d) It is also the intent of the legislature to develop a program for underground storage tank systems that will be approved by the federal government.

* Sec. 2. AS 46.03 is amended by adding new sections to read:

ARTICLE 6A. UNDERGROUND STORAGE TANK SYSTEMS.

Sec. 46.03.360. BOARD OF STORAGE TANK ASSISTANCE. (a) There is established the Board of Storage Tank Assistance. For administrative purposes, the board is located in the department. The board consists of the commissioners of environmental conservation and transportation and public facilities, or their designees, and the following persons who shall be appointed by the governor:

(1) an engineer registered under AS 08.48 who is knowledgeable about installing, upgrading, repairing, or closing underground petroleum storage tank systems;

(2) a general contractor registered under AS 08.18 who is knowledgeable about installing, upgrading, repairing, or closing underground petroleum storage tank systems;

(3) two persons who own or operate an underground petroleum storage tank system, at least one of whom does not own or operate more than 10 underground petroleum storage tanks; and

(4) a member of the insurance industry.

(b) The board may employ a full-time director and no more than one other employee. The department shall provide additional administrative and clerical support to the board.

(c) Members of the board designated under (a)(1) - (4) of this section serve staggered four-year terms and may be removed by the governor only after notice and hearing for misconduct, incompetency,

or neglect of duty.

(d) The board shall meet at the call of the chair, who shall be selected by the members from among themselves.

(e) The members of the board serve without compensation, but are entitled to per diem and travel expenses authorized by law for boards and commissions.

(f) The department shall implement and enforce the regulations adopted by the board.

Sec. 46.03.363. BOARD REPORT. The board shall submit a report to the legislature not later than the 10th day following the convening of each regular session of the legislature. The report may include information considered significant by the board but must include

(1) information about the extent to which releases associated with underground petroleum storage tank systems have caused bodily injury or property damages to persons other than the owner or operator of the system in the preceding fiscal year, and the extent to which insurance is available to cover that type of injury and damage;

(2) recommendations about whether there are specific areas where state regulations should be more stringent than the federal regulations for underground petroleum storage tank systems;

(3) information on the availability of private commercial loans and federal loans, loan guarantees, or grants for upgrading underground petroleum storage tank systems;

(4) information on the availability of insurance that would cover the costs of corrective actions made necessary by a release or threatened release from an underground petroleum storage tank system;

(5) a brief summary of disputes involving the board under AS 46.03.420(c)(3); and

(6) recommendations for amendments or additions to

AS 46.03.360 - 46.03.450.

Sec. 46.03.365. REGULATION OF UNDERGROUND PETROLEUM STORAGE TANK SYSTEMS. (a) The board shall develop a program to abate and prevent pollution from underground petroleum storage tank systems through the adoption of regulations under the Administrative Procedure Act (AS 44.62). Consistent with other provisions in AS 46.03.360 - 46.03.450, the regulations may govern

- (1) notification and registration;
- (2) inspection and record keeping;
- (3) construction, installation, and performance;
- (4) maintenance, operation, and repair;
- (5) technical standards, including standards for spill and overfill control, corrosion prevention, and release detection and reporting;
- (6) financial responsibility;
- (7) certification of underground petroleum storage tank system workers;
- (8) corrective action and cost recovery;
- (9) closure and abandonment;
- (10) enforcement of regulations; and
- (11) prevention of releases to protect the public health and environment.

(b) In the regulations adopted under (a) of this section, the board may

- (1) distinguish among the sizes, types, classes, locations, and ages of underground petroleum storage tank systems;
- (2) provide for exemptions and deferrals determined to be necessary by the board; exemptions and deferrals under this paragraph must be consistent with those granted under federal laws and

regulations.

(c) Except as provided in AS 46.03.420(c)(2)(A), when the regulations adopted under this section address areas governed by federal laws or regulations, the state regulations must be consistent with federal laws and regulations and may not be more stringent than the federal laws and regulations.

(d) The department may not adopt regulations that conflict with regulations adopted by the board.

Sec. 46.03.370. EDUCATIONAL ASSISTANCE. Under the regulations of the board, the department shall provide

(1) educational assistance to owners and operators of underground petroleum storage tank systems to help them comply with federal and state laws and regulations applicable to the tank systems, including the registration and notification requirements under AS 46.-03.380 - 46.03.400;

(2) the public with information to help the public understand the effects associated with the release of petroleum and chemical products into the environment, including releases from petroleum and chemical storage tank systems.

Sec. 46.03.375. CERTIFICATION OF STORAGE TANK WORKERS. (a) The board shall adopt regulations governing the certification of persons who install, test, close, repair, or significantly change the configuration of underground petroleum storage tanks and tank systems. The certification program shall be administered by the division of occupational licensing, Department of Commerce and Economic Development. Under the board's regulations and in consultation with the Department of Environmental Conservation, the division shall make every reasonable attempt to ensure that opportunities for obtaining certification under this section are available throughout the state. The division

shall organize presentation of national training courses that are available in the state and assist residents of isolated communities who request assistance in becoming certified. The division may contract with the University of Alaska, a vocational technical school, or a regional nonprofit organization to provide the education and testing necessary for certification.

(b) The division shall establish fees applicable to certification under this section in an amount necessary to cover the costs of the certification program. The fees shall be collected by the division. The commissioner of administration shall separately account for fees deposited in the general fund by the Department of Commerce and Economic Development under this subsection. The legislature may appropriate the annual estimated balance of the account to the Department of Commerce and Economic Development for operation of the certification program.

(c) Except as provided in (d) of this section, a person may not install, test, close, repair, or significantly change the configuration of an underground petroleum storage tank or tank system unless that person is certified for the appropriate activity under (a) of this section. A person who violates this subsection is guilty of a class B misdemeanor.

(d) A person may install, test, close, repair, or significantly change the configuration of an underground petroleum storage tank or tank system without being certified under this section if

- (1) the person performs the work under the direct supervision of another who is certified for that work under this section;
- (2) the supervisor inspects the work performed; and
- (3) after inspection, the supervisor approves the work in writing.

(e) The Administrative Procedure Act (AS 44.62) applies to regulations and certifications under this section.

(f) The department shall develop and maintain lists of persons certified under this section to perform the various activities related to underground petroleum storage tanks and tank systems. The department shall provide the lists on request to interested persons.

(g) In this section,

(1) "close" means to remove petroleum and sludges from the tanks in the tank system and either fill the tanks with inert solid material or remove, dismantle, and dispose of the tanks;

(2) "division" means the division of occupational licensing in the Department of Commerce and Economic Development.

Sec. 46.03.380. REGISTRATION OF TANKS AND TANK SYSTEMS. (a) A person, including a governmental entity or institution, or a public corporation, who intends to install, have installed, return to operation, or acquire ownership of an underground petroleum storage tank or tank system shall, before the installation or return to operation, or 30 days after acquisition, register the tank or tank system with the department on a form provided by the department and pay the tank registration fee required under AS 46.03.385.

(b) The owner or operator of an underground petroleum storage tank or tank system that was installed before and is still in use on the effective date of this section shall register the tank or tank system with the department on a form provided by the department and pay the tank registration fee required under AS 46.03.385. For each tank or tank system registered under this subsection that was installed before December 22, 1988, the owner or operator shall provide to the department at the time of registration

(1) proof of plans for prompt site assessment or testing

for tank tightness;

(2) an application for state assistance to fund part of the cost of a tank tightness test or site assessment; or

(3) proof of tank tightness testing or site assessment that occurred within the previous 12 months and

(A) satisfactory performance of the tank or tank system during the test, proof of noncontamination if a site assessment was performed, and proof of compliance with applicable state financial responsibility requirements; or

(B) if the tank or tank system did not perform satisfactorily during the test, or the site assessment showed evidence of contamination,

(i) a summary of the upgrading, repair, containment, or cleanup efforts that have been or will be used for the tank, tank system, or site; or

(ii) an application for state assistance under AS 46.03.420 - 46.03.430; if the applicant is determined to be ineligible for assistance under AS 46.03.420 - 46.03.430, the applicant shall comply with (i) of this subparagraph upon notification of ineligibility.

Sec. 46.03.385. REGISTRATION FEE. (a) At the time of registration under AS 46.03.380, and annually thereafter, the owner or operator shall pay to the department a registration fee for each tank registered unless the owner or operator has notified the department under AS 46.03.395 that the tank has been taken out of service. An underground storage tank that has leak detection, spill and overflow protection, and corrosion protection that meet requirements of the board is subject to a \$50 annual registration fee, regardless of tank capacity. An underground storage tank system that lacks any or all of

these features is subject to an annual registration fee of

(1) \$150 if the underground storage tank capacity is less than 1,000 gallons;

(2) \$300 if the underground storage tank capacity is 1,000 - 5,000 gallons;

(3) \$500 if the underground storage tank capacity is over 5,000 gallons.

(b) An underground petroleum storage tank or tank system owned or operated by the federal or state government is exempt from the registration fee in (a) of this section.

(c) A registration fee that is not paid within 30 days of when it is due shall be increased by a late payment fee equal to \$10 per day until the day of payment.

(d) The first annual fee under this section must be accompanied by the information required under AS 46.03.400. Subsequent annual fees must be accompanied by the names and addresses of the owner and operator of the tank system, and the location and capacity of, and substance being stored in, the tanks for which the fee is being submitted.

(e) The commissioner of administration shall separately account for money deposited in the general fund by the department under this section. The legislature may appropriate the annual estimated balance of the account to the storage tank assistance fund established under AS 46.03.410.

Sec. 46.03.390. NOTIFICATION OF CHANGES IN TANK SYSTEMS. An owner or operator who intends to significantly change the configuration of an underground petroleum storage tank system shall notify the department before beginning work on the change by completing and returning to the department a notification form obtained from the

department.

Sec. 46.03.395. NOTIFICATION OF TANK SYSTEM CLOSURE. If an underground petroleum tank or storage tank system is taken out of operation, the owner or operator of the tank or tank system, or an agent on the owner's or operator's behalf, shall provide on forms obtained from the department

(1) notification of that fact to the department at least 15 days, but not more than 60 days, before the date the tank or tank system will be taken out of operation unless the tank or tank system is taken out of operation because of an emergency; in emergency situations, the owner or operator shall provide notification as promptly as possible under the circumstances; and

(2) evidence satisfactory to the department within 30 days after the tank or tank system is taken out of operation that the owner or operator has complied with applicable state and federal laws and regulations governing temporary or permanent tank closure.

Sec. 46.03.400. REGISTRATION FORMS. The registration forms required under AS 46.03.380 - 46.03.395 must require information about the geographical location of a tank or tank system, the estimated age of the tanks and tank system, the total capacity, type of construction, internal and external protection, and piping of the tanks and tank system, and the substance currently or proposed to be stored in the tank system. If the tank or tank system is newly installed, the owner or operator shall certify that the owner or operator has complied with installation, release detection, corrosion protection, and financial responsibility requirements of state and federal law.

Sec. 46.03.405. PROHIBITIONS. A person may not operate an underground petroleum storage tank or tank system unless

(1) the tank and tank system is registered with the

department as provided in AS 46.03.360 - 46.03.450 or other law; and

(2) except as provided in AS 46.03.420(c)(1)(D), the person has provided to the department proof of financial responsibility to the extent required under regulations adopted under AS 46.03.365 or proof of application for arrangements that would satisfy state financial responsibility requirements.

Sec. 46.03.410. STORAGE TANK ASSISTANCE FUND. (a) There is established the storage tank assistance fund. It consists of money appropriated to it by law. The commissioner of administration shall separately account for earnings on money in the fund that are deposited in the general fund by the department. The legislature may use the estimated balance in the account to make appropriations to the fund.

(b) The commissioner may use money in the fund to pay for

(1) tank tightness tests or site assessments under AS 46.-03.415;

(2) grants and loans under AS 46.03.420 for risk assessment, containment, corrective action, and cleanup costs; and

(3) grants under AS 46.03.430 for tank system upgrading and closure.

(c) The commissioner shall submit a report on the status of the storage tank assistance fund to the legislature not later than the 10th day following the convening of each regular session of the legislature. The report may include information considered significant by the commissioner but must include

(1) the amount and source of money received by the fund during the preceding fiscal year;

(2) the amount of money expended during the preceding fiscal year for each type of expense authorized under (b) of this

section;

(3) a detailed summary of department activities paid for from the fund during the preceding fiscal year, including how many requests for assistance have been made to the department to use the fund for grants or loans for testing, site assessment, risk assessment, upgrading, closure, containment, corrective action, and cleanup costs, and the number of requests funded in each activity area;

(4) the projected cost for the next fiscal year of monitoring, operating, and maintaining sites where department activities have been completed or are expected to start or be continued during the fiscal year;

(5) the priority list of tank system sites for which the department expects to provide financial assistance in the next fiscal year.

Sec. 46.03.415. TANK TIGHTNESS AND SITE ASSESSMENT INCENTIVE PROGRAM. (a) The owner or operator of an underground petroleum storage tank or tank system that was installed before the effective date of this Act and is operating on the effective date of this Act, other than the state or federal government, may request the department to use money from the storage tank assistance fund to reimburse the owner or operator for eligible costs of a tank tightness test or site assessment in order to determine if there has been a release of petroleum from the owner's or operator's tank system. The department shall reimburse up to 50 percent of the cost, not to exceed \$300 per tank for tightness tests up to a maximum of \$1,200 per facility, or \$800 per tank for site assessment up to a maximum of \$3,200 per facility.

(b) Under regulations adopted by the board, the department shall determine which costs of tightness testing and site assessment are eligible costs under this section.

(c) Notification of intent to request reimbursement under this section must be submitted to the department at the time of registration under AS 46.03.380(b). The activities for which reimbursement is requested must be completed within 12 months after registration is due under AS 46.03.380 unless the owner or operator demonstrates to the department's satisfaction that there is good cause for extending the deadline. Good cause may be demonstrated by a showing that a qualified site assessor or tank system tester was not available, seasonal climatic conditions render the appropriate activities unsafe or impracticable, or other justification acceptable to the department. If the department finds good cause for extending the deadline, the department may extend the deadline for completion of activities for which reimbursement is requested for a period of time specified by the department.

(d) The department shall make available, on request, lists of persons who have notified the department that they are available as site assessors and tank testers for purposes of this section.

Sec. 46.03.420. TANK CLEANUP PROGRAM. (a) Subject to (b) - (j) of this section, application may be made to the department by the owner or operator of an underground petroleum storage tank system, other than the state or federal government, for grants and loans from the storage tank assistance fund to pay for the costs of risk assessment, containment, corrective action, and cleanup resulting from a release of petroleum from or associated with an underground petroleum storage tank system. Applications for assistance under this section must be submitted to the department before July 1, 1994. The department shall rank requests under this section in order of priority, giving greatest priority to those tank systems that present the greatest threat or potential threat to human health. The board shall

review the priority list developed by the department.

(b) Grants made by the department under this section shall exclude a portion of the risk assessment, containment, corrective action, and cleanup costs. The portion of these costs not payable as a grant by the department under this section is 10 percent of total costs, up to a maximum of \$25,000 not payable by the department; this portion of the costs shall be loaned at no interest by the department to the owner or operator on request with repayment to be made according to a schedule agreed to by the parties. The department may require security or collateral for a loan made under this subsection and may charge a fee for a late loan repayment equal to five percent of the amount of the late payment. At the department's discretion, a loan or grant under this section may be disbursed in partial payments according to a schedule related to costs anticipated to be incurred during specified time periods.

(c) An owner or operator of an underground petroleum storage tank system is not eligible for a grant or loan under this section for activities related to a release unless the release occurs before December 22, 1993, and the owner or operator

(1) establishes the following to the department's reasonable satisfaction:

(A) the owner or operator reported the release to the department in compliance with state and federal law before July 1, 1994, for a release that the owner or operator establishes first occurred on or after the effective date of this section and before December 22, 1993;

(B) the owner or operator promptly reported the release to the department in compliance with applicable regulations;

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

(D) the owner and operator have, within six months after the effective date of this section, been in compliance with all state and federal laws applicable to underground petroleum storage tank systems and releases from them, including notification and registration laws, but excluding financial responsibility requirements;

(E) the release was not a result of the owner's or operator's gross negligence, recklessness, or intentional conduct;

(2) agrees to

(A) upgrade all underground petroleum storage tanks located at the facility from which the release occurred to the standards set by state and federal regulations according to a time line established by the department under regulations of the board; notwithstanding (g) of this section and AS 46.03.365(c), the board and the department may require upgrading under this subparagraph that is required earlier than that required under federal law; or

(B) remove and properly dispose of all liquids and sludges from the underground petroleum storage tanks located at the facility from which the release occurred, conduct a site assessment, and either fill the tanks with inert solid material or properly dismantle, remove, and dispose of the tanks in accordance with applicable state and federal regulations; and

(3) agrees to submit a plan for risk assessment, containment, corrective action, and cleanup to the department for its review and approval; if the department and the owner or operator cannot reach

agreement on a plan or on later changes in the plan, the owner or operator may apply to the board to decide the dispute; the board may issue a decision in a dispute brought to it under this paragraph; the decision is binding on the owner, operator, and department if the owner or operator continues to request assistance under this section.

(d) The department may deny a request for a grant or loan under this section if the department determines that one or more of the following conditions exists:

(1) the fund established under AS 46.03.410 lacks sufficient money; if a request for a grant or loan is denied under this paragraph, it shall be granted, without the requirement of a new application, when money is next available, subject to the existence of higher-priority requests;

(2) other risk assessment, containment, corrective action, and cleanup activities for which money may be used under AS 46.03.410 constitute a higher priority for fund expenditures; if a request is initially denied under this paragraph, it shall be granted later without the necessity of a new application, subject to available funding and other higher priorities; or

(3) the owner or operator fails to meet the requirements set out in (c) of this section.

(e) A request for a grant under this section, and a grant payment made under this section, may not exceed \$1,000,000 per occurrence, less the amount not payable as a grant under (b) of this section.

(f) Under regulations adopted by the board, the department shall determine which costs of risk assessment, containment, corrective action, and cleanup are eligible for payment under this section.

(g) The board shall adopt regulations reasonably necessary to

enable the department to implement this section. The regulations must be consistent with federal law except as provided in (c)(2)(A) of this section.

(h) This section does not affect the liability under state or federal law of any person for the costs of risk management, containment, corrective action, and cleanup resulting from a release of petroleum. However, notwithstanding the provisions of AS 46.08.-070(a), the department may not seek reimbursement of a grant made under this section unless the department determines that the grant was requested under false pretenses or that other circumstances render the grant inconsistent with this section or with applicable regulations. This section does not affect the authority of the department to seek recovery from the owner or operator of costs other than grants and loans actually made to an owner or operator under this section.

(i) The commissioner of administration shall separately account for money deposited by the department under this section. The legislature may appropriate the annual estimated balance of the account to the fund established under AS 46.03.410.

Sec. 46.03.430. TANK UPGRADING AND CLOSURE PROGRAM. (a) The board shall, by regulation, establish a grant program to be administered by the department under which the owner or operator of an underground petroleum storage tank, other than the state or federal government, may, upon application, receive a grant for 60 percent of the eligible costs of tank upgrading or closure, subject to a maximum total grant of \$60,000 per facility.

(b) The regulations adopted under (a) of this section

(1) may limit the number of grants that may be awarded to an owner or operator during a calendar year;

(2) must include criteria for determining eligible costs

under this section.

(c) A grant may not be awarded under this section for upgrading or closure activities that do not meet the requirements of state and federal law.

(d) In this section,

(1) "closure" means to remove all petroleum and sludges from an underground petroleum storage tank and either fill the tank with inert solid material or properly dismantle, remove, and dispose of the tank;

(2) "upgrading" means to add or retrofit cathodic protection systems, lining, spill and overflow controls, or similar systems to improve the ability of an underground petroleum storage tank system to prevent a release.

Sec. 46.03.440. CONFIDENTIALITY OF FINANCIAL RECORDS. (a) Financial records submitted to the department or the board by the owner or operator of an underground petroleum storage tank system are confidential and not subject to inspection or copying under AS 09.25.-110 - 09.25.120. The department, in consultation with the affected owner or operator, shall determine which information is confidential under this subsection.

(b) The confidentiality conferred by (a) of this section does not apply to statistical information compiled by the department about the number, capacity, and location of underground petroleum storage tank systems in the state.

Sec. 46.03.450. DEFINITIONS. In AS 46.03.360 - 46.03.450

(1) "board" means the Board of Storage Tank Assistance established under AS 46.03.360;

(2) "chemical" means any substance defined in 42 U.S.C. 9601(14) (sec. 101(14) of the Comprehensive Environmental Response,

Compensation, and Liability Act of 1980), as amended, and any substance having the characteristics identified or listed under 42 U.S.C. 6921 (sec. 3001 of the Solid Waste Disposal Act), regardless of whether the substance is a solid waste;

(3) "containment and cleanup" has the meaning given in AS 46.08.900 except that it does not include incidental administrative costs;

(4) "corrective action" means action necessary to stop the migration, determine the extent, and undertake recovery of petroleum after its unpermitted release; clean up affected soil and groundwater; and stabilize the site of the release to prevent or remove hazards to public health or the environment;

(5) "facility" means contiguous land and structures on or in the land containing underground petroleum storage tanks owned by the same person;

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

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

(8) "release" has the meaning given in AS 46.08.900;

(9) "risk assessment" means a determination of potential health effects including effects of containment exposure through

inhalation, ingestion, dermal absorption, and other means, and the assessment of risk to human health and the environment from contaminants remaining in the land, air, or water as a result of a release:

(10) "site assessment" means investigation of suspected underground petroleum storage tank system leaks and source identification;

(11) "tank system" means an underground petroleum storage tank system;

(12) "underground storage tank" means one or a combination of stationary devices, including underground pipes connected to the devices, that is designed to contain an accumulation of petroleum, the volume of which, including the volume of underground pipes, is 10 percent or more beneath the surface of the ground, except that the term does not include a

(A) farm or residential tank of 1,100 gallons or less capacity used for storing motor fuel for noncommercial purposes;

(B) tank used for storing heating oil for consumptive use on the premises where stored;

(C) septic tank;

(D) pipeline facility, including gathering lines,

(i) regulated under 49 U.S.C. 1671, et seq., (Natural Gas Pipeline Safety Act of 1968);

(ii) regulated under 49 U.S.C. 2001, et seq., (Hazardous Liquid Pipeline Safety Act of 1979); or

(iii) that is an intrastate pipeline facility regulated under state laws comparable to the provisions of law referred to in (i) or (ii) of this subparagraph;

(E) surface impoundment, pit, pond, or lagoon;

(F) storm water or waste water collection system;

(G) flow-through process tank;

(H) liquid trap or associated gathering lines directly related to oil or gas production and gathering operations;

(I) storage tank 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;

(J) tank with a capacity of 110 gallons or less;

(K) tank containing hazardous wastes regulated under 42 U.S.C. 6921 - 6939b; or

(L) tank system that the board or the department has exempted by regulations adopted under AS 46.03.365;

(13) "underground petroleum storage tank system" means an underground storage tank containing petroleum together with its underground ancillary equipment and related containment system, if any; in this paragraph, "ancillary equipment" means devices used to distribute, meter, or control the flow of petroleum to and from the system, including piping, fittings, flanges, valves, and pumps:

* Sec. 3. LIMITED IMMUNITY FROM LIABILITY. (a) Notwithstanding AS 46.03.420(h), 46.03.758, 46.03.760, 46.03.780, 46.03.790, and 46.03.822, a person, including a municipal school district, regional educational attendance area, or municipality, is not civilly or criminally liable to the state under those sections for a discharge covered by those sections if the person demonstrates by a preponderance of the evidence that the person

(1) is the owner or operator of an underground petroleum storage tank or tank system, as defined in AS 46.03.450, enacted by sec. 2 of this Act, that was installed before December 22, 1988, and the discharge occurred from that tank or tank system before December 22, 1992;

(2) acted in good faith to report, assess, and mitigate damage

from the discharge and to undertake corrective action in accordance with applicable state and federal law and was in compliance with all applicable state and federal law before the discharge occurred;

(3) is receiving or has been approved for state funds under AS 46.03.420 - 46.03.430, enacted by sec. 2 of this Act; and

(4) did not intentionally cause the discharge.

(b) In this section, "corrective action" has the meaning given in AS 46.03.450, enacted by sec. 2 of this Act.

* Sec. 4. NOTIFICATION FOR TANK SYSTEMS NOT IN USE. The owner or operator of an underground petroleum storage tank or tank system whose tank or tank system was installed after January 1, 1974, but was taken out of use before the effective date of AS 46.03.380, enacted by sec. 2 of this Act, shall notify the department about the tank or tank system within six months after the effective date of this section by completing and returning to the department a form obtained from the department. The form must comply with AS 46.03.400, enacted by sec. 2 of this Act, and be similar to the notification form required under AS 46.03.395, enacted by sec. 2 of this Act.

* Sec. 5. The initial registration and information required under AS 46.03.380(b), enacted by sec. 2 of this Act, is due within six months after the effective date of AS 46.03.380, enacted by sec. 2 of this Act.

* Sec. 6. REIMBURSEMENT PROGRAM. (a) An owner or operator of an underground petroleum storage tank system, other than the state or federal government, who began risk assessment, containment, cleanup, corrective action, upgrading, or closure activities related to the tank system on or after December 22, 1988, but before the effective date of this section, may apply to the department for reimbursement of a portion of the eligible costs incurred by the owner or operator for those activities, as determined under (b) of this section. Application under this section must be

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submitted within six months after the effective date of this section. Payments made by the department shall be from the fund established under AS 46.03.410, enacted by sec. 2 of this Act.

(b) An applicant for reimbursement under this section shall submit evidence satisfactory to the department of the costs that are eligible for reimbursement under this section, as determined by the department under regulations of the board. The department shall, subject to the availability of funds, reimburse the applicant for 90 percent of the eligible costs of containment, cleanup, corrective action, and risk assessment and 60 percent of the eligible costs of upgrading or closure, subject to the following limitations:

(1) the department shall calculate the amount of costs reimbursable under this section after subtracting amounts the department determines are recoverable by the owner or operator from related insurance or other persons who are liable for the costs;

(2) total costs reimbursed under this section to an owner or operator may not exceed \$200,000.

(c) In addition to other requirements of this section, an owner or operator is not eligible for reimbursement under this section for costs of containment, cleanup, risk assessment, corrective action, upgrading, or closure related to a release unless the owner or operator establishes the following to the department's satisfaction:

(1) the release was promptly reported to state authorities in compliance with applicable regulations;

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

(3) other than the release, the tank or tank system has been in compliance with state and federal laws applicable to underground petroleum storage tank systems since December 22, 1988, including notification and

registration laws, but excluding financial responsibility requirements;

(4) the release was not a result of the owner's or operator's gross negligence, recklessness, or intentional conduct;

(5) all containment, cleanup, risk assessment, corrective action, upgrading, and closure activities have been performed in compliance with state and federal law.

(d) In addition to other requirements of this section, an owner or operator is not eligible for costs of risk assessment, upgrading, or closure unrelated to a release unless the owner or operator establishes the following to the department's satisfaction:

(1) the tank or tank system has been in compliance with state and federal laws applicable to underground petroleum storage tank systems since December 22, 1988, including notification and registration laws, but excluding financial responsibility requirements;

(2) all risk assessment, upgrading, and closure activities have been performed in compliance with state and federal laws.

(e) The department may deny all or a portion of a request for reimbursement under this section if

(1) it disapproves of a method used for the risk assessment, containment, cleanup, corrective action, upgrading, or closure; the owner or operator may appeal a denial of payment made under this paragraph to the Board of Storage Tank Assistance; the board may issue a decision on a dispute brought to it under this paragraph; the decision is binding on the owner, operator, and department;

(2) the fund established under AS 46.03.410, enacted by sec. 2 of this Act, lacks sufficient money; if a request for reimbursement is denied under this paragraph, it shall be granted without the requirement of a new application, when money is next available, subject to the existence of a higher priority for use of money in the storage tank assistance fund;

or

(3) requests under AS 46.03.415 - 46.03.430, enacted by sec. 2 of this Act, remain unfunded; when all eligible requests for funding under AS 46.03.415 - 46.03.430, enacted by sec. 2 of this Act, have been satisfied in a given fiscal year and a balance remains in the storage tank assistance fund, eligible requests under this section may be satisfied on a first-come, first-served basis without the requirement of a new application.

(f) If an owner or operator of an underground petroleum storage tank system, other than the state or federal government, began risk assessment, containment, cleanup, corrective action, upgrading, or closure activities related to the tank system on or after December 22, 1988, and before the effective date of this section, but those activities are not complete on the effective day of this section, the owner or operator may apply for reimbursement under this section for costs incurred before the effective date of this section; the owner or operator may apply for assistance under AS 46.03.420 - 46.03.430, enacted by sec. 2 of this Act, for costs incurred or anticipated after the effective date of this Act. A request for reimbursement under this subsection has the same low priority as other reimbursement requests under this section, but requests for assistance to complete activities begun before the effective date of this section shall be prioritized with other requests made under AS 46.03.420 - 46.03.430, enacted by sec. 2 of this Act, and are subject to the same requirements and maximum amounts established under those sections.

(g) In this section,

(1) "board," "containment and cleanup," "corrective action," "release," "risk assessment," "tank system," and "underground petroleum storage tank system" have the meanings given in AS 46.03.450, enacted by sec. 2 of this Act;

(2) "closure" and "upgrading" have the meanings given in AS 46.-03.430, enacted by sec. 2 of this Act.

* Sec. 7. NOTICE ABOUT REGULATIONS. The commissioner of environmental conservation shall notify the Alaska Legislative Council and the revisor of statutes in writing when regulations have been adopted under AS 46.03.-375(a), enacted by sec. 2 of this Act, for a specific activity for which certification is required under that section.

* Sec. 8. INITIAL APPOINTMENTS TO BOARD. The governor shall make initial appointments to the Board of Storage Tank Assistance required under AS 46.03.360, enacted by sec. 2 of this Act, within 45 days after the effective date of AS 46.03.360, enacted by sec. 2 of this Act.

* Sec. 9. (a) AS 46.03.375(c) and (d), enacted by sec. 2 of this Act, take effect for a specific activity for which certification is required under that section, one year after the effective date of regulations adopted under AS 46.03.375 governing certification for that activity.

(b) AS 46.03.405, enacted by sec. 2 of this Act, takes effect six months after the effective date of AS 46.03.380, enacted by sec. 2 of this Act.

* Sec. 10. Except as provided in sec. 9 of this Act, this Act takes effect immediately under AS 01.10.070(c).

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Janice
Adopted

AMENDMENT TO SCSHB220 (FIN)

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Page 5,

delete lines 7 - 15 and insert the following

(d) The department may not adopt regulations that conflict with regulations adopted by the Board.

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Janice
Adopted

A M E N D M E N T # 1

OFFERED IN THE SENATE

TO: SCS CSHB 220 (Finance)

Page 7, line 21, after "person":

Insert ", including a governmental entity or institution, or a public corporation,"

Page 10, lines 2 - 3:

Delete "A person"

Insert "An owner or operator"

Page 21, line 26, after "person":

Insert ", including a municipal school district, regional educational attendance area, or municipality,"

Page 23, line 3:

Delete "person"

Insert "owner or operator"

6-0693W
Lauterbach
5/9/89

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

1 IN THE HOUSE

BY THE FINANCE COMMITTEE

2 SENATE CS FOR CS FOR HOUSE BILL NO. 220 (Finance)

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 SIXTEENTH LEGISLATURE - FIRST SESSION

5 A BILL

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

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

11 * Section 1. PURPOSE. The purpose of this Act is to authorize the
12 Department of Environmental Conservation to abate and prevent leaks associ-
13 ated with underground petroleum and chemical storage tanks in order to
14 protect the public from contamination of drinking water and the environment
15 and to establish mechanisms that will assist the owners of underground
16 petroleum and chemical storage tanks to comply with federal and state
17 requirements governing their tanks. The legislature recognizes that these
18 owners may be faced with expenses that they cannot immediately afford for
19 liability insurance, the costs of upgrading or replacing their tanks, and
20 the costs of cleaning up past contamination related to their tanks. The
21 legislature intends to help these owners through a combination of educa-
22 tional assistance, grants, and other financial assistance, but only if
23 these owners promptly comply with the new requirements of this Act. For
24 purposes of this Act, when priorities are established for financial
25 assistance, special consideration shall be given to small businesses and
26 owners of fewer than 10 underground storage tanks.

27 * Sec. 2. AS 46.03 is amended by adding new sections to read:

28 ARTICLE 6A. PETROLEUM AND CHEMICAL STORAGE TANKS.

29 Sec. 46.03.360. REGULATION OF UNDERGROUND PETROLEUM AND CHEMICAL

1 STORAGE TANKS. (a) The department shall assist owners and develop a
2 program to prevent and abate pollution from underground petroleum and
3 chemical storage tanks through the adoption of regulations. Consis-
4 tent with other provisions in AS 46.03.360 - 46.03.450, the regu-
5 lations may govern

- 6 (1) notification;
- 7 (2) licensing, certification, inspection, and record keep-
8 ing;
- 9 (3) contingency plans and financial responsibility;
- 10 (4) construction, installation, and performance;
- 11 (5) maintenance, operation, and repair;
- 12 (6) spill and overfill control, corrosion prevention, and
13 release detection and reporting;
- 14 (7) enforcement, corrective action, and damages and cost
15 recovery;
- 16 (8) administration of the grant program under AS 46.03.380;
- 17 (9) closure and abandonment; and
- 18 (10) prevention of spills, releases, or pollution, to pro-
19 tect the public health and environment.

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

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

1 section, the commissioner shall submit the proposed regulations to the
2 panel for review and comment. Before the commissioner adopts regula-
3 tions under this section, the commissioner shall consider the comments
4 of the panel. The members of the panel do not receive compensation
5 for their service on the panel but are entitled to per diem and travel
6 expenses authorized for boards and commissions under AS 39.20.180 when
7 performing their duties as panel members.

8 Sec. 46.03.370. EDUCATIONAL ASSISTANCE. The department shall
9 provide to persons who own or operate storage tanks educational assis-
10 tance to help them comply with federal and state laws and regulations
11 applicable to the tanks. The department shall also provide the public
12 with information to help the public understand the effects associated
13 with the release of petroleum and chemical products into the environ-
14 ment.

15 Sec. 46.03.380. GRANTS. (a) The department may issue a grant,
16 not to exceed \$100,000 per facility, to the owner of an underground
17 petroleum or chemical storage tank for the purpose of

18 (1) removing and properly disposing of all liquids and
19 sludges from the tank and either filling the tank with inert material
20 or properly dismantling, removing, and disposing of the tank; or

21 (2) retrofitting, repairing, or replacing the tank to meet
22 federal or state requirements.

23 (b) A grant under (a)(1) of this section may be for up to 75
24 percent of the costs approved by the department. A grant under (a)(2)
25 of this section may be for up to 60 percent of the costs approved by
26 the department.

27 Sec. 46.03.390. NOTIFICATION REQUIREMENTS. (a) A person who
28 intends to install, have installed, significantly change the config-
29 uration of, or transfer ownership of an underground petroleum or

1 chemical storage tank shall notify the department in writing at least
2 30 days before the installation, change, or transfer. The department
3 may waive the requirement of this subsection upon a showing of good
4 cause.

5 (b) If an underground petroleum or chemical storage tank is
6 taken out of operation, the owner of the tank, or an agent on the
7 owner's behalf, shall provide

8 (1) notification of that fact to the department within 30
9 days after the date the tank was taken out of operation; and

10 (2) evidence satisfactory to the department that

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

13 (B) the tank has either been filled with inert materi-
14 al or been properly dismantled, removed, and disposed of.

15 (c) A person who owns a permanent aboveground petroleum or
16 chemical storage tank with a capacity of 1,100 gallons or more shall
17 notify the department within 60 days after installing the tank or
18 removing it from operation. A notification required under this sub-
19 section for installation of a tank must include information about the
20 tank's location, age if known, type of construction, capacity, and
21 contents.

22 Sec. 46.03.400. REGISTRATION REQUIREMENTS. (a) The owner of an
23 underground petroleum or chemical storage tank shall, within 30 days
24 after installing an underground petroleum or chemical storage tank,
25 register the tank with the department on a form provided by the de-
26 partment.

27 (b) The owner shall specify on the registration form required
28 under (a) of this section the location, size, type of construction,
29 and age of the tank.

1 Sec. 46.03.410. REGISTRATION FEE. (a) At the time of registra-
2 tion under AS 46.03.400, the owner shall pay to the department a
3 registration fee of \$.01 per gallon based on the capacity of the tank
4 being registered or a fee of \$100, whichever is lower. The department
5 shall deposit fees collected under this section in the general fund.
6 The commissioner of administration shall separately account for fees
7 deposited under this section. The legislature may appropriate the
8 annual estimated balance of the account to the petroleum and chemical
9 storage tank account established under AS 46.08.015.

10 (b) The registration fee imposed under (a) of this section does
11 not apply to an underground storage tank owned by the state. The
12 department may by regulation provide for other exemptions from the
13 registration fee imposed under (a) of this section.

14 Sec. 46.03.420. EXEMPTIONS. (a) AS 46.03.360 - 46.03.450 do
15 not apply to a storage tank with a capacity of 1,100 gallons or less
16 if the storage tank is used for storing marine, aviation, or motor
17 fuel that is not intended for resale.

18 (b) AS 46.03.360 - 46.03.450 do not apply to a storage tank used
19 for storing heating oil if the oil is held for consumptive use on the
20 premises where it is stored.

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

24 (d) The department may by regulation provide for other exemp-
25 tions as necessary.

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

27 (1) "chemical" means any substance defined in 42 U.S.C.
28 9601(14) (sec. 101(14) of the Comprehensive Environmental Response,
29 Compensation, and Liability Act of 1980), as amended, and any

1 substance having the characteristics identified or listed under 42
2 U.S.C. 6921 (sec. 3001 of the Solid Waste Disposal Act), regardless of
3 whether the substance is a solid waste;

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

7 (3) "farm" means a tract of land devoted to the production
8 of crops or raising animals, including fish, and associated residences
9 and improvements; "farm" includes fish hatcheries, rangelands, and
10 nurseries with growing operations;

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

18 (5) "storage tank" means one or a combination of stationary
19 devices that are designed to contain an accumulation of at least 110
20 gallons of petroleum or chemicals; are constructed of nonearthen
21 materials such as concrete, steel, or plastic; and provide structural
22 support; "storage tank" includes pipes or piping connected to the
23 storage tank;

24 (6) "underground storage tank" means a storage tank de-
25 signed to contain an accumulation of petroleum or chemicals, the
26 volume of which, including the volume of underground pipes connected
27 to it, is 10 percent or more beneath the surface of the ground.

28 * Sec. 3. AS 46.08.010(c) is amended to read:

29 (c) Except as provided in AS 46.08.015, the [THE] fund shall be

1 used for actual expenses incurred under AS 46.08.040. Except as
2 provided in AS 46.08.015, the [THE] fund may not be used for capital
3 improvements.

4 * Sec. 4. AS 46.08 is amended by adding a new section to read:

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

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

8 (b) The commissioner may use money in the petroleum and chemical
9 storage tank account to pay for

10 (1) the costs of investigation, containment, and cleanup of
11 a release or threatened release of petroleum or chemicals from an
12 underground petroleum or chemical storage tank or from uses related to
13 the storage tank; payments under this paragraph may not exceed
14 \$1,000,000 per investigation, containment, and cleanup action; and

15 (2) grants under AS 46.03.380.

16 (c) When using funds from the petroleum and chemical storage
17 tank account, the commissioner shall place a priority on those inves-
18 tigation, containments, and cleanups of a release or threatened
19 release of petroleum or chemicals from an underground petroleum or
20 chemical storage tank or from uses related to the storage tank based
21 on the potential affect on drinking water and groundwater aquifer
22 contamination.

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

25 * Sec. 5. AS 46.08.060(a) is amended to read:

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

1 (1) the amount of money expended under AS 46.08.015 and
2 46.08.040 during the preceding fiscal year;

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

5 (3) a summary of municipal participation in responses
6 funded by the fund;

7 (4) a detailed summary of department activities in re-
8 sponses funded by the fund and the petroleum and chemical storage tank
9 account during the preceding fiscal year, including response and
10 descriptions and statements outlining the nature of the threat; the
11 report must separately describe how many requests for assistance have
12 been made to the department to use the petroleum and chemical storage
13 tank account to respond to a release or threatened release from a
14 storage tank, the estimated cost of containment and cleanup related to
15 those requests, and a separate description of associated administra-
16 tive costs;

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

20 * Sec. 6. (a) Notwithstanding AS 46.03.400, enacted by sec. 2 of this
21 Act, the registration required under AS 46.03.400, enacted by sec. 2 of
22 this Act, is due December 1, 1989, for an underground storage tank in-
23 stalled before July 1, 1989, that is in use on July 1, 1989.

24 (b) The owner of an underground petroleum or chemical storage tank
25 governed by AS 46.03.360 - 46.03.450, enacted by sec. 2 of this Act, whose
26 tank was taken out of use before July 1, 1989, but whose tank is still in
27 place on July 1, 1989, shall notify the Department of Environmental Conser-
28 vation of the location of the tank by January 1, 1990.

29 (c) Notwithstanding AS 46.03.390(c), as enacted by sec. 2 of this
SCS CSHB 220(Fin)

Act, notification required under that subsection for a permanent aboveground petroleum or chemical storage tank with a capacity of 1,100 gallons or more in existence on July 1, 1989, is due by January 1, 1990.

* Sec. 7. AS 46.03.380 and AS 46.08.015(b)(2) are repealed September 30, 1994.

* Sec. 8. (a) Subject to (b) - (i) of this section, the owner of an underground petroleum or chemical storage tank may request the department to use funds from the account established under AS 46.08.015, enacted in sec. 4 of this Act, to pay the costs of investigation, containment, and cleanup resulting from a release of petroleum or chemical from, or associated with, an underground petroleum or chemical storage tank.

(b) Payments made by the department under this section shall exclude a portion of the investigation, containment, and cleanup costs. The portion of costs not payable by the department under this section shall be based upon the total number of whole gallons of petroleum or chemicals stored by the owner in all underground petroleum and chemical 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 and chemicals 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.....	50,000.

(c) Information released to the department under (b) of this section

1 shall remain confidential.

2 (d) An owner of an underground petroleum or chemical storage tank is
3 not eligible to request payment under this section unless the owner estab-
4 lishes the following to the department's reasonable satisfaction:

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

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

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

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

12 (3) the tank from which the release occurred was registered with
13 the department as provided in sec. 6(a) of this Act by December 1, 1989, or
14 was a tank for which notification was given to the department under
15 sec. 6(b) of this Act by January 1, 1990;

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

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

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

24 (7) the owner agrees to

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

28 (B) remove and properly dispose of all liquids and sludges
29 from the underground storage tank systems located at the facility from

1 which the release occurred and either fill the tanks with inert mate-
2 rial or properly dismantle, remove, and dispose of the tanks.

3 (e) The department may deny a request for payment made under this
4 section if the department determines that one or more of the following
5 conditions exists:

6 (1) the account established under AS 46.08.015, enacted by
7 sec. 4 of this Act, lacks sufficient funds; if a request for payment is
8 denied under this paragraph, it shall be granted when funds are next avail-
9 able, subject to the priorities established under (h) of this section;

10 (2) other investigation, containment, and cleanup activities for
11 which account funds may be used constitute a higher priority for account
12 fund expenditures; or

13 (3) the owner fails to meet the requirements set out in (d) of
14 this section.

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

17 (g) The department shall determine which costs of investigation,
18 containment, and cleanup are eligible for payment under this section. The
19 department shall give higher priority to investigation, containment, and
20 cleanup under this section than to grants under AS 46.03.380, enacted by
21 sec. 2 of this Act.

22 (h) The department may adopt regulations reasonably necessary to
23 implement this section. The regulations must be consistent with federal
24 law. The department may adopt regulations that will be used for determin-
25 ing priorities for responding to a release or threatened release reported
26 under this section. The panel review process established under AS 46.03.-
27 360(c), enacted by sec. 2 of this Act, is applicable to regulations adopted
28 under this subsection. In addition, the panel shall make recommendations
29 to the department on the priorities to be established in the regulations.

1 (i) This section does not affect the liability under state or federal
2 law of any person for the costs of investigation, containment, and cleanup
3 resulting from a release of petroleum or chemicals. However, the depart-
4 ment may not seek reimbursement of a payment made under this section unless
5 the department determines that the payment was requested under false pre-
6 tenses or that other circumstances render the payment inconsistent with
7 this section or with department regulations. This section does not affect
8 the authority of the department to seek recovery of costs other than pay-
9 ments actually made to an owner under this section.

10 (j) In this section,

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

13 (2) "facility" has the meaning given in AS 46.03.450, as enacted
14 by sec. 2 of this Act;

15 (3) "chemical," "petroleum," and "underground storage tank" have
16 the meanings given in AS 46.03.450, as enacted by sec. 2 of this Act, but
17 "underground storage tank" does not include storage tanks that are exempt
18 under AS 46.03.420, enacted by sec. 2 of this Act, or regulations adopted
19 under that section;

20 (4) "underground storage tank system" has the meaning given to
21 the term "UST system" in 40 C.F.R. 280.12, as amended.

22 * Sec. 9. This Act takes effect July 1, 1989.

WORK DRAFT

6-0693K

Lauterbach

5/9/89

10¹⁰ pm

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

1 IN THE HOUSE

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2 SENATE CS FOR CS FOR HOUSE BILL NO. 220 (Finance)

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4 SIXTEENTH LEGISLATURE - FIRST SESSION

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8 and cleanup of oil and hazardous substances; and
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12 Department of Environmental Conservation to abate and prevent leaks associ-
13 ated with underground petroleum and chemical storage tanks in order to
14 protect the public from contamination of drinking water and the environment
15 and to establish mechanisms that will assist the owners of underground
16 petroleum and chemical storage tanks to comply with federal and state
17 requirements governing their tanks. The legislature recognizes that these
18 owners may be faced with expenses that they cannot immediately afford for
19 liability insurance, the costs of upgrading or replacing their tanks, and
20 the costs of cleaning up past contamination related to their tanks. The
21 legislature intends to help these owners through a combination of educa-
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23 these owners promptly comply with the new requirements of this Act. For
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13 release detection and reporting;
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19 tect the public health and environment.

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21 classes, and ages of underground petroleum and chemical storage tanks
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26 tions, such as underground petroleum and chemical storage tank owners
27 and persons who install, repair, or test underground petroleum and
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19 sludges from the tank and either filling the tank with inert material
20 or properly dismantling, removing, and disposing of the tank; or

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22 federal or state requirements.

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7 owner's behalf, shall provide

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9 days after the date the tank was taken out of operation; and

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14 al or been properly dismantled, removed, and disposed of.

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16 chemical storage tank with a capacity of 1,100 gallons or more shall
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8 annual estimated balance of the account to the petroleum and chemical
9 storage tank account established under AS 46.08.015.

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22 hazardous waste that is being managed under 42 U.S.C. 6901 - 6991i
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13 pounds per square inch absolute; "petroleum" includes petroleum-based
14 substances comprised of a complex blend of hydrocarbons derived from
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17 residual fuel oils, lubricants, petroleum solvents, and used oils;

18 (5) "storage tank" means one or a combination of stationary
19 devices that are designed to contain an accumulation of at least 110
20 gallons of petroleum or chemicals; are constructed of nonearthen
21 materials such as concrete, steel, or plastic; and provide structural
22 support; "storage tank" includes pipes or piping connected to the
23 storage tank;

24 (6) "underground storage tank" means a storage tank de-
25 signed to contain an accumulation of petroleum or chemicals, the
26 volume of which, including the volume of underground pipes connected
27 to it, is 10 percent or more beneath the surface of the ground.

28 * Sec. 3. AS 46.08.010(c) is amended to read:

29 (c) Except as provided in AS 46.08.015, the [THE] fund shall be

1 used for actual expenses incurred under AS 46.08.040. Except as
2 provided in AS 46.08.015, the [THE] fund may not be used for capital
3 improvements.

4 * Sec. 4. AS 46.08 is amended by adding a new section to read:

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

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

8 (b) The commissioner may use money in the petroleum and chemical
9 storage tank account to pay for

10 (1) the costs of investigation, containment, and cleanup of
11 a release or threatened release of petroleum or chemicals from an
12 underground petroleum or chemical storage tank or from uses related to
13 the storage tank; payments under this paragraph may not exceed
14 \$1,000,000 per investigation, containment, and cleanup action; and

15 (2) grants under AS 46.03.380;

16 (3) the costs of administering AS 46.03.360 - 46.03.450, up
17 to a maximum of 10 percent of the balance of the account.

18 (c) When using funds from the petroleum and chemical storage
19 tank account, the commissioner shall place a priority on those inves-
20 tigation, containments, and cleanups of a release or threatened
21 release of petroleum or chemicals from an underground petroleum or
22 chemical storage tank or from uses related to the storage tank based
23 on the potential effect on drinking water and groundwater aquifer
24 contamination.

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

27 * Sec. 5. AS 46.08.060(a) is amended to read:

28 (a) The commissioner shall submit a report to the legislature
29 not later than the 10th day following the convening of each regular

1 session of the legislature. The report may include information con-
2 sidered significant by the commissioner but must include:

3 (1) the amount of money expended under AS 46.08.015 and
4 46.08.040 during the preceding fiscal year;

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

7 (3) a summary of municipal participation in responses
8 funded by the fund;

9 (4) a detailed summary of department activities in re-
10 sponses funded by the fund and the petroleum and chemical storage tank
11 account during the preceding fiscal year, including response and
12 descriptions and statements outlining the nature of the threat; the
13 report must separately describe how many requests for assistance have
14 been made to the department to use the petroleum and chemical storage
15 tank account to respond to a release or threatened release from a
16 storage tank, the estimated cost of containment and cleanup related to
17 those requests, and a separate description of associated administra-
18 tive costs;

19 (5) the projected cost for the next fiscal year of monitor-
20 ing, operating, and main'aining sites where response has been com-
21 pleted or is expected to be continued during the fiscal year.

22 * Sec. 6. (a) Notwithstanding AS 46.03.400, enacted by sec. 2 of this
23 Act, the registration required under AS 46.03.400, enacted by sec. 2 of
24 this Act, is due December 1, 1989, for an underground storage tank in-
25 stalled before July 1, 1989, that is in use on July 1, 1989.

26 (b) The owner of an underground petroleum or chemical storage tank
27 governed by AS 46.03.360 - 46.03.450, enacted by sec. 2 of this Act, whose
28 tank was taken out of use before July 1, 1989, but whose tank is still in
29 place on July 1, 1989, shall notify the Department of Environmental

1 Conservation of the location of the tank by January 1, 1990.

2 (c) Notwithstanding AS 46.03.390(c), as enacted by sec. 2 of this
3 Act, notification required under that subsection for a permanent above-
4 ground petroleum or chemical storage tank with a capacity of 1,100 gallons
5 or more in existence on July 1, 1989, is due by January 1, 1990.

6 * Sec. 7. AS 46.03.380 and AS 46.08.015(b)(2) are repealed Septem-
7 ber 30, 1994.

8 * Sec. 8. (a) Subject to (b) - (i) of this section, the owner of an
9 underground petroleum or chemical storage tank may request the department
10 to use funds from the account established under AS 46.08.015, enacted in
11 sec. 4 of this Act, to pay the costs of investigation, containment, and
12 cleanup resulting from a release of petroleum or chemical from, or associ-
13 ated with, an underground petroleum or chemical storage tank.

14 (b) Payments made by the department under this section shall exclude
15 a portion of the investigation, containment, and cleanup costs. The por-
16 tion of costs not payable by the department under this section shall be
17 based upon the total number of whole gallons of petroleum or chemicals
18 stored by the owner in all underground petroleum and chemical storage tanks
19 during the 12-month period preceding the date the owner reported the re-
20 lease to the department, as follows:

Total number of gallons of petroleum and chemicals 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

1 Over 30,000,000..... 50,000.

2 (c) Information released to the department under (b) of this section
3 shall remain confidential.

4 (d) An owner of an underground petroleum or chemical storage tank is
5 not eligible to request payment under this section unless the owner estab-
6 lishes the following to the department's reasonable satisfaction:

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

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

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

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

14 (3) the tank from which the release occurred was registered with
15 the department as provided in sec. 6(a) of this Act by December 1, 1989, or
16 was a tank for which notification was given to the department under
17 sec. 6(b) of this Act by January 1, 1990;

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

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

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

26 (7) the owner agrees to

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

1 (B) remove and properly dispose of all liquids and sludges
2 from the underground storage tank systems located at the facility from
3 which the release occurred and either fill the tanks with inert mate-
4 rial or properly dismantle, remove, and dispose of the tanks.

5 (e) The department may deny a request for payment made under this
6 section if the department determines that one or more of the following
7 conditions exists:

8 (1) the account established under AS 46.08.015, enacted by
9 sec. 4 of this Act, lacks sufficient funds; if a request for payment is
10 denied under this paragraph, it shall be granted when funds are next avail-
11 able, subject to the priorities established under (h) of this section;

12 (2) other investigation, containment, and cleanup activities for
13 which account funds may be used constitute a higher priority for account
14 fund expenditures; or

15 (3) the owner fails to meet the requirements set out in (d) of
16 this section.

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

19 (g) The department shall determine which costs of investigation,
20 containment, and cleanup are eligible for payment under this section. The
21 department shall give higher priority to investigation, containment, and
22 cleanup under this section than to grants under AS 46.03.380, enacted by
23 sec. 2 of this Act.

24 (h) The department may adopt regulations reasonably necessary to
25 implement this section. The regulations must be consistent with federal
26 law. The department may adopt regulations that will be used for determin-
27 ing priorities for responding to a release or threatened release reported
28 under this section. The panel review process established under AS 46.03.-
29 360(c), enacted by sec. 2 of this Act, is applicable to regulations adopted

1 under this subsection. In addition, the panel shall make recommendations
2 to the department on the priorities to be established in the regulations.

3 (i) This section does not affect the liability under state or federal
4 law of any person for the costs of investigation, containment, and cleanup
5 resulting from a release of petroleum or chemicals. However, the depart-
6 ment may not seek reimbursement of a payment made under this section unless
7 the department determines that the payment was requested under false pre-
8 tenses or that other circumstances render the payment inconsistent with
9 this section or with department regulations. This section does not affect
10 the authority of the department to seek recovery of costs other than pay-
11 ments actually made to an owner under this section.

12 (j) In this section,

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

15 (2) "facility" has the meaning given in AS 46.03.450, as enacted
16 by sec. 2 of this Act;

17 (3) "chemical," "petroleum," and "underground storage tank" have
18 the meanings given in AS 46.03.450, as enacted by sec. 2 of this Act, but
19 "underground storage tank" does not include storage tanks that are exempt
20 under AS 46.03.420, enacted by sec. 2 of this Act, or regulations adopted
21 under that section;

22 (4) "underground storage tank system" has the meaning given to
23 the term "UST system" in 40 C.F.R. 280.12, as amended.

24 * Sec. 9. This Act takes effect July 1, 1989.
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29

5/8/90 am
Changes p. 4 + 5

6-0693II
Lauterbach
5/2/90

Original sponsor(s): REP. MENARD, M. Davis, Brown, Larson, Navarre, Cato, Koponen, Gruenberg, Spohnholz, Goll, Ellis, Foster, Jacko, Boyer, Boucher, Swackhammer, Kubina

1 IN THE HOUSE

BY THE FINANCE COMMITTEE

2 SENATE CS FOR CS FOR HOUSE BILL NO. 220 (Finance)

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 SIXTEENTH LEGISLATURE - SECOND SESSION

5 A BILL

6 For an Act entitled: "An Act relating to 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 AND INTENT. (a) The purpose of this Act is to
12 provide for

13 (1) establishment of technical assistance mechanisms that will
14 assist the owners and operators of underground storage tank systems to
15 comply with federal and state requirements governing their tank systems;
16 and

17 (2) clean up of existing leaks and prevention of future leaks
18 associated with underground petroleum storage tank systems in order to
19 protect the public from contamination of drinking water and to protect the
20 environment.

21 (b) The legislature recognizes that the regulations governing under-
22 ground storage tank systems may not be easily understood and that some
23 owners and operators will be faced with insurance requirements that they
24 will not be able to satisfy because of contamination relating to their tank
25 systems. It is the legislature's intent to help these owners and operators
26 through educational, technical, and financial assistance, and to provide
27 incentives for prompt compliance with the new requirements of this Act.

28 (c) It is the intent of the legislature that the owners and operators
29 of underground petroleum storage tank systems train their employees in the

1 proper handling of petroleum products and the use of leak, spill, and
2 overflow protection devices.

3 (d) It is also the intent of the legislature to develop a program for
4 underground storage tank systems that will be approved by the federal
5 government.

6 * Sec. 2. AS 46.03 is amended by adding new sections to read:

7 ARTICLE 6A. UNDERGROUND STORAGE TANK SYSTEMS.

8 Sec. 46.03.360. BOARD OF STORAGE TANK ASSISTANCE. (a) There is
9 established the Board of Storage Tank Assistance. For administrative
10 purposes, the board is located in the department. The board consists
11 of the commissioners of environmental conservation and transportation
12 and public facilities, or their designees, and the following persons
13 who shall be appointed by the governor:

14 (1) an engineer registered under AS 08.48 who is knowledge-
15 able about installing, upgrading, repairing, or closing underground
16 petroleum storage tank systems;

17 (2) a general contractor registered under AS 08.18 who is
18 knowledgeable about installing, upgrading, repairing, or closing
19 underground petroleum storage tank systems;

20 (3) two persons who own or operate an underground petroleum
21 storage tank system, at least one of whom does not own or operate more
22 than 10 underground petroleum storage tanks; and

23 (4) a member of the insurance industry.

24 (b) The board may employ a full-time director and no more than
25 one other employee. The department shall provide additional adminis-
26 trative and clerical support to the board.

27 (c) Members of the board designated under (a)(1) - (4) of this
28 section serve staggered four-year terms and may be removed by the
29 governor only after notice and hearing for misconduct, incompetency,

1 or neglect of duty.

2 (d) The board shall meet at the call of the chair, who shall be
3 selected by the members from among themselves.

4 (e) The members of the board serve without compensation, but are
5 entitled to per diem and travel expenses authorized by law for boards
6 and commissions.

7 (f) The department shall implement and enforce the regulations
8 adopted by the board.

9 Sec. 46.03.363. BOARD REPORT. The board shall submit a report
10 to the legislature not later than the 10th day following the convening
11 of each regular session of the legislature. The report may include
12 information considered significant by the board but must include

13 (1) information about the extent to which releases associ-
14 ated with underground petroleum storage tank systems have caused
15 bodily injury or property damages to persons other than the owner or
16 operator of the system in the preceding fiscal year, and the extent to
17 which insurance is available to cover that type of injury and damage;

18 (2) recommendations about whether there are specific areas
19 where state regulations should be more stringent than the federal
20 regulations for underground petroleum storage tank systems;

21 (3) information on the availability of private commercial
22 loans and federal loans, loan guarantees, or grants for upgrading
23 underground petroleum storage tank systems;

24 (4) information on the availability of insurance that would
25 cover the costs of corrective actions made necessary by a release or
26 threatened release from an underground petroleum storage tank system;

27 (5) a brief summary of disputes involving the board under
28 AS 46.03.420(c)(3); and

29 (6) recommendations for amendments or additions to

1 AS 46.03.360 - 46.03.450.

2 Sec. 46.03.365. REGULATION OF UNDERGROUND PETROLEUM STORAGE TANK
3 SYSTEMS. (a) The board shall develop a program to abate and prevent
4 pollution from underground petroleum storage tank systems through the
5 adoption of regulations under the Administrative Procedure Act
6 (AS 44.62). Consistent with other provisions in AS 46.03.360 - 46.-
7 03.450, the regulations may govern

- 8 (1) notification and registration;
- 9 (2) inspection and record keeping;
- 10 (3) construction, installation, and performance;
- 11 (4) maintenance, operation, and repair;
- 12 (5) technical standards, including standards for spill and
13 overfill control, corrosion prevention, and release detection and
14 reporting;
- 15 (6) financial responsibility;
- 16 (7) certification of underground petroleum storage tank
17 system workers;
- 18 (8) corrective action and cost recovery;
- 19 (9) closure and abandonment;
- 20 (10) enforcement of regulations; and
- 21 (11) prevention of releases to protect the public health and
22 environment.

23 (b) In the regulations adopted under (a) of this section, the
24 board may

- 25 (1) distinguish among the sizes, types, classes, locations,
26 and ages of underground petroleum storage tank systems;
- 27 (2) provide for exemptions and deferrals determined to be
28 necessary by the board; exemptions and deferrals under this paragraph
29 must be consistent with those granted under federal laws and

1 regulations.

2 (c) Except as provided in AS 46.03.420(c)(2)(A), when the regu-
3 lations adopted under this section address areas governed by federal
4 laws or regulations, the state regulations must be consistent with
5 federal laws and regulations and may not be more stringent than the
6 federal laws and regulations.

5/3/40 am
JB delete (d)

7 ~~(d) The department may not adopt nonemergency regulations in the~~
8 ~~areas specified in (a) - (c) of this section under any law that does~~
9 ~~not specifically refer to this subsection. However, the department~~
10 ~~may adopt emergency regulations in the same areas and subject to the~~
11 ~~same conditions as the board regulations authorized under (a) - (c) of~~
12 ~~this section. Emergency regulations adopted under this subsection may~~
13 ~~not remain in effect for more than 120 days unless the board adopts~~
14 ~~the regulations in compliance with AS 44.62.060 and 44.62.190 - 44.-~~

15 *5/3/40 T. Lawlerback new (d) the dept. may not adopt regs. that*
16 *62-210 am conflict w/regs. adopted by the board.*

17 Sec. 46.03.370. EDUCATIONAL ASSISTANCE. Under the regulations
18 of the board, the department shall provide

19 (1) educational assistance to owners and operators of
20 underground petroleum storage tank systems to help them comply with
21 federal and state laws and regulations applicable to the tank systems,
22 including the registration and notification requirements under AS 46.-
23 03.380 - 46.03.400;

24 (2) the public with information to help the public under-
25 stand the effects associated with the release of petroleum and chemi-
26 cal products into the environment, including releases from petroleum
27 and chemical storage tank systems.

28 Sec. 46.03.375. CERTIFICATION OF STORAGE TANK WORKERS. (a) The
29 board shall adopt regulations governing the certification of persons
30 who install, test, close, repair, or significantly change the

1 configuration of underground petroleum storage tanks and tank systems.
2 The certification program shall be administered by the division of
3 occupational licensing, Department of Commerce and Economic Develop-
4 ment. Under the board's regulations and in consultation with the
5 Department of Environmental Conservation, the division shall make
6 every reasonable attempt to ensure that opportunities for obtaining
7 certification under this section are available throughout the state.
8 The division shall organize presentation of national training courses
9 that are available in the state and assist residents of isolated
10 communities who request assistance in becoming certified. The divi-
11 sion may contract with the University of Alaska, a vocational techni-
12 cal school, or a regional nonprofit organization to provide the educa-
13 tion and testing necessary for certification.

14 (b) The division shall establish fees applicable to certifica-
15 tion under this section in an amount necessary to cover the costs of
16 the certification program. The fees shall be collected by the divi-
17 sion. The commissioner of administration shall separately account for
18 fees deposited in the general fund by the Department of Commerce and
19 Economic Development under this subsection. The legislature may
20 appropriate the annual estimated balance of the account to the Depart-
21 ment of Commerce and Economic Development for operation of the certi-
22 fication program.

23 (c) Except as provided in (d) of this section, a person may not
24 install, test, close, repair, or significantly change the config-
25 uration of an underground petroleum storage tank or tank system unless
26 that person is certified for the appropriate activity under (a) of
27 this section. A person who violates this subsection is guilty of a
28 class B misdemeanor.

29 (d) A person may install, test, close, repair, or significantly

1 change the configuration of an underground petroleum storage tank or
2 tank system without being certified under this section if

- 3 (1) the person performs the work under the direct super-
4 vision of another who is certified for that work under this section;
5 (2) the supervisor inspects the work performed; and
6 (3) after inspection, the supervisor approves the work in
7 writing.

8 (e) The Administrative Procedure Act (AS 44.62) applies to
9 regulations and certifications under this section.

10 (f) The department shall develop and maintain lists of persons
11 certified under this section to perform the various activities related
12 to underground petroleum storage tanks and tank systems. The depart-
13 ment shall provide the lists on request to interested persons.

14 (g) In this section,

15 (1) "close" means to remove petroleum and sludges from the
16 tanks in the tank system and either fill the tanks with inert solid
17 material or remove, dismantle, and dispose of the tanks;

18 (2) "division" means the division of occupational licensing
19 in the Department of Commerce and Economic Development.

20 Sec. 46.03.380. REGISTRATION OF TANKS AND TANK SYSTEMS. (a) A
21 person who intends to install, have installed, return to operation, or
22 acquire ownership of an underground petroleum storage tank or tank
23 system shall, before the installation or return to operation, or 30
24 days after acquisition, register the tank or tank system with the
25 department on a form provided by the department and pay the tank
26 registration fee required under AS 46.03.385.

27 (b) The owner or operator of an underground petroleum storage
28 tank or tank system that was installed before and is still in use on
29 the effective date of this section shall register the tank or tank

1 system with the department on a form provided by the department and
2 pay the tank registration fee required under AS 46.03.385. For each
3 tank or tank system registered under this subsection that was in-
4 stalled before December 22, 1988, the owner or operator shall provide
5 to the department at the time of registration

6 (1) proof of plans for prompt site assessment or testing
7 for tank tightness;

8 (2) an application for state assistance to fund part of the
9 cost of a tank tightness test or site assessment; or

10 (3) proof of tank tightness testing or site assessment that
11 occurred within the previous 12 months and

12 (A) satisfactory performance of the tank or tank
13 system during the test, proof of noncontamination if a site
14 assessment was performed, and proof of compliance with applicable
15 state financial responsibility requirements; or

16 (B) if the tank or tank system did not perform satis-
17 factorily during the test, or the site assessment showed evidence
18 of contamination,

19 (i) a summary of the upgrading, repair, contain-
20 ment, or cleanup efforts that have been or will be used for
21 the tank, tank system, or site; or

22 (ii) an application for state assistance under
23 AS 46.03.420 - 46.03.430; if the applicant is determined to
24 be ineligible for assistance under AS 46.03.420 - 46.03.430,
25 the applicant shall comply with (i) of this subparagraph
26 upon notification of ineligibility.

27 Sec. 46.03.385. REGISTRATION FEE. (a) At the time of registra-
28 tion under AS 46.03.380, and annually thereafter, the owner or opera-
29 tor shall pay to the department a registration fee for each tank

1 registered unless the owner or operator has notified the department
2 under AS 46:03.393 that the tank has been taken out of service. An
3 underground storage tank that has leak detection, spill and overflow
4 protection, and corrosion protection that meet requirements of the
5 board is subject to a \$50 annual registration fee, regardless of tank
6 capacity. An underground storage tank system that lacks any or all of
7 these features is subject to an annual registration fee of

8 (1) \$150 if the underground storage tank capacity is less
9 than 1,000 gallons;

10 (2) \$300 if the underground storage tank capacity is
11 1,000 - 5,000 gallons;

12 (3) \$500 if the underground storage tank capacity is over
13 5,000 gallons.

14 (b) An underground petroleum storage tank or tank system owned
15 or operated by the federal or state government is exempt from the
16 registration fee in (a) of this section.

17 (c) A registration fee that is not paid within 30 days of when
18 it is due shall be increased by a late payment fee equal to \$10 per
19 day until the day of payment.

20 (d) The first annual fee under this section must be accompanied
21 by the information required under AS 46.03.400. Subsequent annual
22 fees must be accompanied by the names and addresses of the owner and
23 operator of the tank system, and the location and capacity of, and
24 substance being stored in, the tanks for which the fee is being sub-
25 mitted.

26 (e) The commissioner of administration shall separately account
27 for money deposited in the general fund by the department under this
28 section. The legislature may appropriate the annual estimated balance
29 of the account to the storage tank assistance fund established under

1 AS 46.03.410.

2 Sec. 46.03.390. NOTIFICATION OF CHANGES IN TANK SYSTEMS. A
3 person who intends to significantly change the configuration of an
4 underground petroleum storage tank system shall notify the department
5 before beginning work on the change by completing and returning to the
6 department a notification form obtained from the department.

7 Sec. 46.03.395. NOTIFICATION OF TANK SYSTEM CLOSURE. If an
8 underground petroleum tank or storage tank system is taken out of
9 operation, the owner or operator of the tank or tank system, or an
10 agent on the owner's or operator's behalf, shall provide on forms ob-
11 tained from the department

12 (1) notification of that fact to the department at least 15
13 days, but not more than 60 days, before the date the tank or tank
14 system will be taken out of operation unless the tank or tank system
15 is taken out of operation because of an emergency; in emergency sit-
16 uations, the owner or operator shall provide notification as promptly
17 as possible under the circumstances; and

18 (2) evidence satisfactory to the department within 30 days
19 after the tank or tank system is taken out of operation that the owner
20 or operator has complied with applicable state and federal laws and
21 regulations governing temporary or permanent tank closure.

22 Sec. 46.03.400. REGISTRATION FORMS. The registration forms
23 required under AS 46.03.380 - 46.03.395 must require information about
24 the geographical location of a tank or tank system, the estimated age
25 of the tanks and tank system, the total capacity, type of construc-
26 tion, internal and external protection, and piping of the tanks and
27 tank system, and the substance currently or proposed to be stored in
28 the tank system. If the tank or tank system is newly installed, the
29 owner or operator shall certify that the owner or operator has

1 complied with installation, release detection, corrosion protection,
2 and financial responsibility requirements of state and federal law.

3 Sec. 46.03.405. PROHIBITIONS. A person may not operate an
4 underground petroleum storage tank or tank system unless

5 (1) the tank and tank system is registered with the depart-
6 ment as provided in AS 46.03.360 - 46.03.450 or other law; and

7 (2) except as provided in AS 46.03.420(c)(1)(D), the person
8 has provided to the department proof of financial responsibility to
9 the extent required under regulations adopted under AS 46.03.365 or
10 proof of application for arrangements that would satisfy state finan-
11 cial responsibility requirements.

12 Sec. 46.03.410. STORAGE TANK ASSISTANCE FUND. (a) There is
13 established the storage tank assistance fund. It consists of money
14 appropriated to it by law. The commissioner of administration shall
15 separately account for earnings on money in the fund that are de-
16 posited in the general fund by the department. The legislature may
17 use the estimated balance in the account to make appropriations to the
18 fund.

19 (b) The commissioner may use money in the fund to pay for

20 (1) tank tightness tests or site assessments under AS 46.-
21 03.415;

22 (2) grants and loans under AS 46.03.420 for risk assess-
23 ment, containment, corrective action, and cleanup costs; and

24 (3) grants under AS 46.03.430 for tank system upgrading and
25 closure.

26 (c) The commissioner shall submit a report on the status of the
27 storage tank assistance fund to the legislature not later than the
28 10th day following the convening of each regular session of the legis-
29 lature. The report may include information considered significant by

1 the commissioner but must include

2 (1) the amount and source of money received by the fund
3 during the preceding fiscal year;

4 (2) the amount of money expended during the preceding
5 fiscal year for each type of expense authorized under (b) of this
6 section;

7 (3) a detailed summary of department activities paid for
8 from the fund during the preceding fiscal year, including how many
9 requests for assistance have been made to the department to use the
10 fund for grants or loans for testing, site assessment, risk assess-
11 ment, upgrading, closure, containment, corrective action, and cleanup
12 costs, and the number of requests funded in each activity area;

13 (4) the projected cost for the next fiscal year of moni-
14 toring, operating, and maintaining sites where department activities
15 have been completed or are expected to start or be continued during
16 the fiscal year;

17 (5) the priority list of tank system sites for which the
18 department expects to provide financial assistance in the next fiscal
19 year.

20 Sec. 46.03.415. TANK TIGHTNESS AND SITE ASSESSMENT INCENTIVE
21 PROGRAM. (a) The owner or operator of an underground petroleum
22 storage tank or tank system that was installed before the effective
23 date of this Act and is operating on the effective date of this Act,
24 other than the state or federal government, may request the department
25 to use money from the storage tank assistance fund to reimburse the
26 owner or operator for eligible costs of a tank tightness test or site
27 assessment in order to determine if there has been a release of petro-
28 leum from the owner's or operator's tank system. The department shall
29 reimburse up to 50 percent of the cost, not to exceed \$300 per tank

1 for tightness tests up to a maximum of \$1,200 per facility, or \$800
2 per tank for site assessment up to a maximum of \$3,200 per facility.

3 (b) Under regulations adopted by the board, the department shall
4 determine which costs of tightness testing and site assessment are
5 eligible costs under this section.

6 (c) Notification of intent to request reimbursement under this
7 section must be submitted to the department at the time of registra-
8 tion under AS 46.03.380(b). The activities for which reimbursement is
9 requested must be completed within 12 months after registration is due
10 under AS 46.03.380 unless the owner or operator demonstrates to the
11 department's satisfaction that there is good cause for extending the
12 deadline. Good cause may be demonstrated by a showing that a qual-
13 ified site assessor or tank system tester was not available, seasonal
14 climatic conditions render the appropriate activities unsafe or im-
15 practicable, or other justification acceptable to the department. If
16 the department finds good cause for extending the deadline, the de-
17 partment may extend the deadline for completion of activities for
18 which reimbursement is requested for a period of time specified by the
19 department.

20 (d) The department shall make available, on request, lists of
21 persons who have notified the department that they are available as
22 site assessors and tank testers for purposes of this section.

23 Sec. 46.03.420. TANK CLEANUP PROGRAM. (a) Subject to (b) - (j)
24 of this section, application may be made to the department by the
25 owner or operator of an underground petroleum storage tank system,
26 other than the state or federal government, for grants and loans from
27 the storage tank assistance fund to pay for the costs of risk assess-
28 ment, containment, corrective action, and cleanup resulting from a
29 release of petroleum from or associated with an underground petroleum

1 storage tank system. Applications for assistance under this section
2 must be submitted to the department before July 1, 1994. The depart-
3 ment shall rank requests under this section in order of priority,
4 giving greatest priority to those tank systems that present the great-
5 est threat or potential threat to human health. The board shall
6 review the priority list developed by the department.

7 (b) Grants made by the department under this section shall
8 exclude a portion of the risk assessment, containment, corrective
9 action, and cleanup costs. The portion of these costs not payable as
10 a grant by the department under this section is 10 percent of total
11 costs, up to a maximum of \$25,000 not payable by the department; this
12 portion of the costs shall be loaned at no interest by the department
13 to the owner or operator on request with repayment to be made accord-
14 ing to a schedule agreed to by the parties. The department may re-
15 quire security or collateral for a loan made under this subsection and
16 may charge a fee for a late loan repayment equal to five percent of
17 the amount of the late payment. At the department's discretion, a
18 loan or grant under this section may be disbursed in partial payments
19 according to a schedule related to costs anticipated to be incurred
20 during specified time periods.

21 (c) An owner or operator of an underground petroleum storage
22 tank system is not eligible for a grant or loan under this section for
23 activities related to a release unless the release occurs before
24 December 22, 1993, and the owner or operator

25 (1) establishes the following to the department's reason-
26 able satisfaction:

27 (A) the owner or operator reported the release to the
28 department in compliance with state and federal law before
29 July 1, 1994, for a release that the owner or operator

1 establishes first occurred on or after the effective date of this
2 section and before December 22, 1992;

3 (B) the owner or operator promptly reported the re-
4 lease to the department in compliance with applicable regula-
5 tions;

6 (C) the tank or tank system from which the release
7 occurred was installed before December 22, 1988;

8 (D) the owner and operator have, within six months
9 after the effective date of this section, been in compliance with
10 all state and federal laws applicable to underground petroleum
11 storage tank systems and releases from them, including notifica-
12 tion and registration laws, but excluding financial responsibil-
13 ity requirements;

14 (E) the release was not a result of the owner's or
15 operator's gross negligence, recklessness, or intentional con-
16 duct;

17 (2) agrees to

18 (A) upgrade all underground petroleum storage tanks
19 located at the facility from which the release occurred to the
20 standards set by state and federal regulations according to a
21 timeline established by the department under regulations of the
22 board; notwithstanding (g) of this section and AS 46.03.365(c),
23 the board and the department may require upgrading under this
24 subparagraph that is required earlier than that required under
25 federal law; or

26 (B) remove and properly dispose of all liquids and
27 sludges from the underground petroleum storage tanks located at
28 the facility from which the release occurred, conduct a site
29 assessment, and either fill the tanks with inert solid material

1 or properly dismantle, remove, and dispose of the tanks in accor-
2 dance with applicable state and federal regulations; and

3 (3) agrees to submit a plan for risk assessment, contain-
4 ment, corrective action, and cleanup to the department for its review
5 and approval; if the department and the owner or operator cannot reach
6 agreement on a plan or on later changes in the plan, the owner or
7 operator may apply to the board to decide the dispute; the board may
8 issue a decision in a dispute brought to it under this paragraph; the
9 decision is binding on the owner, operator, and department if the
10 owner or operator continues to request assistance under this section.

11 (d) The department may deny a request for a grant or loan under
12 this section if the department determines that one or more of the
13 following conditions exists:

14 (1) the fund established under AS 46.03.410 lacks suffi-
15 cient money; if a request for a grant or loan is denied under this
16 paragraph, it shall be granted, without the requirement of a new
17 application, when money is next available, subject to the existence of
18 higher-priority requests;

19 (2) other risk assessment, containment, corrective action,
20 and cleanup activities for which money may be used under AS 46.03.410
21 constitute a higher priority for fund expenditures; if a request is
22 initially denied under this paragraph, it shall be granted later
23 without the necessity of a new application, subject to available
24 funding and other higher priorities; or

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

27 (e) A request for a grant under this section, and a grant pay-
28 ment made under this section, may not exceed \$1,000,000 per occur-
29 rence, less the amount not payable as a grant under (b) of this

1 section.

2 (f) Under regulations adopted by the board, the department shall
3 determine which costs of risk assessment, containment, corrective
4 action, and cleanup are eligible for payment under this section.

5 (g) The board shall adopt regulations reasonably necessary to
6 enable the department to implement this section. The regulations must
7 be consistent with federal law except as provided in (c)(2)(A) of this
8 section.

9 (h) This section does not affect the liability under state or
10 federal law of any person for the costs of risk management, contain-
11 ment, corrective action, and cleanup resulting from a release of
12 petroleum. However, notwithstanding the provisions of AS 46.08.-
13 070(a), the department may not seek reimbursement of a grant made
14 under this section unless the department determines that the grant was
15 requested under false pretenses or that other circumstances render the
16 grant inconsistent with this section or with applicable regulations.
17 This section does not affect the authority of the department to seek
18 recovery from the owner or operator of costs other than grants and
19 loans actually made to an owner or operator under this section.

20 (i) The commissioner of administration shall separately account
21 for money deposited by the department under this section. The legis-
22 lature may appropriate the annual estimated balance of the account to
23 the fund established under AS 46.03.410.

24 Sec. 46.03.430. TANK UPGRADING AND CLOSURE PROGRAM. (a) The
25 board shall, by regulation, establish a grant program to be admini-
26 tered by the department under which the owner or operator of an under-
27 ground petroleum storage tank, other than the state or federal govern-
28 ment, may, upon application, receive a grant for 60 percent of the
29 eligible costs of tank upgrading or closure, subject to a maximum

1 total grant of \$60,000 per facility.

2 (b) The regulations adopted under (a) of this section

3 (1) may limit the number of grants that may be awarded to
4 an owner or operator during a calendar year;

5 (2) must include criteria for determining eligible costs
6 under this section.

7 (c) A grant may not be awarded under this section for upgrading
8 or closure activities that do not meet the requirements of state and
9 federal law.

10 (d) In this section,

11 (1) "closure" means to remove all petroleum and sludges
12 from an underground petroleum storage tank and either fill the tank
13 with inert solid material or properly dismantle, remove, and dispose
14 of the tank;

15 (2) "upgrading" means to add or retrofit cathodic protec-
16 tion systems, lining, spill and overflow controls, or similar systems
17 to improve the ability of an underground petroleum storage tank system
18 to prevent a release.

19 Sec. 46.03.440. CONFIDENTIALITY OF FINANCIAL RECORDS. (a)
20 Financial records submitted to the department or the board by the
21 owner or operator of an underground petroleum storage tank system are
22 confidential and not subject to inspection or copying under AS 09.25.-
23 110 - 09.25.120. The department, in consultation with the affected
24 owner or operator, shall determine which information is confidential
25 under this subsection.

26 (b) The confidentiality conferred by (a) of this section does
27 not apply to statistical information compiled by the department about
28 the number, capacity, and location of underground petroleum storage
29 tank systems in the state.

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

2 (1) "board" means the Board of Storage Tank Assistance
3 established under AS 46.03.360;

4 (2) "chemical" means any substance defined in 42 U.S.C.
5 9601(14) (sec. 101(14) of the Comprehensive Environmental Response,
6 Compensation, and Liability Act of 1980), as amended, and any sub-
7 stance having the characteristics identified or listed under 42 U.S.C.
8 6921 (sec. 3001 of the Solid Waste Disposal Act), regardless of wheth-
9 er the substance is a solid waste;

10 (3) "containment and cleanup" has the meaning given in
11 AS 46.08.900 except that it does not include incidental administrative
12 costs;

13 (4) "corrective action" means action necessary to stop the
14 migration, determine the extent, and undertake recovery of petroleum
15 after its unpermitted release; clean up affected soil and groundwater;
16 and stabilize the site of the release to prevent or remove hazards to
17 public health or the environment;

18 (5) "facility" means contiguous land and structures on or
19 in the land containing underground petroleum storage tanks owned by
20 the same person;

21 (6) "farm" means a tract of land devoted to the production
22 of crops or raising animals, including fish, and associated residences
23 and improvements; "farm" includes fish hatcheries, rangelands, and
24 nurseries with growing operations;

25 (7) "petroleum" means crude oil or any fraction of crude
26 oil that is liquid at 60 degrees Fahrenheit and pressure of 14.7
27 pounds per square inch absolute; "petroleum" includes petroleum-based
28 substances comprised of a complex blend of hydrocarbons derived from
29 crude oil through processes of separation, conversion, upgrading, and

1 finishing, such as motor fuels, jet fuels, distillate fuel oils,
2 residual fuel oils, lubricants, petroleum solvents, and used oils;

3 (8) "release" has the meaning given in AS 46.08.900;

4 (9) "risk assessment" means a determination of potential
5 health effects including effects of containment exposure through
6 inhalation, ingestion, dermal absorption, and other means, and the
7 assessment of risk to human health and the environment from contami-
8 nants remaining in the land, air, or water as a result of a release;

9 (10) "site assessment" means investigation of suspected
10 underground petroleum storage tank system leaks and source identifica-
11 tion;

12 (11) "tank system" means an underground petroleum storage
13 tank system;

14 (12) "underground storage tank" means one or a combination
15 of stationary devices, including underground pipes connected to the
16 devices, that is designed to contain an accumulation of petroleum, the
17 volume of which, including the volume of underground pipes, is 10
18 percent or more beneath the surface of the ground, except that the
19 term does not include a

20 (A) farm or residential tank of 1,100 gallons or less
21 capacity used for storing motor fuel for noncommercial purposes;

22 (B) tank used for storing heating oil for consumptive
23 use on the premises where stored;

24 (C) septic tank;

25 (D) pipeline facility, including gathering lines,

26 (i) regulated under 49 U.S.C. 1671, et seq.,
27 (Natural Gas Pipeline Safety Act of 1968);

28 (ii) regulated under 49 U.S.C. 2001, et seq.,
29 (Hazardous Liquid Pipeline Safety Act of 1979); or

1 (iii) that is an intrastate pipeline facility
2 regulated under state laws comparable to the provisions of
3 law referred to in (i) or (ii) of this subparagraph;

4 (E) surface impoundment, pit, pond, or lagoon;

5 (F) storm water or waste water collection system;

6 (G) flow-through process tank;

7 (H) liquid trap or associated gathering lines directly
8 related to oil or gas production and gathering operations;

9 (I) storage tank situated in an underground area such
10 as a basement, cellar, mineworking, drift, shaft, or tunnel, if
11 the storage tank is situated upon or above the surface of the
12 floor;

13 (J) tank with a capacity of 110 gallons or less;

14 (K) tank containing hazardous wastes regulated under
15 42 U.S.C. 6921 - 6939b; or

16 (L) tank system that the board or the department has
17 exempted by regulations adopted under AS 46.03.365;

18 (13) "underground petroleum storage tank system" means an
19 underground storage tank containing petroleum together with its under-
20 ground ancillary equipment and related containment system, if any; in
21 this paragraph, "ancillary equipment" means devices used to distrib-
22 ute, meter, or control the flow of petroleum to and from the system,
23 including piping, fittings, flanges, valves, and pumps.

24 * Sec. 3. LIMITED IMMUNITY FROM LIABILITY. (a) Notwithstanding
25 AS 46.03.420(h), 46.03.758, 46.03.760, 46.03.780, 46.03.790, and 46.03.822,
26 a person is not civilly or criminally liable to the state under those
27 sections for a discharge covered by those sections if the person demon-
28 strates by a preponderance of the evidence that the person

29 (1) is the owner or operator of an underground petroleum storage

1 tank or tank system, as defined in AS 46.03.450, enacted by sec. 2 of this
2 Act, that was installed before December 22, 1988, and the discharge oc-
3 curred from that tank or tank system before December 22, 1992;

4 (2) acted in good faith to report, assess, and mitigate damage
5 from the discharge and to undertake corrective action in accordance with
6 applicable state and federal law and was in compliance with all applicable
7 state and federal law before the discharge occurred;

8 (3) is receiving or has been approved for state funds under
9 AS 46.03.420 - 46.03.430, enacted by sec. 2 of this Act; and

10 (4) did not intentionally cause the discharge.

11 (b) In this section, "corrective action" has the meaning given in
12 AS 46.03.450, enacted by sec. 2 of this Act.

13 * Sec. 4. NOTIFICATION FOR TANK SYSTEMS NOT IN USE. The owner or
14 operator of an underground petroleum storage tank or tank system whose tank
15 or tank system was installed after January 1, 1974, but was taken out of
16 use before the effective date of AS 46.03.380, enacted by sec. 2 of this
17 Act, shall notify the department about the tank or tank system within six
18 months after the effective date of this section by completing and returning
19 to the department a form obtained from the department. The form must
20 comply with AS 46.03.400, enacted by sec. 2 of this Act, and be similar to
21 the notification form required under AS 46.03.395, enacted by sec. 2 of
22 this Act.

23 * Sec. 5. The initial registration and information required under
24 AS 46.03.380(b), enacted by sec. 2 of this Act, is due within six months
25 after the effective date of AS 46.03.380, enacted by sec. 2 of this Act.

26 * Sec. 6. REIMBURSEMENT PROGRAM. (a) An owner or operator of an
27 underground petroleum storage tank system, other than the state or federal
28 government, who began risk assessment, containment, cleanup, corrective
29 action, upgrading, or closure activities related to the tank system on or

1 after December 22, 1988, but before the effective date of this section, may
2 apply to the department for reimbursement of a portion of the eligible
3 costs incurred by the person for those activities, as determined under (b)
4 of this section. Application under this section must be submitted within
5 six months after the effective date of this section. Payments made by the
6 department shall be from the fund established under AS 46.03.410, enacted
7 by sec. 2 of this Act.

8 (b) An applicant for reimbursement under this section shall submit
9 evidence satisfactory to the department of the costs that are eligible for
10 reimbursement under this section, as determined by the department under
11 regulations of the board. The department shall, subject to the availabil-
12 ity of funds, reimburse the applicant for 90 percent of the eligible costs
13 of containment, cleanup, corrective action, and risk assessment and 60
14 percent of the eligible costs of upgrading or closure, subject to the
15 following limitations:

16 (1) the department shall calculate the amount of costs reimburs-
17 able under this section after subtracting amounts the department determines
18 are recoverable by the owner or operator from related insurance or other
19 persons who are liable for the costs;

20 (2) total costs reimbursed under this section to an owner or
21 operator may not exceed \$200,000.

22 (c) In addition to other requirements of this section, an owner or
23 operator is not eligible for reimbursement under this section for costs of
24 containment, cleanup, risk assessment, corrective action, upgrading, or
25 closure related to a release unless the owner or operator establishes the
26 following to the department's satisfaction:

27 (1) the release was promptly reported to state authorities in
28 compliance with applicable regulations;

29 (2) the tank or tank system from which the release occurred was

1 installed before December 22, 1988;

2 (3) other than the release, the tank or tank system has been in
3 compliance with state and federal laws applicable to underground petroleum
4 storage tank systems since December 22, 1988, including notification and
5 registration laws, but excluding financial responsibility requirements;

6 (4) the release was not a result of the owner's or operator's
7 gross negligence, recklessness, or intentional conduct;

8 (5) all containment, cleanup, risk assessment, corrective
9 action, upgrading, and closure activities have been performed in compliance
10 with state and federal law.

11 (d) In addition to other requirements of this section, an owner or
12 operator is not eligible for costs of risk assessment, upgrading, or clo-
13 sure unrelated to a release unless the owner or operator establishes the
14 following to the department's satisfaction:

15 (1) the tank or tank system has been in compliance with state
16 and federal laws applicable to underground petroleum storage tank systems
17 since December 22, 1988, including notification and registration laws, but
18 excluding financial responsibility requirements;

19 (2) all risk assessment, upgrading, and closure activities have
20 been performed in compliance with state and federal laws.

21 (e) The department may deny all or a portion of a request for reim-
22 bursement under this section if

23 (1) it disapproves of a method used for the risk assessment,
24 containment, cleanup, corrective action, upgrading, or closure; the owner
25 or operator may appeal a denial of payment made under this paragraph to the
26 Board of Storage Tank Assistance; the board may issue a decision on a
27 dispute brought to it under this paragraph; the decision is binding on the
28 owner, operator, and department;

29 (2) the fund established under AS 46.03.410, enacted by sec. 2
SCS CSHB 220(Fin)

1 of this Act, lacks sufficient money; if a request for reimbursement is
2 denied under this paragraph, it shall be granted without the requirement of
3 a new application, when money is next available, subject to the existence
4 of a higher priority for use of money in the storage tank assistance fund;
5 or

6 (3) requests under AS 46.03.415 - 46.03.430, enacted by sec. 2
7 of this Act, remain unfunded; when all eligible requests for funding under
8 AS 46.03.415 - 46.03.430, enacted by sec. 2 of this Act, have been sat-
9 isfied in a given fiscal year and a balance remains in the storage tank
10 assistance fund, eligible requests under this section may be satisfied on a
11 first-come, first-served basis without the requirement of a new applica-
12 tion.

13 (f) If an owner or operator of an underground petroleum storage tank
14 system, other than the state or federal government, began risk assessment,
15 containment, cleanup, corrective action, upgrading, or closure activities
16 related to the tank system on or after December 22, 1988, and before the
17 effective date of this section, but those activities are not complete on
18 the effective day of this section, the owner or operator may apply for
19 reimbursement under this section for costs incurred before the effective
20 date of this section; the owner or operator may apply for assistance under
21 AS 46.03.420 - 46.03.430, enacted by sec. 2 of this Act, for costs incurred
22 or anticipated after the effective date of this Act. A request for reim-
23 bursement under this subsection has the same low priority as other reim-
24 bursement requests under this section, but requests for assistance to
25 complete activities begun before the effective date of this section shall
26 be prioritized with other requests made under AS 46.03.420 - 46.03.430,
27 enacted by sec. 2 of this Act, and are subject to the same requirements and
28 maximum amounts established under those sections.

29 (g) In this section,

1 (1) "board," "containment and cleanup," "corrective action,"
2 "release," "risk assessment," "tank system," and "underground petroleum
3 storage tank system" have the meanings given in AS 46.03.450, enacted by
4 sec. 2 of this Act;

5 (2) "closure" and "upgrading" have the meanings given in AS 46.-
6 03.430, enacted by sec. 2 of this Act.

7 * Sec. 7. NOTICE ABOUT REGULATIONS. The commissioner of environmental
8 conservation shall notify the Alaska Legislative Council and the revisor of
9 statutes in writing when regulations have been adopted under AS 46.03.-
10 375(a), enacted by sec. 2 of this Act, for a specific activity for which
11 certification is required under that section.

12 * Sec. 8. INITIAL APPOINTMENTS TO BOARD. The governor shall make
13 initial appointments to the Board of Storage Tank Assistance required under
14 AS 46.03.360, enacted by sec. 2 of this Act, within 45 days after the
15 effective date of AS 46.03.360, enacted by sec. 2 of this Act.

16 * Sec. 9. (a) AS 46.03.375(c) and (d), enacted by sec. 2 of this Act,
17 take effect for a specific activity for which certification is required
18 under that section, one year after the effective date of regulations adopt-
19 ed under AS 46.03.375 governing certification for that activity.

20 (b) AS 46.03.405, enacted by sec. 2 of this Act, takes effect six
21 months after the effective date of AS 46.03.380, enacted by sec. 2 of this
22 Act.

23 * Sec. 10. Except as provided in sec. 9 of this Act, this Act takes
24 effect immediately under AS 01.10.070(c).

6-0693FF
Lauterbach
4/29/90

Original sponsor(s): REP. MENARD, M.Davis, Brown, Larson, Navarre, Cato, Koponen, Gruenberg, Spohnholz, Goll, Ellis, Foster, Jacko, Boyer, Boucher, Swackhammer, Kubina

1 IN THE HOUSE

BY THE FINANCE COMMITTEE

2 SENATE CS FOR CS FOR HOUSE BILL NO. 220 (Finance)

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 SIXTEENTH LEGISLATURE - SECOND SESSION

5 A BILL

6 For an Act entitled: "An Act relating to 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 AND INTENT. (a) The purpose of this Act is to
12 provide for

13 (1) establishment of technical assistance mechanisms that will
14 assist the owners and operators of underground storage tank systems to
15 comply with federal and state requirements governing their tank systems;
16 and

17 (2) clean up of existing leaks and prevention of future leaks
18 associated with underground petroleum storage tank systems in order to
19 protect the public from contamination of drinking water and to protect the
20 environment.

21 (b) The legislature recognizes that the regulations governing under-
22 ground storage tank systems may not be easily understood and that some
23 owners and operators will be faced with insurance requirements that they
24 will not be able to satisfy because of contamination relating to their tank
25 systems. It is the legislature's intent to help these owners and operators
26 through educational, technical, and financial assistance, and to provide
27 incentives for prompt compliance with the new requirements of this Act.

28 (c) It is the intent of the legislature that the owners and operators
29 of underground petroleum storage tank systems train their employees in the

1 proper handling of petroleum products and the use of leak, spill, and
2 overflow protection devices.

3 (d) It is also the intent of the legislature to develop a program for
4 underground storage tank systems that will be approved by the federal
5 government.

6 * Sec. 2. AS 46.03 is amended by adding new sections to read:

7 ARTICLE 6A. UNDERGROUND STORAGE TANK SYSTEMS.

8 Sec. 46.03.360. BOARD OF STORAGE TANK ASSISTANCE. (a) There is
9 established the Board of Storage Tank Assistance. For administrative
10 purposes, the board is located in the department. The board consists
11 of the commissioners of environmental conservation and transportation
12 and public facilities, or their designees, and the following persons
13 who shall be appointed by the governor:

14 (1) an engineer registered under AS 08.48 who is knowledge-
15 able about installing, upgrading, repairing, or closing underground
16 petroleum storage tank systems;

17 (2) a general contractor registered under AS 08.18 who is
18 knowledgeable about installing, upgrading, repairing, or closing
19 underground petroleum storage tank systems;

20 (3) two persons who own or operate an underground petroleum
21 storage tank system, at least one of whom does not own or operate more
22 than 10 underground petroleum storage tanks; and

23 (4) a member of the insurance industry.

24 (b) The board may employ a full-time director and no more than
25 one other employee. The department shall provide additional adminis-
26 trative and clerical support to the board.

27 (c) Members of the board designated under (a)(1) - (4) of this
28 section serve staggered four-year terms and may be removed by the
29 governor only after notice and hearing for misconduct, incompetency,

1 or neglect of duty.

2 (d) The board shall meet at the call of the chair, who shall be
3 selected by the members from among themselves.

4 (e) The members of the board serve without compensation, but are
5 entitled to per diem and travel expenses authorized by law for boards
6 and commissions.

7 (f) The department shall implement and enforce the regulations
8 adopted by the board.

9 Sec. 46.03.363. BOARD REPORT. The board shall submit a report
10 to the legislature not later than the 10th day following the convening
11 of each regular session of the legislature. The report may include
12 information considered significant by the board but must include

13 (1) information about the extent to which releases associ-
14 ated with underground petroleum storage tank systems have caused
15 bodily injury or property damages to persons other than the owner or
16 operator of the system in the preceding fiscal year, and the extent to
17 which insurance is available to cover that type of injury and damage;

18 (2) recommendations about whether there are specific areas
19 where state regulations should be more stringent than the federal
20 regulations for underground petroleum storage tank systems;

21 (3) information on the availability of private commercial
22 loans and federal loans, loan guarantees, or grants for upgrading
23 underground petroleum storage tank systems;

24 (4) information on the availability of insurance that would
25 cover the costs of corrective actions made necessary by a release or
26 threatened release from an underground petroleum storage tank system;

27 (5) a brief summary of disputes involving the board under
28 AS 46.03.420(c)(3); and

29 (6) recommendations for amendments or additions to

1 AS 46.03.360 - 46.03.450.

2 Sec. 46.03.365. REGULATION OF UNDERGROUND PETROLEUM STORAGE TANK
3 SYSTEMS. (a) The board shall develop a program to abate and prevent
4 pollution from underground petroleum storage tank systems through the
5 adoption of regulations under the Administrative Procedure Act
6 (AS 44.62). Consistent with other provisions in AS 46.03.360 - 46.-
7 03.450, the regulations may govern

- 8 (1) notification and registration;
9 (2) inspection and record keeping;
10 (3) construction, installation, and performance;
11 (4) maintenance, operation, and repair;
12 (5) technical standards, including standards for spill and
13 overfill control, corrosion prevention, and release detection and
14 reporting;
15 (6) financial responsibility;
16 (7) certification of underground petroleum storage tank
17 system workers;
18 (8) corrective action and cost recovery;
19 (9) closure and abandonment;
20 (10) enforcement of regulations; and
21 (11) prevention of releases to protect the public health and
22 environment.

23 (b) In the regulations adopted under (a) of this section, the
24 board may

- 25 (1) distinguish among the sizes, types, classes, locations,
26 and ages of underground petroleum storage tank systems;
27 (2) provide for exemptions and deferrals determined to be
28 necessary by the board; exemptions and deferrals under this paragraph
29 must be consistent with those granted under federal laws and

1 regulations.

2 (c) Except as provided in AS 46.03.420(c)(2)(A), when the regu-
3 lations adopted under this section address areas governed by federal
4 laws or regulations, the state regulations must be consistent with
5 federal laws and regulations and may not be more stringent than the
6 federal laws and regulations.

7 (d) The department may not adopt nonemergency regulations in the
8 areas specified in (a) - (c) of this section under any law that does
9 not specifically refer to this subsection. However, the department
10 may adopt emergency regulations in the same areas and subject to the
11 same conditions as the board regulations authorized under (a) - (c) of
12 this section. Emergency regulations adopted under this subsection may
13 not remain in effect for more than 120 days unless the board adopts
14 the regulations in compliance with AS 44.62.060 and 44.62.190 - 44.-
15 62.210.

16 Sec. 46.03.370. EDUCATIONAL ASSISTANCE. Under the regulations
17 of the board, the department shall provide

18 (1) educational assistance to owners and operators of
19 underground petroleum storage tank systems to help them comply with
20 federal and state laws and regulations applicable to the tank systems,
21 including the registration and notification requirements under AS 46.-
22 03.380 - 46.03.400;

23 (2) the public with information to help the public under-
24 stand the effects associated with the release of petroleum and chemi-
25 cal products into the environment, including releases from petroleum
26 and chemical storage tank systems.

27 Sec. 46.03.375. CERTIFICATION OF STORAGE TANK WORKERS. (a) The
28 board shall adopt regulations governing the certification of persons
29 who install, test, close, repair, or significantly change the

1 configuration of underground petroleum storage tanks and tank systems.
2 The certification program shall be administered by the division of
3 occupational licensing, Department of Commerce and Economic Develop-
4 ment. Under the board's regulations and in consultation with the
5 Department of Environmental Conservation, the division shall make
6 every reasonable attempt to ensure that opportunities for obtaining
7 certification under this section are available throughout the state.
8 The division shall organize presentation of national training courses
9 that are available in the state and assist residents of isolated
10 communities who request assistance in becoming certified. The divi-
11 sion may contract with the University of Alaska, a vocational techni-
12 cal school, or a regional nonprofit organization to provide the educa-
13 tion and testing necessary for certification.

14 (b) The division shall establish fees applicable to certifica-
15 tion under this section in an amount necessary to cover the costs of
16 the certification program. The fees shall be collected by the divi-
17 sion. The commissioner of administration shall separately account for
18 fees deposited in the general fund by the Department of Commerce and
19 Economic Development under this subsection. The legislature may
20 appropriate the annual estimated balance of the account to the Depart-
21 ment of Commerce and Economic Development for operation of the certi-
22 fication program.

23 (c) Except as provided in (d) of this section, a person may not
24 install, test, close, repair, or significantly change the config-
25 uration of an underground petroleum storage tank or tank system unless
26 that person is certified for the appropriate activity under (a) of
27 this section. A person who violates this subsection is guilty of a
28 class B misdemeanor.

29 (d) A person may install, test, close, repair, or significantly

1 change the configuration of an underground petroleum storage tank or
2 tank system without being certified under this section if

- 3 (1) the person performs the work under the direct super-
4 vision of another who is certified for that work under this section;
5 (2) the supervisor inspects the work performed; and
6 (3) after inspection, the supervisor approves the work in
7 writing.

8 (e) The Administrative Procedure Act (AS 44.62) applies to
9 regulations and certifications under this section.

10 (f) The department shall develop and maintain lists of persons
11 certified under this section to perform the various activities related
12 to underground petroleum storage tanks and tank systems. The depart-
13 ment shall provide the lists on request to interested persons.

14 (g) In this section, "close" means to perform underground petro-
15 leum storage tank system site assessment, or to remove petroleum and
16 sludges from the tanks in the tank system, and either fill the tanks
17 with inert solid material or remove, dismantle, and dispose of the
18 tanks.

19 Sec. 46.03.380. REGISTRATION OF TANKS AND TANK SYSTEMS. (a) A
20 person who intends to install, have installed, return to operation, or
21 acquire ownership of an underground petroleum storage tank or tank
22 system shall, before the installation or return to operation, or 30
23 days after acquisition, register the tank or tank system with the
24 department on a form provided by the department and pay the tank
25 registration fee required under AS 46.03.385.

26 (b) The owner or operator of an underground petroleum storage
27 tank or tank system that was installed before and is still in use on
28 the effective date of this section shall register the tank or tank
29 system with the department on a form provided by the department and

1 pay the tank registration fee required under AS 46.03.385. For each
2 tank or tank system registered under this subsection that was in-
3 stalled before December 22, 1988, the owner or operator shall provide
4 to the department at the time of registration

5 (1) proof of plans for prompt site assessment or testing
6 for tank tightness;

7 (2) an application for state assistance to fund part of the
8 cost of a tank tightness test or site assessment; or

9 (3) proof of tank tightness testing or site assessment that
10 occurred within the previous 12 months and

11 (A) satisfactory performance of the tank or tank
12 system during the test, proof of noncontamination if a site
13 assessment was performed, and proof of compliance with applicable
14 state and federal financial responsibility requirements; or

15 (B) if the tank or tank system did not perform satis-
16 factorily during the test, or the site assessment showed evidence
17 of contamination,

18 (i) a summary of the upgrading, repair, contain-
19 ment, or cleanup efforts that have been or will be used for
20 the tank, tank system, or site; or

21 (ii) an application for state assistance under
22 AS 46.03.420 - 46.03.430; if the applicant is determined to
23 be ineligible for assistance under AS 46.03.420 - 46.03.430,
24 the applicant shall comply with (i) of this subparagraph
25 upon notification of ineligibility.

26 Sec. 46.03.385. REGISTRATION FEE. (a) At the time of registra-
27 tion under AS 46.03.380, and annually thereafter, the owner or opera-
28 tor shall pay to the department a registration fee for each tank
29 registered unless the owner or operator has notified the department

1 under AS 46.03.395 that the tank has been taken out of service. An
2 underground storage tank that has leak detection, spill and overflow
3 protection, and corrosion protection that meet requirements of the
4 board is subject to a \$50 annual registration fee, regardless of tank
5 capacity. An underground storage tank system that lacks any or all of
6 these features is subject to an annual registration fee of

7 (1) \$150 if the underground storage tank capacity is less
8 than 1,000 gallons;

9 (2) \$300 if the underground storage tank capacity is
10 1,000 - 5,000 gallons;

11 (3) \$500 if the underground storage tank capacity is over
12 5,000 gallons.

13 (b) An underground petroleum storage tank or tank system owned
14 or operated by the federal or state government is exempt from the
15 registration fee in (a) of this section.

16 (c) A registration fee that is not paid within 30 days of when
17 it is due shall be increased by a late payment fee equal to \$10 per
18 day until the day of payment.

19 (d) The first annual fee under this section must be accompanied
20 by the information required under AS 46.03.400. Subsequent annual
21 fees must be accompanied by the names and addresses of the owner and
22 operator of the tank system, and the location and capacity of, and
23 substance being stored in, the tanks for which the fee is being sub-
24 mitted.

25 (e) The commissioner of administration shall separately account
26 for money deposited in the general fund by the department under this
27 section. The legislature may appropriate the annual estimated balance
28 of the account to the storage tank assistance fund established under
29 AS 46.03.410.

1 Sec. 46.03.390. NOTIFICATION OF CHANGES IN TANK SYSTEMS. A
2 person who intends to significantly change the configuration of an
3 underground petroleum storage tank system shall notify the department
4 before beginning work on the change by completing and returning to the
5 department a notification form obtained from the department.

6 Sec. 46.03.395. NOTIFICATION OF TANK SYSTEM CLOSURE. If an
7 underground petroleum tank or storage tank system is taken out of
8 operation, the owner or operator of the tank or tank system, or an
9 agent on the owner's or operator's behalf, shall provide on forms ob-
10 tained from the department

11 (1) notification of that fact to the department at least 15
12 days, but not more than 60 days, before the date the tank or tank
13 system will be taken out of operation unless the tank or tank system
14 is taken out of operation because of an emergency; in emergency sit-
15 uations, the owner or operator shall provide notification as promptly
16 as possible under the circumstances; and

17 (2) evidence satisfactory to the department within 30 days
18 after the tank or tank system is taken out of operation that the owner
19 or operator has complied with applicable federal laws and regulations
20 governing temporary or permanent tank closure.

21 Sec. 46.03.400. REGISTRATION FORMS. The registration forms
22 required under AS 46.03.380 - 46.03.395 must require information about
23 the geographical location of a tank or tank system, the estimated age
24 of the tanks and tank system, the total capacity, type of construc-
25 tion, internal and external protection, and piping of the tanks and
26 tank system, and the substance currently or proposed to be stored in
27 the tank system. If the tank or tank system is newly installed, the
28 owner or operator shall certify that the owner or operator has com-
29 plied with installation, release detection, corrosion protection, and

1 financial responsibility requirements of state and federal law.

2 Sec. 46.03.405. PROHIBITIONS. A person may not operate an
3 underground petroleum storage tank or tank system unless

4 (1) the tank and tank system is registered with the depart-
5 ment as provided in AS 46.03.360 - 46.03.450 or other law; and

6 (2) except as provided in AS 46.03.420(c)(1)(D), the person
7 has provided to the department proof of financial responsibility to
8 the extent required under federal regulations and regulations adopted
9 under AS 46.03.365 or proof of application for arrangements that would
10 satisfy federal and state financial responsibility requirements.

11 Sec. 46.03.410. STORAGE TANK ASSISTANCE FUND. (a) There is
12 established the storage tank assistance fund. It consists of money
13 appropriated to it by law. The commissioner of administration shall
14 separately account for earnings on money in the fund that are de-
15 posited in the general fund by the department. The legislature may
16 use the estimated balance in the account to make appropriations to the
17 fund.

18 (b) The commissioner may use money in the fund to pay for

19 (1) tank tightness tests or site assessments under AS 46.-
20 03.415;

21 (2) grants and loans under AS 46.03.420 for risk assess-
22 ment, containment, and cleanup costs; and

23 (3) grants under AS 46.03.430 for tank system upgrading and
24 closure.

25 (c) The commissioner shall submit a report on the status of the
26 storage tank assistance fund to the legislature not later than the
27 10th day following the convening of each regular session of the legis-
28 lature. The report may include information considered significant by
29 the commissioner but must include

1 (1) the amount and source of money received by the fund
2 during the preceding fiscal year;

3 (2) the amount of money expended during the preceding
4 fiscal year for each type of expense authorized under (b) of this
5 section;

6 (3) a detailed summary of department activities paid for
7 from the fund during the preceding fiscal year, including how many
8 requests for assistance have been made to the department to use the
9 fund for grants or loans for testing, site assessment, upgrading,
10 closure, containment and cleanup costs, and the number of requests
11 funded in each activity area;

12 (4) the projected cost for the next fiscal year of moni-
13 toring, operating, and maintaining sites where department activities
14 have been completed or are expected to start or be continued during
15 the fiscal year;

16 (5) the priority list of tank system sites for which the
17 department expects to provide financial assistance in the next fiscal
18 year.

19 Sec. 46.03.415. TANK TIGHTNESS AND SITE ASSESSMENT INCENTIVE
20 PROGRAM. (a) The owner or operator of an underground petroleum
21 storage tank or tank system that was installed before the effective
22 date of this Act and is operating on the effective date of this Act,
23 other than the state or federal government, may request the department
24 to use money from the storage tank assistance fund to reimburse the
25 owner or operator for eligible costs of a tank tightness test or site
26 assessment in order to determine if there has been a release of petro-
27 leum from the owner's or operator's tank system. The department shall
28 reimburse up to 50 percent of the cost, not to exceed \$300 per tank
29 for tightness tests up to a maximum of \$1,200 per facility, or \$800

1 per tank for site assessment up to a maximum of \$3,200 per facility.

2 (b) Under regulations adopted by the board, the department shall
3 determine which costs of tightness testing and site assessment are
4 eligible costs under this section.

5 (c) Notification of intent to request reimbursement under this
6 section must be submitted to the department at the time of registra-
7 tion under AS 46.03.380(b). The activities for which reimbursement is
8 requested must be completed within 12 months after registration is due
9 under AS 46.03.380 unless the owner or operator demonstrates to the
10 department's satisfaction that there is good cause for extending the
11 deadline. Good cause may be demonstrated by a showing that a qual-
12 ified site assessor or tank system tester was not available, seasonal
13 climatic conditions render the appropriate activities unsafe or im-
14 practicable, or other justification acceptable to the department. If
15 the department finds good cause for extending the deadline, the de-
16 partment may extend the deadline for completion of activities for
17 which reimbursement is requested for a period of time specified by the
18 department.

19 (d) The department shall make available, on request, lists of
20 persons who have notified the department that they are available as
21 site assessors and tank testers for purposes of this section.

22 Sec. 46.03.420. TANK CLEANUP PROGRAM. (a) Subject to (b) - (j)
23 of this section, application may be made to the department by the
24 owner or operator of an underground petroleum storage tank system,
25 other than the state or federal government, for grants and loans from
26 the storage tank assistance fund to pay for the costs of risk assess-
27 ment, containment, and cleanup resulting from a release of petroleum
28 from or associated with an underground petroleum storage tank system.
29 Applications for assistance under this section must be submitted to

1 the department before July 1, 1994. The department shall rank re-
2 quests under this section in order of priority, giving greatest prior-
3 ity to those tank systems that present the greatest threat or poten-
4 tial threat to human health. The board shall review the priority list
5 developed by the department.

6 (b) Grants made by the department under this section shall
7 exclude a portion of the risk assessment, containment, and cleanup
8 costs. The portion of these costs not payable as a grant by the
9 department under this section is 10 percent of total costs, up to a
10 maximum of \$25,000 not payable by the department; this portion of the
11 costs shall be loaned at no interest by the department to the owner or
12 operator on request with repayment to be made according to a schedule
13 agreed to by the parties. The department may require security or
14 collateral for a loan made under this subsection and may charge a fee
15 for a late loan repayment equal to five percent of the amount of the
16 late payment. At the department's discretion, a loan or grant under
17 this section may be disbursed in partial payments according to a
18 schedule related to costs anticipated to be incurred during specified
19 time periods.

20 (c) An owner or operator of an underground petroleum storage
21 tank system is not eligible for a grant or loan under this section for
22 activities related to a release unless the release occurs before
23 December 22, 1993, and the owner or operator

24 (1) establishes the following to the department's reason-
25 able satisfaction:

26 (A) the owner or operator reported the release to the
27 department in compliance with state and federal law before
28 July 1, 1994, for a release that the owner or operator estab-
29 lishes first occurred on or after the effective date of this

1 section and before December 22, 1993;

2 (B) the owner or operator reported the release to the
3 department at the time of registration or notification or within
4 15 days after receiving the results of testing or site assess-
5 ment, whichever is later, for a release that the owner or opera-
6 tor establishes first occurred before the effective date of this
7 section;

8 (C) the tank or tank system from which the release
9 occurred was installed before December 22, 1988;

10 (D) the owner and operator have, within six months
11 after the effective date of this section, been in compliance with
12 all state and federal laws applicable to underground petroleum
13 storage tank systems and releases from them, including notifica-
14 tion and registration laws, but excluding financial responsibil-
15 ity requirements;

16 (E) the release was not a result of the owner's or
17 operator's gross negligence, recklessness, or intentional con-
18 duct;

19 (2) agrees to

20 (A) upgrade all underground petroleum storage tanks
21 located at the facility from which the release occurred to the
22 standards set by state and federal regulations according to a
23 timeline established by the department under regulations of the
24 board; notwithstanding (g) of this section and AS 46.03.365(c),
25 the board and the department may require upgrading under this
26 subparagraph that is required earlier than that required under
27 federal law; or

28 (B) remove and properly dispose of all liquids and
29 sludges from the underground petroleum storage tanks located at

1 the facility from which the release occurred, conduct a site
2 assessment, and either fill the tanks with inert solid material
3 or properly dismantle, remove, and dispose of the tanks in accor-
4 dance with applicable state and federal regulations; and

5 (3) agrees to submit a plan for risk assessment, contain-
6 ment, and cleanup to the department for its review and approval; if
7 the department and the owner or operator cannot reach agreement on a
8 plan or on later changes in the plan, the owner or operator may apply
9 to the board to decide the dispute; the board may issue a decision in
10 a dispute brought to it under this paragraph; the decision is binding
11 on the owner, operator, and department if the owner or operator con-
12 tinues to request assistance under this section.

13 (d) The department may deny a request for a grant or loan under
14 this section if the department determines that one or more of the
15 following conditions exists:

16 (1) the fund established under AS 46.03.410 lacks suffi-
17 cient money; if a request for a grant or loan is denied under this
18 paragraph, it shall be granted, without the requirement of a new
19 application, when money is next available, subject to the existence of
20 higher-priority requests;

21 (2) other risk assessment, containment, and cleanup activi-
22 ties for which money may be used under AS 46.03.410 constitute a
23 higher priority for fund expenditures; if a request is initially
24 denied under this paragraph, it shall be granted later without the
25 necessity of a new application, subject to available funding and other
26 higher priorities; or

27 (3) the owner or operator fails to meet the requirements
28 set out in (c) of this section.

29 (e) A request for a grant under this section, and a grant

1 payment made under this section, may not exceed \$1,000,000 per occur-
2 rence, less the amount not payable as a grant under (b) of this sec-
3 tion.

4 (f) Under regulations adopted by the board, the department shall
5 determine which costs of risk assessment, containment, and cleanup are
6 eligible for payment under this section.

7 (g) The board shall adopt regulations reasonably necessary to
8 enable the department to implement this section. The regulations must
9 be consistent with federal law except as provided in (c)(2)(A) of this
10 section.

11 (h) This section does not affect the liability under state or
12 federal law of any person for the costs of risk management, contain-
13 ment, and cleanup resulting from a release of petroleum. However,
14 notwithstanding the provisions of AS 46.08.070(a), the department may
15 not seek reimbursement of a grant made under this section unless the
16 department determines that the grant was requested under false pre-
17 tenses or that other circumstances render the grant inconsistent with
18 this section or with applicable regulations. This section does not
19 affect the authority of the department to seek recovery from the owner
20 or operator of costs other than grants and loans actually made to an
21 owner or operator under this section.

22 (i) The commissioner of administration shall separately account
23 for money deposited by the department under this section. The legis-
24 lature may appropriate the annual estimated balance of the account to
25 the fund established under AS 46.03.410.

26 Sec. 46.03.430. TANK UPGRADING AND CLOSURE PROGRAM. (a) The
27 board shall, by regulation, establish a grant program to be adminis-
28 tered by the department under which the owner or operator of an under-
29 ground petroleum storage tank may, upon application, receive a grant

1 for 60 percent of the eligible costs of tank upgrading or closure,
2 subject to a maximum total grant of \$60,000 per facility.

3 (b) The regulations adopted under (a) of this section

4 (1) may limit the number of grants that may be awarded to
5 an owner or operator during a calendar year;

6 (2) must include criteria for determining eligible costs
7 under this section.

8 (c) A grant may not be awarded under this section for upgrading
9 or closure activities that do not meet the requirements of state and
10 federal law.

11 (d) In this section,

12 (1) "closure" means to remove all petroleum and sludges
13 from an underground petroleum storage tank and either fill the tank
14 with inert solid material or properly dismantle, remove, and dispose
15 of the tank;

16 (2) "upgrading" means to add or retrofit cathodic protec-
17 tion systems, lining, spill and overflow controls, or similar systems
18 to improve the ability of an underground petroleum storage tank system
19 to prevent a release.

20 Sec. 46.03.440. CONFIDENTIALITY OF FINANCIAL RECORDS. (a)
21 Financial records submitted to the department or the board by the
22 owner or operator of an underground petroleum storage tank system are
23 confidential and not subject to inspection or copying under AS 09.25.-
24 110 - 09.25.120. The department, in consultation with the affected
25 owner or operator, shall determine which information is confidential
26 under this subsection.

27 (b) The confidentiality conferred by (a) of this section does
28 not apply to statistical information compiled by the department about
29 the number, capacity, and location of underground petroleum storage

1 tank systems in the state.

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

3 (1) "board" means the Board of Storage Tank Assistance
4 established under AS 46.03.360;

5 (2) "chemical" means any substance defined in 42 U.S.C.
6 9601(14) (sec. 101(14) of the Comprehensive Environmental Response,
7 Compensation, and Liability Act of 1980), as amended, and any sub-
8 stance having the characteristics identified or listed under 42 U.S.C.
9 6921 (sec. 3001 of the Solid Waste Disposal Act), regardless of wheth-
10 er the substance is a solid waste;

11 (3) "containment and cleanup" has the meaning given in
12 AS 46.08.900;

13 (4) "facility" means contiguous land and structures on or
14 in the land containing underground petroleum storage tanks owned by
15 the same person;

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

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

27 (7) "release" has the meaning given in AS 46.08.900;

28 (8) "risk assessment" means investigation of suspected
29 underground petroleum storage tank system leaks and source

1 identification, a determination of potential health effects including
2 effects of containment exposure through inhalation, ingestion, dermal
3 absorption, and other means, and the assessment of risk to human
4 health and the environment from contaminants remaining in the land,
5 air, or water as a result of the release;

6 (9) "tank system" means an underground petroleum storage
7 tank system;

8 (10) "underground storage tank" means one or a combination
9 of stationary devices, including underground pipes connected to the
10 devices, that is designed to contain an accumulation of petroleum, the
11 volume of which, including the volume of underground pipes, is 10
12 percent or more beneath the surface of the ground, except that the
13 term does not include a

14 (A) farm or residential tank of 1,100 gallons or less
15 capacity used for storing motor fuel for noncommercial purposes;

16 (B) tank used for storing heating oil for consumptive
17 use on the premises where stored;

18 (C) septic tank;

19 (D) pipeline facility, including gathering lines,

20 (i) regulated under 49 U.S.C. 1671, et seq.,
21 (Natural Gas Pipeline Safety Act of 1968);

22 (ii) regulated under 49 U.S.C. 2001, et seq.,
23 (Hazardous Liquid Pipeline Safety Act of 1979); or

24 (iii) that is an intrastate pipeline facility
25 regulated under state laws comparable to the provisions of
26 law referred to in (i) or (ii) of this subparagraph;

27 (E) surface impoundment, pit, pond, or lagoon;

28 (F) storm water or waste water collection system;

29 (G) flow-through process tank;

1 (H) liquid trap or associated gathering lines directly
2 related to oil or gas production and gathering operations;

3 (I) storage tank situated in an underground area such
4 as a basement, cellar, mineworking, drift, shaft, or tunnel, if
5 the storage tank is situated upon or above the surface of the
6 floor;

7 (J) tank with a capacity of 110 gallons or less;

8 (K) tank containing hazardous wastes regulated under
9 42 U.S.C. 6921 - 6939b; or

10 (L) tank system that the board or the department has
11 exempted by regulations adopted under AS 46.03.365;

12 (11) "underground petroleum storage tank system" means an
13 underground storage tank containing petroleum together with its under-
14 ground ancillary equipment and related containment system, if any; in
15 this paragraph, "ancillary equipment" means devices used to distrib-
16 ute, meter, or control the flow of petroleum to and from the system,
17 including piping, fittings, flanges, valves, and pumps.

18 * Sec. 3. LIMITED IMMUNITY FROM LIABILITY. Notwithstanding AS 46.03.-
19 420(h), 46.03.758, 46.03.760, 46.03.780, 46.03.790, and 46.03.822, a person
20 is not civilly or criminally liable to the state under those sections for a
21 discharge covered by those sections if the person demonstrates by a prepon-
22 derance of the evidence that the person

23 (1) is the owner or operator of an underground petroleum storage
24 tank or tank system, as defined in AS 46.03.450, enacted by sec. 2 of this
25 Act, that was installed before December 22, 1988, and the discharge oc-
26 curred from that tank or tank system before December 22, 1993;

27 (2) acted in good faith to report and mitigate damage from the
28 discharge in accordance with applicable state and federal law before
29 January 15, 1994, and was in compliance with all applicable state and

1 federal law before the discharge occurred;

2 (3) is receiving or has been approved for state funds under
3 AS 46.03.420 - 46.03.430, enacted by sec. 2 of this Act; and

4 (4) did not intentionally cause the discharge.

5 * Sec. 4. NOTIFICATION FOR TANK SYSTEMS NOT IN USE. The owner or
6 operator of an underground petroleum storage tank or tank system whose tank
7 or tank system was installed after January 1, 1974, but was taken out of
8 use before the effective date of AS 46.03.380, enacted by sec. 2 of this
9 Act, shall notify the department about the tank or tank system within six
10 months after the effective date of this section by completing and returning
11 to the department a form obtained from the department. The form must
12 comply with AS 46.03.400, enacted by sec. 2 of this Act, and be similar to
13 the notification form required under AS 46.03.395, enacted by sec. 2 of
14 this Act.

15 * Sec. 5. The initial registration and information required under
16 AS 46.03.380(b), enacted by sec. 2 of this Act, is due within six months
17 after the effective date of AS 46.03.380, enacted by sec. 2 of this Act.

18 * Sec. 6. REIMBURSEMENT PROGRAM. (a) An owner or operator of an
19 underground petroleum storage tank system who began risk assessment, con-
20 tainment, cleanup, upgrading, or closure activities related to the tank
21 system on or after December 22, 1988, but before the effective date of this
22 section, may apply to the department for reimbursement of a portion of the
23 eligible costs incurred by the person for those activities, as determined
24 under (b) of this section. Application under this section must be submit-
25 ted within six months after the effective date of this section. Payments
26 made by the department shall be from the fund established under AS 46.03.-
27 410, enacted by sec. 2 of this Act.

28 (b) An applicant for reimbursement under this section shall submit
29 evidence satisfactory to the department of the costs that are eligible for
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1 reimbursement under this section, as determined by the department under
2 regulations of the board. The department shall, subject to the availabil-
3 ity of funds, reimburse the applicant for 90 percent of the eligible costs
4 of containment, cleanup, and risk assessment and 60 percent of the eligible
5 costs of upgrading or closure, subject to the following limitations:

6 (1) the department shall calculate the amount of costs reimburs-
7 able under this section after subtracting amounts the department determines
8 are recoverable by the owner or operator from related insurance or other
9 persons who are liable for the costs;

10 (2) total costs reimbursed under this section to an owner or
11 operator may not exceed \$200,000.

12 (c) In addition to other requirements of this section, an owner or
13 operator is not eligible for reimbursement under this section for costs of
14 containment, cleanup, risk assessment, upgrading or closure related to a
15 release unless the owner or operator establishes the following to the
16 department's satisfaction:

17 (1) the release was promptly reported to state and federal
18 authorities as required by law;

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

21 (3) other than the release, the tank or tank system has been in
22 compliance with state and federal laws applicable to underground petroleum
23 storage tank systems since December 22, 1988, including notification and
24 registration laws, but excluding financial responsibility requirements;

25 (4) the release was not a result of the owner's or operator's
26 gross negligence, recklessness, or intentional conduct;

27 (5) all containment, cleanup, risk assessment, upgrading, and
28 closure activities have been performed in compliance with state and federal
29 law.

1 (d) In addition to other requirements of this section, an owner or
2 operator is not eligible for costs of risk assessment, upgrading, or clo-
3 sure unrelated to a release unless the owner or operator establishes the
4 following to the department's satisfaction:

5 (1) the tank or tank system has been in compliance with state
6 and federal laws applicable to underground petroleum storage tank systems
7 since December 22, 1988, including notification and registration laws, but
8 excluding financial responsibility requirements;

9 (2) all risk assessment, upgrading, and closure activities have
10 been performed in compliance with state and federal laws.

11 (e) The department may deny all or a portion of a request for reim-
12 bursement under this section if

13 (1) it disapproves of a method used for the risk assessment,
14 containment, cleanup, upgrading, or closure; the owner or operator may
15 appeal a denial of payment made under this paragraph to the Board of Stor-
16 age Tank Assistance; the board may issue a decision on a dispute brought to
17 it under this paragraph; the decision is binding on the owner, operator,
18 and department;

19 (2) the fund established under AS 46.03.410, enacted by sec. 2
20 of this Act, lacks sufficient money; if a request for reimbursement is
21 denied under this paragraph, it shall be granted without the requirement of
22 a new application, when money is next available, subject to the existence
23 of a higher priority for use of money in the storage tank assistance fund;
24 or

25 (3) requests under AS 46.03.415 - 46.03.430, enacted by sec. 2
26 of this Act, remain unfunded; when all eligible requests for funding under
27 AS 46.03.415 - 46.03.430, enacted by sec. 2 of this Act, have been sat-
28 isfied in a given fiscal year and a balance remains in the storage tank
29 assistance fund, eligible requests under this section may be satisfied on a

1 first-come, first-served basis without the requirement of a new applica-
2 tion.

3 (f) If an owner or operator of an underground petroleum storage tank
4 system began risk assessment, containment, cleanup, upgrading, or closure
5 activities related to the tank system on or after December 22, 1988, and
6 before the effective date of this section, but those activities are not
7 complete on the effective day of this section, the owner or operator may
8 apply for reimbursement under this section for costs incurred before the
9 effective date of this section; the owner or operator may apply for assis-
10 tance under AS 46.03.420 - 46.03.430, enacted by sec. 2 of this Act, for
11 costs incurred or anticipated after the effective date of this Act. A
12 request for reimbursement under this subsection has the same low priority
13 as other reimbursement requests under this section, but requests for assis-
14 tance to complete activities begun before the effective date of this sec-
15 tion shall be prioritized with other requests made under AS 46.03.420 -
16 46.03.430, enacted by sec. 2 of this Act, and are subject to the same
17 requirements and maximum amounts established under those sections.

18 (g) In this section,

19 (1) "board," "containment and cleanup," "release," "risk assess-
20 ment," "tank system," and "underground petroleum storage tank system" have
21 the meanings given in AS 46.03.450, enacted by sec. 2 of this Act;

22 (2) "closure" and "upgrading" have the meanings given in AS 46.-
23 03.430, enacted by sec. 2 of this Act.

24 * Sec. 7. NOTICE ABOUT REGULATIONS. The commissioner of environmental
25 conservation shall notify the Alaska Legislative Council and the revisor of
26 statutes in writing when regulations have been adopted under AS 46.03.-
27 375(a), enacted by sec. 2 of this Act, for a specific activity for which
28 certification is required under that section.

29 * Sec. 8. INITIAL APPOINTMENTS TO BOARD. The governor shall make

1 initial appointments to the Board of Storage Tank Assistance required under
2 AS 46.03.360, enacted by sec. 2 of this Act, within 45 days after the
3 effective date of AS 46.03.360, enacted by sec. 2 of this Act.

4 * Sec. 9. (a) AS 46.03.375(c) and (d), enacted by sec. 2 of this Act,
5 take effect for a specific activity for which certification is required
6 under that section, one year after the effective date of regulations adopt-
7 ed under AS 46.03.375 governing certification for that activity.

8 (b) AS 46.03.405, enacted by sec. 2 of this Act, takes effect six
9 months after the effective date of AS 46.03.380, enacted by sec. 2 of this
10 Act.

11 * Sec. 10. Except as provided in sec. 9 of this Act, this Act takes
12 effect immediately under AS 01.10.070(c).

Alaska State Legislature



SENATOR BETTYE FAHRENKAMP
CHAIRMAN, RESOURCES COMMITTEE
119 N. CUSHMAN STREET, SUITE 201
FAIRBANKS, ALASKA 99701
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WHILE IN JUNEAU
P.O. BOX V
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HOME (907) 780-8027

Senate

Letter of Intent

for

SCS CS HB 220 (Res)

The Senate Resources Committee recognizes the serious threats posed by contamination of our groundwater by Leaking Storage Tanks.

The Senate Resources Committee considers the SCS CS HB 220 (Res) to be a temporary measure to assist owners of tanks to comply with the federal regulations for Underground Storage Tanks. It is the intent of the Senate Resources Committee that the Department of Environmental Conservation give priority for grants to owners of underground tanks based on need.

It is the intent of the Senate Resources Committee that the committee continue to work on the issues surrounding petroleum and chemical storage tanks during the interim.

ALASKA STATE LEGISLATURE

Sen. Lloyd Jones, Chairman
Sen. Bettye Fahrenkamp, Vice Chairman
Sen. John B. "Jack" Coghill
Sen. Paul Fischer
Sen. Pat Pouchot



P.O. Box V
Juneau, AK 99811

907-465-4921

Senate Transportation Committee

Letter of Intent

for

SCS CS HB 220 (Trsp)

It is the intent of the Senate that above ground tanks should be addressed in a separate piece of legislation.

Above ground storage tanks have a totally different configuration and regulations are already in place under the Clean Water Act.

Tanks utilized in the construction industry are much more mobile and must be treated differently than more permanently installed tanks.

STATE OF ALASKA
THE LEGISLATURE

POUCH Y STATE CAPITOL
JUNEAU, ALASKA 99811
907 465 3800

LEGISLATIVE AFFAIRS AGENCY

MEMORANDUM

May 8, 1989

SUBJECT: Additional Change in the CS
(SCS CSHB 220(Transportation))

TO: Senator Lloyd Jones, Chair
Senate Transportation Committee

FROM: Terri Lauterbach *TL*
Legislative Counsel

Enclosed is SCS CSHB 220(Transportation).

It includes one additional change not requested by the committee, but which is necessary to achieve the intent of one of the amendments adopted by the committee. The committee adopted an amendment that deleted a requirement that above-ground storage tank owners notify the Department of Environmental Conservation about their tanks. (Page 4, lines 9 - 14 of the Senate Resources CS.) Therefore, I have also deleted the provision in temporary law that related to notification requirements for aboveground tanks. The language I deleted can be found at page 8, lines 18 - 21 of the Senate Resources CS.

There is also a slight glitch in the CS which should be addressed at some point, either by your committee, a future committee, or floor amendment. That glitch appears at page 9, lines 25 - 26 of the Senate Transportation CS. These lines refer to tanks "registered" under sec. 6. If you wish to allow cleanup under this section for tanks not in use but which might be leaking because of previous use, then this language must be modified to include tanks for which notification was given to the department by January 1, 1990. (See sec. 6(b) of the CS.) This glitch has cropped up because tanks not in use were required to be registered under previous versions of the bill. This version and the Senate Resources version deleted the registration requirement and made a new notification requirement. The issue is whether you want the owners of leaking abandoned tanks to be able to

request funds for cleanup. If you do, page 9, lines 25 - 26 should be amended.

Please let me know if I can be of further assistance.

TL:kb
wkk5/019

Enclosure



Official Business

Alaska State Legislature

SENATE

Committee on Finance

5/2/90
Janice
Adair

P.O. Box V
State Capitol
Juneau, Alaska 99811

MEMORANDUM

May 2, 1990

TO: Members, Senate Finance Committee

FROM: Senator John Binkley
Senator Steve Frank
Subcommittee on HB 220

RE: SCSHB 220 (Finance), Underground Storage Tanks

Following is an analysis of the above-referenced proposed CS, both technical and procedural.

Section One. Statement of purpose and intent. Emphasis is on technical assistance and financial assistance in order to meet the insurance requirements. It is also stated that the intent of the legislature to develop a program for UST's that will be approved by the EPA and ultimately take the place of the EPA's program.

Section Two is the heart of the bill.

Sec. 46.03.360 it establishes a Board of Storage Tank Assistance. The primary function of the board will be to write the regulations regarding underground storage tank systems. There are 7 board members who are the commissioners of DEC and DOT, a registered engineer and a registered general contractor, both of whom are knowledgeable about USTs, 2 people who own USTs, at least one of which must own no more than 10 tanks, and a representative of the insurance industry. We allow the board to hire two staff, one director and one support staff. DEC is to provide additional administrative support.

Sec. 46.03.363 charges the Board with making a report to the legislature. It may cover issues the board considers significant however, certain issues must be covered. They are listed on page 3.

Sec. 46.03.365 establishes the regulatory framework and is in compliance with the requirements of the federal regulations. The state's regulations may not be any more or less stringent than the federal regulations however, we have added one subject not covered by the federal government - certification of storage tank workers. It is dealt with in more detail in Sec. 46.03.375. DEC is given the authority to adopt emergency regulations only which may be in effect for no more than 120 days.

Sec. 46.03.370 directs the department to provide educational assistance on compliance with the state and federal regulations as well as public education on the effects associated with petroleum and chemical leaks.

Sec. 46.03.375 requires certification of people who install, test, close or significantly change the configuration of USTs. It will be administered by Occupational Licensing. Fees may be charged that will cover the cost of administration. There is a one year delayed effective date on this section. The clock will start ticking when the director of occupational licensing notifies the revisor of statutes that the certification program is available. In this way, we hope to allow time to develop a pool of certified people prior to the time that certified workers are required. Subsection (c) attaches a Class B misdemeanor charge to violations of the certification requirement. Subsection (d) clarifies that a supervisor who is certified and who inspects the work and signs off on it satisfies the requirement.

Section 46.03.380 requires all tanks to be registered within 30 days of operation. If the tank is already installed when this bill goes into effect, it must be registered within 6 months of the effective date.

For tanks that are in operation on the effective date of this bill and were installed before December 22, 1988, they are required to submit with that initial registration proof that in the last 12 months a test was conducted to determine whether or not the tanks were leaking and the results of those tests. If the site does show contamination, then they have to submit a summary of what has or will be done to correct the problem.

If the tanks haven't tested in the past 12 months, then the owner must provide proof that they intend to do so and may ask that the state reimburse part of those costs as provided in Sec. 46.03.415. In both cases, the owner may at that time apply for financial assistance for containment and cleanup under the tank cleanup program in Sec. 46.03.420.

Sec. 46.03.385 is the annual registration fee. It is \$150 per tank for tanks under 1,000 gallons; \$300 for tanks between 1,000 and 5,000 gallons and \$500 for tanks over 5,000 gallons. Tanks that meet all of the technical standards for leak detection, corrosion protection and spill and overflow protection will pay a \$50 annual fee. This money may be deposited in the tank cleanup fund. State and federally owned tanks are exempt from the fee as well as from participating in the tank cleanup program.

Sec. 46.03.390 requires that tank owners notify DEC when there is a change in the configuration of the tank system.

Sec. 46.03.395 requires that tank owners notify DEC when they close their tank systems. They must also submit proof that closure was done in accordance with state and federal law.

Sec. 46.03.400 sets out what information must be included on the registration forms required to be filed under 46.03.380. Please note that this information is given only once about the tank system. Unless and until notification is given to the department about a change or closure, the department will assume this information is correct. While registration is a one time event, payment of the registration fee is annual.

Sec. 46.03.405 sets out prohibitions. It states that a person may not operate a UST unless it is registered with the department and they have provided to the department proof of financial responsibility to the extent required under regulation. Compliance with the financial responsibility requirement is waived if and while a person is in "cleanup."

Sec. 46.03.410 sets up the Storage Tank Assistance Fund. It can be used for the tank testing, cleanup and upgrading or closing assistance established in this bill. The commissioner must submit an annual report to the legislature on the status of the fund which must include how and where the money has been spent as well as how and where it is intended to be spent in the following fiscal year.

Sec. 46.03.415 is the testing assistance program. At the time of initial registration for tanks that were installed prior to December 22, 1988, the bill proposes to assist with the cost of testing those tanks and/or assessing the tank sites for contamination. It will be a reimbursable program. The state would pay 50% up to a maximum of \$300 per tank/\$1,200 per facility for a tank tightness test and \$800 per tank/\$3,200 per facility for a site assessment.

The testing must be completed within 12 months after initial registration unless the owner demonstrates to DEC's satisfaction that good cause exists for extending the deadline. Good cause could be the weather or the fact that a qualified site assessor or tank tester was not available.

Sec. 46.03.320 sets out the tank cleanup program. An owner may apply to the department by July 1, 1994 for assistance in assessing, containing or cleaning up a leak from a UST. This does not mean the work must be completed by then, the application must be submitted by that date. The department is to give a priority to those leaks which pose the greatest threat to human health.

The amount of assistance that is available is \$1 million per occurrence. The owner is responsible to repay 10% of the amount spent, up to a maximum of \$25,000. After \$1 million, the state may access a federal LUST Trust fund for this kind of contamination.

There are conditions placed on the owner before he may receive state assistance. The leak must have occurred before December 22, 1993 from a UST that was installed before December 22, 1988. The owner must be in compliance with all applicable state and federal laws applicable to USTs except those dealing with financial responsibility. This is in recognition of the fact that sites which have contamination cannot obtain insurance.

The owner and DEC must agree to a cleanup plan. If they cannot agree, they may go before the board for resolution of the dispute. The board's decision will be final and the owner must agree to it in order to continue participating in the state's financial assistance program.

The owner must also agree to either upgrade his facility to the 1998 EPA standard or close it. For both of these activities, there are grants available up to \$60,000 per facility. Any upgrading or closing must meet the state and federal requirements. The state's regulations may limit the number of grants awarded to a single owner in any calendar year. This program may be found in Sec. 46.03.430.

Sec. 46.03.440 allows financial records submitted to either the department or the board to be kept confidential. These records may include documents related to financial responsibility, cleanup activities or reimbursement requests. The department and the affected owner are to determine which information is confidential.

Sec. 46.03.450 is the definition section.

Sec. 3, on page 21 gives limited immunity from liability for state action against an owner of a leaking underground storage tank provided the tank was installed before December 22, 1988, the owner acted in good faith to report and mitigate the damage, is in compliance with state and federal laws, did not intentionally cause the discharge and is receiving state financial assistance. This act mandates that people come forward and register their tanks and sets up a mechanism for the state to pay for the cleanup of those tanks. It does not seem appropriate for the state to then turn around and sue tank owners under our pollution laws. However, this does not preclude third party suits.

Sec. 4 is required by federal law. It mandates notification of a UST which was installed after January 1, 1974 but is no longer in use.

Sec. 5 set out that the initial registration of USTs is due within 6 months of the effective date of this bill.

Sec. 6 is a reimbursement program. Many UST owners began to cleanup and upgrade or close their tanks as soon as the federal regulations went into effect. This section allows those owners to be reimbursed for at least a part of the costs they incurred, whether they have completed their work or are still in the process.

The owner would submit all of the receipts associated with cleanup activities and with upgrading or closing to the department. The department would subtract amounts it determines are recoverable by insurance or other persons who are liable for the costs - such as an agreement between a buyer and seller that the seller would cover a part of the cleanup costs. 90% of the amount related to cleanup and 60% of the amount related to upgrading or closing would then be repaid to the owner, up to a maximum of \$200,000 per company.

There are conditions placed on this reimbursement. The release had to have been promptly reported, the UST must be in compliance with all state and federal laws, except financial responsibility, the release wasn't intentionally caused by the owner, and the department approves of the methods used for cleanup and upgrading or closing. Requests for reimbursement have a low priority for payment.

Sec. 7 directs DEC to notify the revisor of statutes as to when the certification of tank workers program is available so that the one year may start running.

Sec. 8 directs the governor to appoint the board within 45 after the effective date of the bill.

Sec. 9 and Sec. 10 are the effective dates.



ALASKA STATE LEGISLATURE

REPRESENTATIVE CURT MENARD

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Wasilla, Alaska 99687
(907) 373-2878

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



MEMORANDUM

To: Senate Finance Committee

From: Rep. Menard

Date: May 8, 1989

Re: HB 220, Petroleum and Chemical Storage Tanks

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

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

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

A one time storage tank registration fee of 1 cent per gallon based on the capacity of the tank or \$100, whichever is less, is imposed on tank owners to pay some of the costs of the program.

Representing the
Matanuska-Susitna Borough



Co-Chair
House Resources Committee
Memoer
State Affair Committee
Budget Subcommittee

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

Prepared by House Resources Committee staff

Section 1. PURPOSE.

Authorizes the Department of Environmental Conservation to prevent contamination of groundwater due to leaks and spillage from underground petroleum and chemical storage tanks and to assist the owners of underground petroleum storage tanks to comply with federal regulations. The intent is to assist tank owners who may have difficulty obtaining liability insurance and upgrading or replacing tanks through educational assistance, grants and partial reimbursement for clean up costs.

Sections 2. 46.03 REGULATION OF PETROLEUM AND CHEMICAL STORAGE TANKS

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

46.03.380 Educational Assistance

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

46.03.390 Grants

Establishes a grants for retrofitting, repairing or replacing or closing an underground petroleum storage tank to EPA's standards. Grants for closure would be for 75% of the costs and 60% for upgrade and retrofitting. Grants are capped at \$100,000 per facility.

46.03.390 Notification Requirements

Requires a tank owner to notify the Department of Environmental Conservation 30 days before they intend to install the tank. 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.

46.03.400 Registration Requirements

Requires a one time registration of underground storage tanks including information on the location, size, type and age of the tank.

46.03.410 Registration Fee

Requires tank owners to pay a biennial fee of 1 cent per gallon based on the capacity of the tank or \$100, whichever is less. These funds may be appropriated to the Petroleum and Chemical Storage Tank Account. The registration fee is waived for tanks owned by the state of Alaska.

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, marine or aviation fuel not intended for resale. These requirements do not apply to a storage tank used for storing heating oil held for consumptive use on the premises where it is stored if the tank is smaller than 1,100 gallons.

46.03.450 Definitions

Section 3. AS 46.08.015

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

Section 4. 46.08.015 PETROLEUM AND CHEMICAL STORAGE TANK ACCOUNT

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

Section 5. Amends AS 46.08.060 (a)

Requires the Department of Environmental Conservation to report to the legislature regarding the number of requests for assistance from the Petroleum and Chemical Storage Tank Account and the estimated cost of containment and clean up related to those requests.

Section 6.

Gives storage tank owners 6 months from the effective date of this act to register petroleum and chemical storage tanks with the Department of Environmental Conservation. requires owners of tanks who have taken the tank out of operation to notify the Department of the location of the tank by January 1, 1990.

Section 7.

Repeals the grant program on September 30, 1994

Section 8.

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

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

The owner would have to meet the following criteria to qualify for use of funds: 1) the release was reported before July 1, 1994, 2) the tank from which the release occurred was installed before July 1, 1989, 3) the tank from which the release occurred was registered with the Department of Environmental Conservation, 4) the owner is in compliance with all state and federal laws after the effective date of the act, 5) the owner pays the full amount of the deductible to the Department, and 6) the petroleum release was not a result of gross negligence, or intentional misconduct.

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 9. Effective date of the Act.

July 1, 1989

STEVE COWPER
GOVERNOR

5/2/90
Amy Kyle

STATE OF ALASKA
OFFICE OF THE GOVERNOR
JUNEAU

May 1, 1990

The Honorable Johne Binkley
Alaska State Senator
P.O. Box V
Juneau, AK 99811

Dear Senator Binkley:

I understand that you are planning to hear the underground storage tank bill (HB 220) soon. I am writing to alert you to two concerns I have with the bill as it has been proposed in the Senate.

First, I believe that it is essential that the state have credible and sound regulatory programs for all environmental issues. Standards for underground storage tanks and levels and methods for cleanups of spills represent extremely important decisions with wide-ranging implications for the health and welfare of Alaskans.

Because of the significance of these issues and the necessity for scientifically sound standards and decisions that protect the public, I cannot accept a proposal that places these authorities in an appointed board. Our regulatory decisions must have sound bases and be consistent for different kinds of facilities. I do not believe this can be accomplished with a board as proposed in the current draft of the bill.

Second, I am extremely concerned about the prospects of using scarce state dollars to subsidize cleanups for facilities and entities that have the capability to pay their own way. The proposed Senate CS would provide for up to \$1 million in cleanup assistance for any leaking tank, with priority being set solely according to the potential for impacts to human health or the environment. The outcome of this approach would likely be to provide the most assistance to the largest operators, as they generally have the biggest problems. I cannot favor this approach as an appropriate allocation of state dollars.

To address this, I would support placing a cap of \$250,000 on the amount provided to any single company for cleanup.

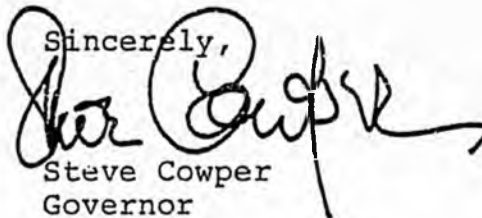
The Honorable John Binkley -2-

May 1, 1990

Most gas station cleanups can be completed for this amount. Proportionate caps for companies should also be set for other forms of assistance in the bill.

I urge you to amend HB 220 to address these concerns. Thanks for your consideration.

Sincerely,

A handwritten signature in black ink, appearing to read "Steve Cowper", written in a cursive style. The signature is positioned above the printed name and title.

Steve Cowper
Governor

cc: The Honorable Rick Uehling
The Honorable Steve Frank
The Honorable Jim Duncan
The Honorable Paul Fischer
The Honorable Drue Pearce
The Honorable Fred Zharoff
The Honorable Curt Menard

Alaska
MUNICIPAL
League

TELEPHONE
(907) 586-1325
FAX 463-5480

217 SECOND STREET, SUITE 200
JUNEAU, ALASKA 99801

April 24, 1990

MEMORANDUM

TO: Senator John Binkley
Senator Steve Frank

FROM: Scott A. Burgess, Executive Director 

SUBJECT: HB 220 - Underground Storage Tanks

I am aware that you are considering excluding municipalities from eligibility under HB 220, relating to the investigation, containment, and cleanup of leaking underground storage tanks (UST's). The Alaska Municipal League (AML) supports UST legislation but opposes such an amendment to HB 220 as bad public policy and expenditure of public funds. I would also like to offer additional comments on the "3/12/90 work draft".

The AML made legislation "providing education, technical assistance, and grants for municipalities to replace outdated and nonconforming underground storage tanks, to clean up soils in order to protect groundwater, and to meet EPA and state mandates" a 1990 legislative priority (see Municipal Platform 1990, page 32). The U.S. Environmental Protection Agency (EPA) UST regulations, which went into effect December 1988, affect private tank owners and municipalities.

Any state assistance in the form of legislation and funding to help owners to meet these federal mandates is appreciated and should include municipalities. While the AML supports assistance for private owners also, especially small businesses, the AML believes public funds should first be spent to assist the public. Municipalities do not have tanks to sell fuel but to store gasoline and diesel fuel for government operations. The tanks were purchased and installed with public funds and, if the tanks have to be replaced, local tax dollars will have to be spent to do so.

I have been told that the Senate Subcommittee on HB 220 is considering excluding municipalities from eligibility for the financial assistance for tank testing, site assessment, and site cleanup or closure proposed in the legislation. The reasons stated to me have been 1) there is not enough money; 2) municipalities, especially Anchorage, will use up all the money; and, 3) municipalities have other means of financing the costs of the federal mandate being adopted by the State under this legislation. How can the expenditure of public dollars be justified in the name of protecting the public health and the environment when public entities are not eligible for those funds and Alaska's citizens will have to pay more taxes to fix their tanks locally?

Senator John Binkley
Senator Steve Frank
April 24, 1990
page 2

As for the argument that there is not enough money to address the problem and the federal mandate, I tend to agree, but that is not a reason to pass bad and inequitable legislation. The bill as originally introduced put a tax on fuel to finance the assistance proposed under the bill but that has proven so far to be politically unacceptable. The latest Senate work draft would make grants and loans available from direct appropriations to the Storage Tank Assistance Fund plus any registration fees collected. The Senate leadership has proposed appropriating \$10 million to the fund in FY 91. If this amount is inadequate to address the problem, then additional funds can and should be made available.

One option would be to incorporate the program under the "470 fund" in AS 46.08 and save the \$10 million for other needs. Another option would be to prioritize any assistance given based on the impacts on the public and the environment; another would be to further limit eligibility; another, to provide loans rather than grants; and, another be to pass the legislation without an appropriation (This would not be the first time this happened, e.g. the State's Clean Water Fund).

As to the argument that Anchorage will use up all the money, I have several comments. The first is, "Who is Anchorage?" Anchorage is a political subdivision of the State providing public services to half the State's population, Alaskan citizens who pay taxes and who are at potential risk from UST's. In addition, if the size of the owner is a concern, why is it that there is no preference for small private tank owners contained in the proposed CS? What about all the other municipalities that are forced to have UST's in order to provide public services who would not be eligible if municipalities are excluded?

Finally, municipalities do not have a lot of financial resources and they have to provide public services other than fuel storage with limited public funds. Municipalities are financially strapped because of less oil revenue being passed on to them by the State, declines in the economy, and additional state and federal mandates. These are the same justifications given for providing assistance to other tank owners. Just as the private businesses, such as gas stations, will have difficulty in meeting the EPA regulations because they may not be able to raise their fees to cover the extra cost because the public will object, municipalities are meeting resistance from their taxpayers as they increase taxes to cover the costs of mandates, lower property values, and major cutbacks in funding from the State.

Senator Frank has asked me to try to get numbers of municipalities and affected storage tanks, which I am doing; however, does it matter? Even if Anchorage is the only municipality which has UST's (which it isn't) and if Anchorage has one or 100 (more likely) tanks, shouldn't Anchorage be eligible to receive state assistance?

Again, excluding municipalities which own tanks on behalf of the public from eligibility for public assistance under HB 220 is bad public policy, and the AML requests that legislation be passed that will assist municipalities and small and large private owners (in that order) to meet the EPA regulations and to protect the public and the environment.

Senator John Binkley
Senator Steve Frank
April 24, 1990
page 3

My other comments on the "3/12/90 work draft" are as follows:

Insurance - The EPA regulations require private tank owners and municipalities to meet financial stability requirements or provide insurance. The Legislature should know that this bill will not improve the availability of insurance. In Section 1, Purpose and Intent, page 1, line 23 the bill states "owners and operators will be faced with insurance requirements that they will not be able to satisfy...". In Section 46.03.405 PROHIBITIONS, the bill adopts the federal financial stability requirements into state law six months after the effective date of the legislation. Liability for a release is not waived under this legislation [Section 46.03.420 (h)]. While the proposed legislation provides financial assistance in the form of grants or loans of up to \$1 million for cleanup, this may be woefully inadequate if an aquifer is contaminated, for example, or to pay third-party damages.

While the federal government has extended the date by which the insurance was to have been in place for a year (from October 1990 to October 1991), the issue is that neither commercial insurance nor the capability to self-insure for UST liability is available, and HB 220 does not address this. At best the legislation, if adequately funded, could speed up the process by which owners could test their tanks, clean up spills, and replace (not currently provided for) or close their tanks and, thereby, qualify for insurance. Currently, most, if not all, commercial liability insurance has a specific exclusion for pollution. Insurers will not insure UST's if they have not been tested and until the tanks meet the federal EPA design criteria.

Replacement Assistance - I would recommend that the legislation be amended to allow grants or loans for replacing tanks to meet EPA design criteria. DEC estimates that there are over 5,000 tanks in Alaska, the average age of which is 12.2 years. Data suggest that the majority of tank failures occur after 13 years; therefore, it is only a matter of time before leaks do develop even if a test of a tank eligible for financial assistance under the proposed legislation does not detect a leak. In any event, the EPA regulations require that all tanks meet specified criteria by a time certain. This will also make insurance available sooner to owners who replace their tanks.

Board of Storage Tank Assistance - First of all if municipal owners are to be regulated and if assistance is to be evaluated, I would suggest that one Board member be a municipal official. Secondly, why set up a separate staff of up to two people for the Board, especially if cost is a concern? Why not have the DEC, which is authorized to enforce the Board policy and regulations, staff the Board?

Thank you for your consideration and the opportunity to comment. AML looks forward to UST legislation which it can support.

cc: AML Board
AML Legislative Committee
Representative Curt Menard
Senate Finance Committee
Terry Renner

5/2/90

SUMMARY OF EPA REQUIREMENTS FOR FINANCIAL RESPONSIBILITY

Required to cover corrective action and for compensating third parties for bodily injury and property damage caused by accidental releases arising from the operation of petroleum UST.

Per occurrence requirements:

\$500,000 per occurrence for non-marketers with a monthly through-put of 10,000 gallons or less.

\$1 million per occurrence for non-marketers with a monthly through-put of more than 10,000 gallons.

\$1 million per occurrence for all marketers.

Aggregate requirements:

\$1 million for all those with 100 tanks or less.

\$2 million for all those with more than 100 tanks.

Must provide first dollar coverage. The required amounts do not cover legal defense costs nor does this requirement in any way limit the liability of the owner or operator.

Must in in place by:

January 24, 1989 for marketers with 1000 tanks AND non-marketers with a net worth of more than \$20 million (as reported to SEC, Dun & Bradstreet, Energy Information Administration or the Rural Electrification Administration).

October 26, 1989 for marketers with 100-999 tanks.

April 26, 1991 for marketers with 13-99 tanks at more than one facility.

October, 1991 for marketers with 1-12 tanks at more than one facility, non-marketers with a net worth of less than \$20 million and all local government entities.

Ways in which the financial responsibility requirement may be met:

- self-insurance (requires a financial test by EPA)
- guarantee from a third party that meets EPA requirements
- insurance/risk retention group
- surety bond
- letter of credit
- use of state required mechanism
- state fund or other state assurance*
- trust fund

However, if an owner/operator uses different mechanisms to meet the financial responsibility requirements for clean up and for third party liability, the amount of assurance provided by each mechanism must be the full amount required. In other words, if you are required to have \$500,000 per occurrence and you have one assurance mechanism to cover corrective action and a different one to cover third parties, then each one has to be \$500,000. They cannot be combined to reach \$500,000 in coverage.

*The EPA will look at four elements of a State Assurance Program before it signs off on it.

- reasonably certain and available FUNDING SOURCE
- the AMOUNT of the FUND must be sufficient to keep pace with the demand
- full or partial COVERAGE
- ELIGIBILITY requirements

Prepared by the office of Senator John Binkley

SUMMARY OF EPA REQUIREMENTS FOR THE REGULATORY PROGRAM

1) Technical standards for all existing and new* underground storage tanks, including:

- design, construction, installation and notification requirements for new UST systems;
- upgrading of existing UST systems;
- general operating requirements;
- release detection
- release reporting, investigation, and confirmation;
- out of service UST's and closure methods;
- release response and corrective action

2) Financial responsibility for UST systems containing petroleum

3) Provisions for adequate enforcement of compliance

*(*new UST system is defined as any system installed after 12/22/88)*

EPA may approve state programs to operate in place of the federal UST requirements if the state programs have standards no less stringent than the federal requirements, and provide adequate enforcement of compliance with those standards

Many classes of tanks are exempt from the technical and financial responsibility rules:

- farm or residential tanks of 1,100 gallons or less storing motor fuel for noncommercial purposes;
- tanks storing heating oil for consumptive use on the premises where stored;
- septic tanks
- certain pipeline facilities
- surface impoundments, pits, ponds and lagoons
- storm water or wastewater collection systems
- flow-through process tanks
- liquid traps or associated gathering lines directly related to oil or gas production and gathering operations
- storage tanks situated on or above the floor of underground areas such as a basement or cellar if the storage tank is situated on or above the surface of the floor
- tanks holding 110 gallons or less
- emergency spill and overfill tanks that are emptied as soon as possible after use
- tanks containing hazardous wastes and regulated under Subtitle C of RCRA.

Federal and state government agencies whose debts of those of the federal or state governments are exempt from the financial responsibility requirements only.

Prepared by the office of Senator John Binkley

TECHNICAL STANDARDS FOR ALL UST SYSTEMS

For new tank systems (installed after December 22, 1988):

- monthly leak detection
- corrosion protection
- spill and overfill prevention

Must be in place at the time of installation

For existing tank systems (see following chart for more detail):

- leak detection phased in over a five year period depending on the age of the tank
- corrosion protection required by December 22, 1998
- spill and overfill prevention required by December 22, 1998

TYPE OF TANK & PIPING	LEAK DETECTION	CORROSION PROTECTION	SPILL/OVERFILL PREVENTION
New Tanks and Piping*	At installation	At installation	At installation
Existing Tanks** Installed: Before 1965 or unknown 1965 - 1969 1970 - 1974 1975 - 1979 1980 - December 1988	By No Later Than: December 1989 December 1990 December 1991 December 1992 December 1993	} December 1998	} December 1998
Existing Piping** Pressurized Suction	December 1990 Same as existing tank:	December 1998 December 1998	Does not apply Does not apply
<p>* New tanks and piping are those installed after December 1988 ** Existing tanks and piping are those installed before December 1988</p>			

**SUMMARY OF
CLEAN UP ASSISTANCE**

FEDERAL:

LUST Trust Fund. Available *only* to federal government and states that have signed a cooperative agreement with the EPA. (Alaska has done so)

It can be accessed only when:

- prompt action is necessary to protect human health and the environment;
- a solvent owner or operator cannot be found;
- the owner or operator refuses to undertake a cleanup, OR
- clean up costs exceed the required amount of financial assurance.

States must match 10% of the costs of clean up action paid by the LUST Trust Fund. States must include in their cooperative agreement a cost recovery policy. However, the EPA allows the state to determine the conditions under which recovery will be attempted and the amount to be recovered.

This trust fund is funded from a 1/10 of a cent per gallon tax on motor fuels, including gasoline, diesel and aviation fuels. It went into effect in January, 1987 and has a 5 year life. It is estimated \$500 million will be raised in that five year period.

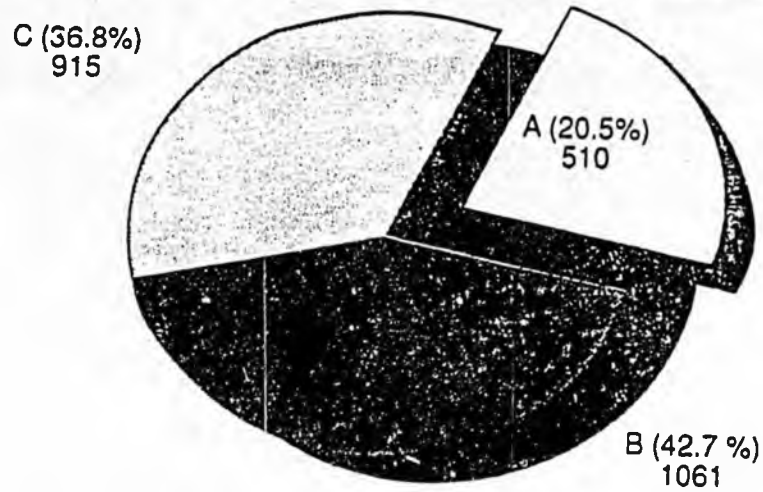
At a minimum, DEC must:

- make reasonable efforts to contact owners and operators who are liable for releases;
- notify owners/operators of their liability for enforcement and corrective action costs; and
- demand payment

STATE:

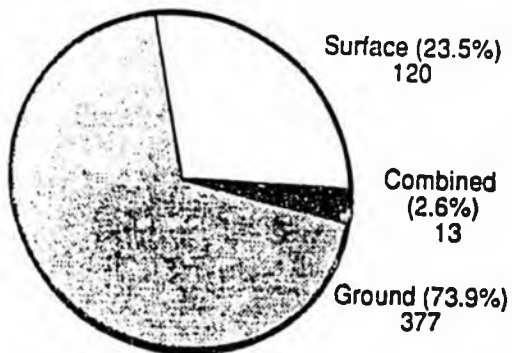
DEC may currently use the Oil and Hazardous Substance Release Response Fund (Response Fund) to clean up pollution caused by leaking underground storage tanks if the responsible party either cannot or will not undertake remediation. However, the Department is required by law to seek reimbursement from the parties responsible for the pollution.

Number of Public Drinking Water Systems by Class

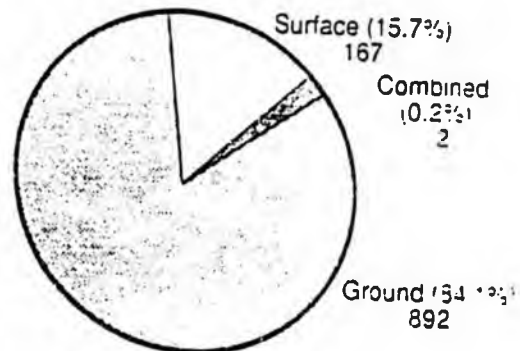


Number of Public Drinking Water Systems by Class, by Source

CLASS A - By Source



CLASS B - By Source



CLASS C - By Source

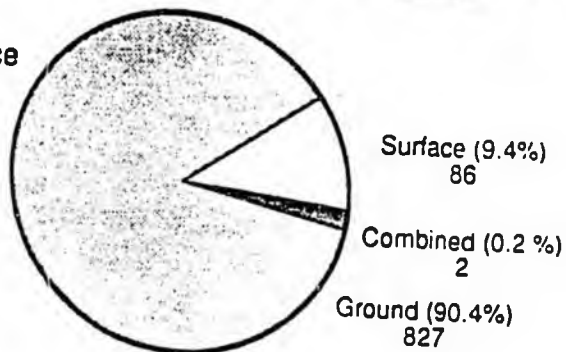


Figure 3. Pie diagram showing number of public water systems by class, by source.

LOCATION OF GROUNDWATER CONTAMINATION SITES IN ALASKA

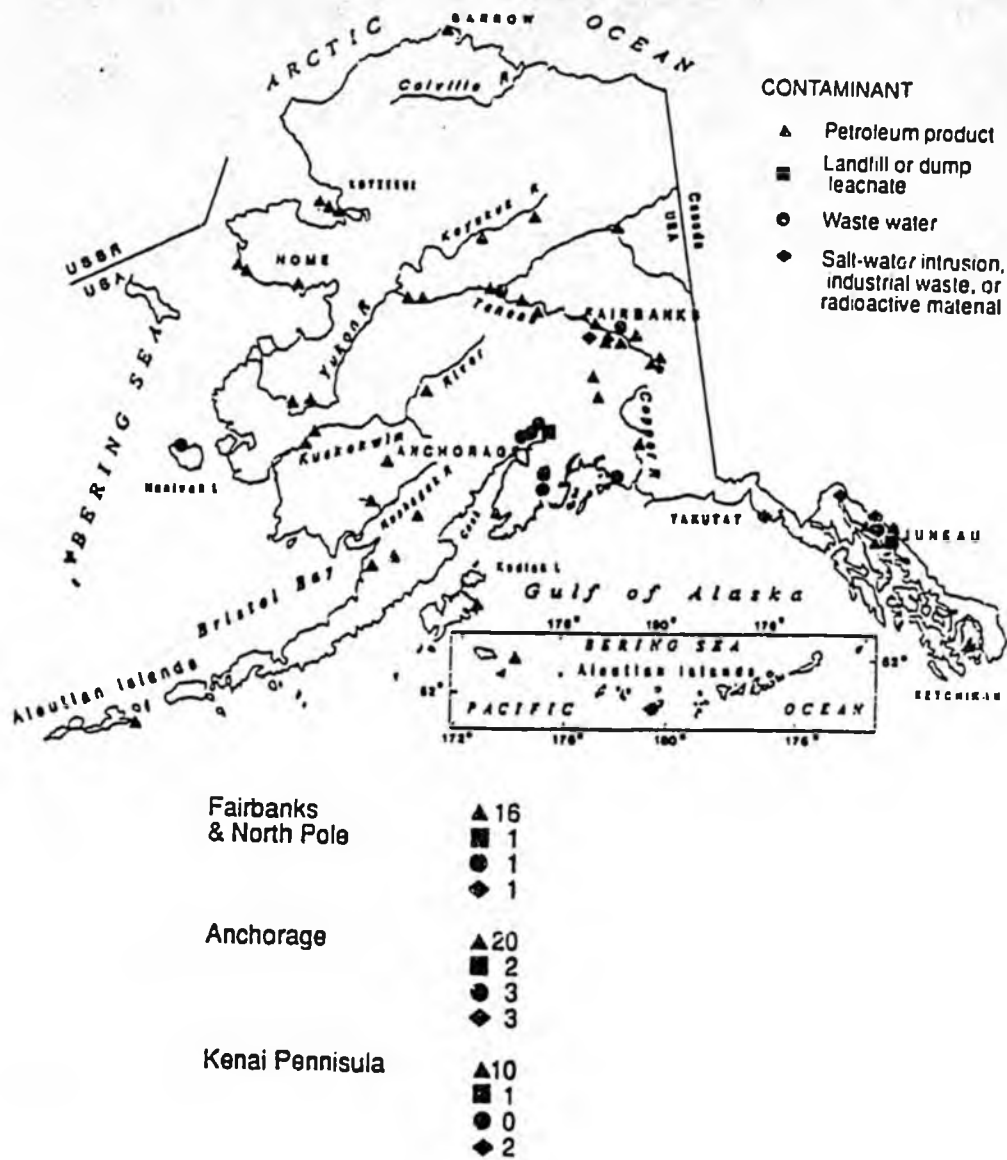


Figure 4. Map showing location of groundwater contamination sites in Alaska.

SOURCES OF GROUNDWATER POLLUTION IN ALASKA

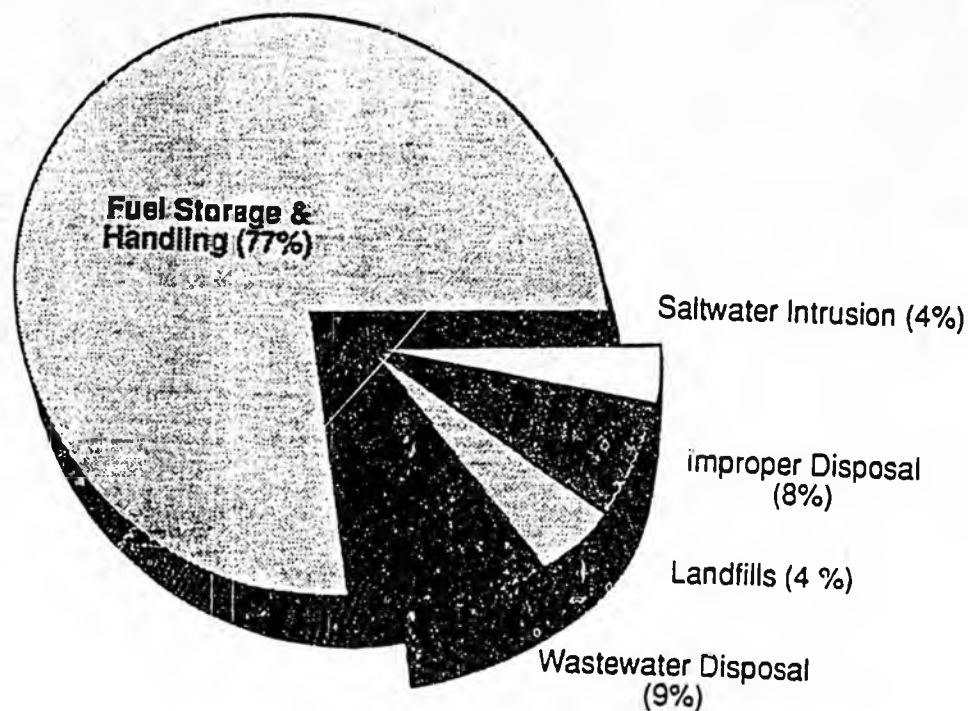


Figure 5. Pie diagram showing sources of groundwater pollution in Alaska.

UNDERGROUND STORAGE TANKS IN ALASKA

TYPES OF FACILITIES

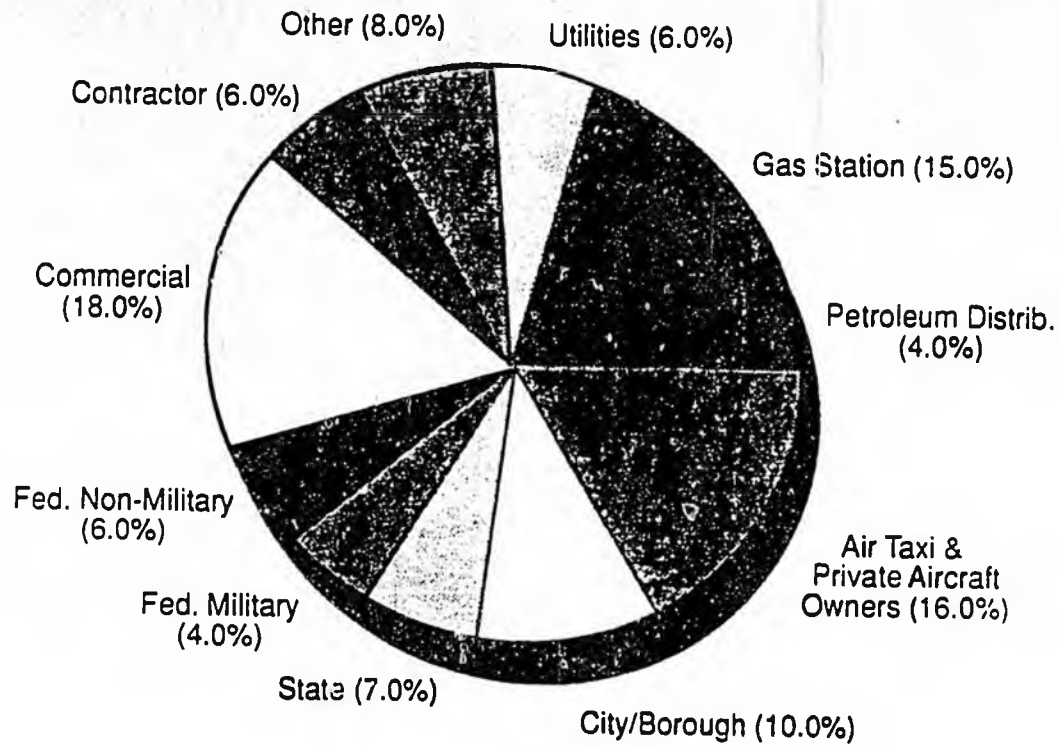


Figure 6. Pie diagram showing types of facilities in Alaska using federally regulated underground storage tanks.

UNDERGROUND STORAGE TANKS IN ALASKA

SUBSTANCES IN TANKS

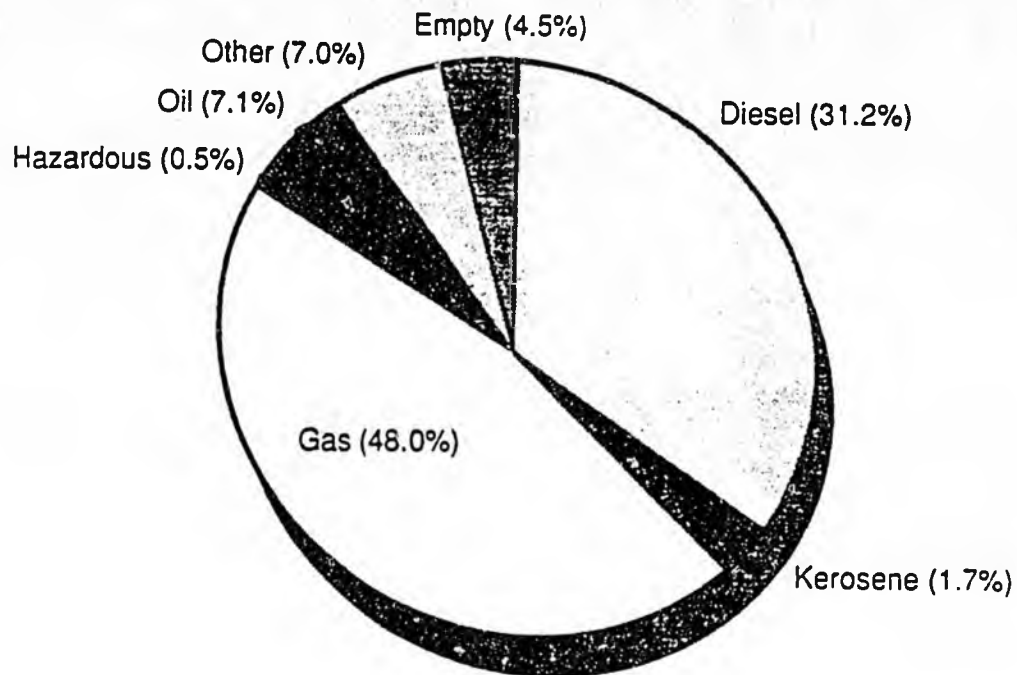


Figure 7. Pie diagram showing types of substances in federally regulated underground storage tanks in Alaska.

SouthCentral Air, Inc.

RECEIVED
APR 24 1989

April 20, 1989

Representative Mike Navarre
P.O. Box V Room 216
Juneau, Alaska 99811

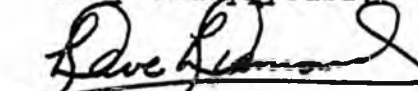
Dear Mike,

Pursuant to our telephone conversation of this afternoon, this letter is written to show support for HB 220.

As a major consumer of aviation fuels, and as a user of underground storage tanks, we at SouthCentral Air, Inc. support the creation of a clean-up fund, and feel that a per gallon tax is a fair method of funding. We believe it is unreasonable to expect a small business to shoulder the entire burden of liability on this issue.

In fairness to those operators who have never (or not within, say, the last ten years) utilized underground storage tanks, we would support an exemption from the funding method.

Very truly yours,



David L. Diamond
General Manager

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 lessors 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.

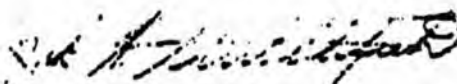
We find ourselves desperately in need of help. The regulations are necessary, as is the clean up and protection of our water and soil. But we cannot comply. We do not have the funds to do this. Where is it to come from? Are you just going to close us down? Sell our stations off to the oil companies for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

4/13

STATE OF ALASKA
1989 LEGISLATIVE SESSION

BILL VERSION: CSHB 220 (FIN)
PUBLISH DATE: HOUSE 4/29/89

FISCAL NOTE

REQUEST:

Revision Date: _____
Title: An Act relating to Motor Fuels

Agency Affected: Revenue
BRU: Income & Excise Audit

Sponsor: Menard, etc.
Requestor: Finance

Components: Operating

EXPENDITURES/REVENUES: (Thousands of Dollars)

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

FUNDING: (Thousands of Dollars)

GENERAL FUND	25.0	0	0	0	0	0
FEDERAL FUNDS	0	0	0	0	0	0
OTHER	0	0	0	0	0	0
TOTAL	25.0	0	0	0	0	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: (Attach a separate page if necessary)

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

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

Approved by Commissioner: Hugh Malone
Agency: Department of Revenue

Date: April 29, 1989

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

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

REVENUE PROJECTION

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

FISCAL IMPACT \$25.0 CONTRACTUAL

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

**STATE OF ALASKA
1989 LEGISLATIVE SESSION**

**BILL VERSION: SCS CSHB 220 (Res)
PUBLISH DATE: 5/6/89**

REQUEST: FISCAL NOTE

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

EXPENDITURES/REVENUES: (THOUSANDS OF DOLLARS)

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

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

GENERAL FUND	0	0	0	0	0	0
FEDERAL FUNDS	0	0	0	0	0	0
OTHER	0	0	0	0	0	0
TOTAL	0	0	0	0	0	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 underground storage tanks and would exempt state owned tanks from the registration fee. We anticipate only nominal administrative costs and anticipate no direct new costs from this legislation..

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

Phone: 465-2951
 Date: May 7, 1989

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

Date: 5/8/89

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

STATE OF ALASKA
1989 LEGISLATIVE SESSION

NO. 4
BILL VERSION: CSHB 220 (FIN)
PUBLISH DATE: HOUSE 4/29/89

REQUEST: FISCAL NOTE

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

EXPENDITURES/REVENUES: (THOUSANDS OF DOLLARS)

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

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

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

POSITIONS:

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

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

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

Phone: 465-2951
Date: April 29, 1989

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

Date: 4/29/89

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

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

Construction Related Tank Registration

Estimate 50 projects per year with 4 tanks per project at 10,000 gallons per tank (average) =

$50 * 4 * 10,000 * 2¢$ per gallon storage = \$40,000

Construction Fuel Surcharge

Estimate 50 projects per year with 50,000 gallons average = 2,500,000 gallons fuel

At 2¢ per gallon = \$50,000

Less estimated allowance for fuel tax refunds (AS 43.40.030) @ 50% \$25,000

FISCAL NOTE

REQUEST:

Revision Date: _____
 Title: An act relating to motor fuels, storage tanks, and investigation, containment, and cleanup of oil and hazardous etc.
 Sponsor: Menard, Davis, Brown, et al
 Requestor: _____
 Agency Affected: Environmental Conservation
 BRU: Environmental Quality
 Components: Environmental Quality

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 89	FY 90	FY 91	FY 92	FY 93	FY 94
PERSONAL SERVICES		458.5	694.25	694.25	694.25	694.25
TRAVEL		57.5	83.75	83.75	83.75	83.75
CONTRACTUAL		260.0	261.0	261.0	261.0	261.0
SUPPLIES		55.0	60.25	60.25	60.25	60.25
EQUIPMENT		74.5	83.75	83.75	83.75	83.75
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING		905.5	1,183.0	1,183.0	1,183.0	1,183.0

CAPITAL		3,000.0	3,000.0	3,000.0	3,000.0	3,000.0
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REVENUE						
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FUNDING: (Thousands of Dollars)

GENERAL FUND		3,905.5	4,183.0	4,183.0	4,183.0	4,183.0
FEDERAL FUNDS						
OTHER						
TOTAL		3,905.5	4,183.0	4,183.0	4,183.0	4,183.0

POSITIONS:

FULL-TIME		10.5	15.75	15.75	15.75	15.75
PART-TIME		0	0	0	0	0
TEMPORARY		0	0	0	0	0

ANALYSIS : (Attach a separate page if necessary)

Prepared by: Lynn Tomich Kent Phone: 465-2630
 Division: Environmental Quality Date: 4/29/89
 Approved by Commissioner: A.D. Kelly Date: 4/29/89 5/6/89
 Agency: Alaska Department of Environmental Conservation

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

STATE OF ALASKA
1990 LEGISLATIVE SESSION

BILL VERSION : SCSHB220 (Finance)

PUBLISH DATE : 3/12/90

FISCAL NOTE

REQUEST:

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

Agency Affected: Environ. Conservation
BRU: Environmental Quality

Components: Environmental Quality

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 91	FY 92	FY 93	FY 94	FY 95	FY 96
PERSONAL SERVICES	625.0	861.0	861.0	759.0	759.0	759.0
TRAVEL	91.1	90.1	90.1	80.1	80.1	80.1
CONTRACTUAL	524.0	199.0	199.0	183.0	183.0	183.0
SUPPLIES	18.0	23.0	23.0	21.0	21.0	21.0
EQUIPMENT	65.0	90.0	90.0	80.0	80.0	80.0
LAND&STRUCTURES	0.0	0.0	0.0	0.0	0.0	0.0
GRANTS,CLAIMS	0.0	0.0	0.0	0.0	0.0	0.0
MISCELLANEOUS	0.0	0.0	0.0	0.0	0.0	0.0
TOTAL OPERATING	1,323.1	1,263.1	1,263.1	1,123.1	1,123.1	1,123.1
CAPITAL	0.0	0.0	0.0	0.0	0.0	0.0
REVENUE	1,564.0	1,533.0	1,471.0	1,348.0	1,100.0	606.0

FUNDING: (Thousands of Dollars)

GENERAL FUND	1,323.1	1,263.1	1,263.1	1,123.1	1,123.1	1,123.1
FEDERAL FUNDS	0.0	0.0	0.0	0.0	0.0	0.0
OTHER	0.0	0.0	0.0	0.0	0.0	0.0
TOTAL	1,323.1	1,263.1	1,263.1	1,123.1	1,123.1	1,123.1

POSITIONS:

FULL-TIME	13.0	18.0	18.0	16.0	16.0	16.0
PART-TIME	0.0	0.0	0.0	0.0	0.0	0.0
TEMPORARY	0.0	0.0	0.0	0.0	0.0	0.0

ANALYSIS: (Attach a separate page if necessary)

See attached.

Prepared by: Lynn Kent
Division: Environmental Quality

Phone : 465-2630
Date : 4/27/90

Approved by Commissioner: *A. D. Kyle*
Agency: Environmental Conservation

Date: 4/30/90

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

Senate CS for House Bill 220
Department of Environmental Conservation
Fiscal Analysis
3/12/90 Version

Section 1, 3, 4, 5, 7, 8

There is no fiscal impact to the Department from these sections.

Section 2 46.03.360 Board of Storage Tank Assistance

Section 46.03.360 establishes the Board of Storage Tank Assistance. The Board will employ a full-time Director (Ecologist III) and one additional employee (Ecologist II).

Travel for board members is estimated at six trips per year for the seven members. Airfare (\$300 per trip) and seven days per diem (\$80 per day) has been included for a total of \$36.1. The number of times that the board needs to meet will be reduced to four times per year after the first year, for periods of three days. This reduces the cost to \$15.1 for the board from FY 92 on.

The Board is directed to develop underground storage tank program regulations, Tank Cleanup Program regulations, and Storage Tank Workers Certification regulations. These tasks will be contracted by the board during FY 91 at an estimated \$385.0. These contractual costs are reduced to \$25.0 for subsequent years.

Under Section 46.03.363 the Board is required to submit to the legislature an annual report covering personal and property damage, recommendations for regulations, information on loan availability for system upgrades, information on availability of insurance, summary of disputes, and recommendations for amendments or additions to AS 46.03.360 - 46.03.450. Section 46.03.410 (c) directs the commissioner to submit to each session of the legislature a report detailing monies received and expended from the Storage Tank Assistance Fund. Contractual funds (\$25.0) are included for the preparation of these reports.

After the regulations are developed by the Board, the Department will need additional staff in all of the regional offices to implement and enforce regulations and procedures developed by the Storage Tank Assistance Board for the various aspects of the underground storage tank program. This will include monitoring contracts for cleanup, determining the adequacy of the cleanup, assuring appropriate tank upgrades following cleanup, as well as permitting of contaminated soil disposal. Four professional and one clerical FTE will be required for these purposes beginning in FY 92.

FY 91

<u>Position</u>	<u>100</u>	<u>200</u>	<u>300</u>	<u>400</u>	<u>500</u>	<u>Total</u>
Ecologist III	51.0	5.0	8.0	1.0	5.0	70.0
Ecologist II	51.0	5.0	8.0	1.0	5.0	70.0
Travel		36.1				36.1
Contractual (Regs)			410.0			410.0
TOTAL	102.0	46.1	426.0	2.0	10.0	586.1

FY 92 and following years:

<u>Position</u>	<u>100</u>	<u>200</u>	<u>300</u>	<u>400</u>	<u>500</u>	<u>Total</u>
Ecologist III	51.0	5.0	8.0	1.0	5.0	70.0
Ecologist II	51.0	5.0	8.0	1.0	5.0	70.0
Ecologist III (4)	204.0	20.0	32.0	4.0	20.0	280.0
Clerk Typist III	32.0		8.0	1.0	5.0	46.0
Travel		15.1				15.1
Contractual			50.0			50.0
TOTAL	338.0	45.1	106.0	7.0	35.0	531.1

46.03.370 Educational Assistance

The legislation requires the Department to develop a two phase public information program to assist tank owners and operators and the general public.

Central office staff (one Project Assistant) will be needed to provide technical assistance to owners and operators and respond to public inquiries, prepare presentations to organizations, develop brochures, newsletters and other materials, and participate in workshops. \$5.0 in contractual funds will be used for printing of public information documents. Additional supply costs of \$5.0 would include materials for mass mailings and display materials.

Additionally, the Department will need a half time Public Information Officer to assist in planning public information activities, and to provide assistance to the staff.

FY 91 and following years:

<u>Position</u>	<u>100</u>	<u>200</u>	<u>300</u>	<u>400</u>	<u>500</u>	<u>Total</u>
Project Assistant	51.0	5.0	8.0	1.0	5.0	70.0
.5 Information Officer	25.5	2.5	4.0	.5	2.5	35.0
Contractual			5.0			5.0
Supplies				5.0		5.0

TOTAL	76.5	7.5	17.0	6.5	7.5	115.0
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46.03.375 Certification of Storage Tank Workers

The legislation requires the Board to develop requirements, including education, experience, training, a written test, and other appropriate measures, for persons who install, repair and test tanks.

\$35.0 was included in the FY 91 Storage Tank Assistance Board budget under contractual services to cover development of regulations and test materials for the Storage Tank Workers Certification Program.

46.03.380 Registration of Tanks and Tank Systems

Under this legislation all owners/operators of existing underground storage tanks subject to regulation will be required to register their tanks with the Department within six months of the effective date of the statute.

To establish the registration/notification system the Department would need staff (1 Ecologist II and an Accounting Tech) to ensure that all facilities receive and understand the registration forms, review registration forms submitted, and provide accounting services for the registration fees, and follow up for delinquent payments. Contractual costs in the amount of \$5.0 will be needed to develop, print and mail the registration forms.

The Department estimates that the revenue from the tank registration fee would total \$1,564.0 during FY 91 and gradually decrease as facilities are upgraded and become eligible for lower registration fees.

FY 91:

<u>Position</u>	<u>100</u>	<u>200</u>	<u>300</u>	<u>400</u>	<u>500</u>	<u>Total</u>
Ecologist II	51.0	5.0	8.0	1.0	5.0	70.0
Accounting Tech.	51.0	5.0	8.0	1.0	5.0	70.0
Contractual			5.0			5.0
TOTAL	102.0	10.0	21.0	2.0	10.0	145.0

FY 92:

<u>Position</u>	<u>100</u>	<u>200</u>	<u>300</u>	<u>400</u>	<u>500</u>	<u>Total</u>
Ecologist II	51.0	5.0	8.0	1.0	5.0	70.0
Accounting Tech.	51.0	5.0	8.0	1.0	5.0	70.0
TOTAL	102.0	10.0	16.0	2.0	10.0	140.0

46.03.410 Storage Tank Assistance Fund

During FY 91 the Department of Environmental Conservation would assist the Department of Commerce and Economic Development in setting up a loan guarantee program. This would include determining what types of requests would be approved, assist in determining fees, and providing data and background information to the Department of Commerce and Economic Development. Additionally, the Department would be required to approve the use of money from the Underground Storage Tank Account (on a case for case basis) to guarantee a loan. The Department would need one half position (Ecologist II) for this purpose.

FY 91 and following years:

<u>Position</u>	<u>100</u>	<u>200</u>	<u>300</u>	<u>400</u>	<u>500</u>	<u>Total</u>
.5 Ecologist II	25.5	2.5	4.0	.5	2.5	35.0

46.03.420 Tank Cleanup Program

During FY 91 the Department will need 3 positions to develop and begin implementation of the Underground Storage Tank Account Cleanup Program (2 Ecologist I and one Accounting Tech). Leak reports will need to be reviewed and evaluated to determine if they meet appropriate guidelines. The Department will also need to evaluate information regarding the extent of investigation, cleanup, and facility upgrades to meet current facility requirements. Oversight of cleanup contracts will also be required. The Accounting Tech. deposit payments received, track costs, and justify that payments are correct and adequate.

FY 91 and following years:

<u>Position</u>	<u>100</u>	<u>200</u>	<u>300</u>	<u>400</u>	<u>500</u>	<u>Total</u>
Ecologist I	51.0	5.0	8.0	1.0	5.0	70.0
Ecologist I	51.0	5.0	8.0	1.0	5.0	70.0
Accounting Tech.	51.0	5.0	8.0	1.0	5.0	70.0
TOTAL	153.0	15.0	24.0	3.0	15.0	210.0

Section 6

Reimbursement Program

The legislation provides for the administration of a reimbursement program to help pay the costs of cleanup and closure of leaking tanks, and upgrades to meet state and federal regulations.

The program would have a limited time frame since by 1998 all regulated underground storage tanks will be required to meet federal standards for leak detection, corrosion and spill protection. It is estimated the reimbursement program would function for three years (FY 91, 92 and 93).

Staff for this program would consist of 2 positions (Ecologist I and Accounting Technician). These positions would be deleted after FY 93.

FY 91 and following years (through FY 93):

<u>Position</u>	<u>100</u>	<u>200</u>	<u>300</u>	<u>400</u>	<u>500</u>	<u>Total</u>
Ecologist I	51.0	5.0	8.0	1.0	5.0	70.0
Accounting Tech.	51.0	5.0	8.0	1.0	5.0	70.0
TOTAL	102.0	10.0	16.0	2.0	10.0	140.0

Two clerical staff would be necessary to support the Board and the program staff.

FY 91 and following years:

<u>Position</u>	<u>100</u>	<u>200</u>	<u>300</u>	<u>400</u>	<u>500</u>	<u>Total</u>
Clerk Typist III	32.0	0.0	8.0	1.0	5.0	46.0
Clerk Typist III	32.0	0.0	8.0	1.0	5.0	46.0
TOTAL	64.0	0.0	16.0	2.0	10.0	92.0

FISCAL SUMMARY

FY 91:

<u>Position</u>	<u>100</u>	<u>200</u>	<u>300</u>	<u>400</u>	<u>500</u>	<u>Total</u>
Prof. Staff 11 FTE	561.0	55.0	88.0	11.0	55.0	770.0
Clerical 2 FTE	64.0		16.0	2.0	10.0	92.0
Travel		36.1				36.1
Contractual			420.0			420.0
Supplies				5.0		5.0
Total	625.0	91.1	524.0	18.0	64.0	1,323.1

FY 92 and 93

<u>Position</u>	<u>100</u>	<u>200</u>	<u>300</u>	<u>400</u>	<u>500</u>	<u>Total</u>
Prof. Staff 15 FTE	765.0	75.0	120.0	15.0	75.0	1050.0
Clerical 3 FTE	96.0		24.0	3.0	15.0	138.0
Travel		15.1				15.1
Contractual			55.0			55.0
Supplies				5.0		5.0
Total	861.0	90.1	199.0	23.0	90.0	1,263.1

FY 94, 95, 96:

<u>Position</u>	<u>100</u>	<u>200</u>	<u>300</u>	<u>400</u>	<u>500</u>	<u>Total</u>
Prof. Staff 13 FTE	664.0	65.0	104.0	13.0	65.0	910.0
Clerical 3 FTE	96.0		24.0	3.0	15.0	138.0
Travel		15.1				15.1
Contractual			55.0			55.0
Supplies				5.0		5.0
Total	759.0	80.1	183.0	21.0	80.0	1,123.1

FISCAL NOTE

REQUEST:

Revision Date: _____ Agency Affected: Environmental Conservation
 Title: An Act relating to motor fuels, storage tanks, and investigation, containment, and cleanup of oil and hazardous etc BRU: Environmental Quality
 Sponsor: Menard, Davis, Brown, et al Components: Environmental Quality

EXPENDITURES/REVENUES: (Thousands of Dollars)

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

FUNDING: (Thousands of Dollars)

GENERAL FUND						
FEDERAL FUNDS						
OTHER		959.5	1237.0	1237.0	1237.0	1237.0
TOTAL		959.5	1237.0	1237.0	1237.0	1237.0

POSITIONS:

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

ANALYSIS : (Attach a separate page if necessary)

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

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

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

CSHB 220 (Finance)
dated 4/25/89

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

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

1. Storage Tank Program Development

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

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

2. Registration/Notification Program

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

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

3. Public Information Program

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

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

4. Loan or Grant Program

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

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

5. Underground Storage Tank Account Cleanup Program

...During FY 90, three and one-half FTEs will be needed in this program. One and one-half professional positions and one-half clerical position will develop guidelines and review reported leaks, document leaks on computer, determine the extent of investigation, cleanup, and necessary upgrades to current facility equipment, and oversee cleanup contracts. One-half position in fiscal will help set up, receive, and deposit payments received. One-half administrative position will track costs, and justify that payments are correct and adequate. One-half professional position in the Solid Waste Program will develop permits for disposal of soils contaminated from releases. Additional contractual funds (21.0) are included for development and printing of forms and medical monitoring physicals for the two staff involved in field work. The supplies line includes \$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 include a considerable increase in the regional office efforts to monitor contracts for cleanup, determine adequacy of cleanup, and assure appropriate tank upgrades following cleanup. Additionally, requests for contaminated soil disposal permits will begin. Two professional and one clerical FTE will be required for these purposes.

**STATE OF ALASKA
1989 LEGISLATIVE SESSION**

**BILL VERSION: SCS CSHB 220 (Res)
PUBLISH DATE: 5/6/89**

REQUEST: FISCAL NOTE

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

EXPENDITURES/REVENUES: (THOUSANDS OF DOLLARS)

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

FUNDING: (THOUSANDS OF DOLLARS)

GENERAL FUND	0	0	0	0	0	0
FEDERAL FUNDS	0	0	0	0	0	0
OTHER	0	0	0	0	0	0
TOTAL	0	0	0	0	0	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 underground storage tanks and would exempt state owned tanks from the registration fee. We anticipate only nominal administrative costs and anticipate no direct new costs from this legislation..

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

Phone: 465-2951
 Date: May 7, 1989

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

Date: 5/8/89

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