

HB

264

7-LS1083D
Chenoweth
2/3/92

CS FOR HOUSE BILL NO. 264 ()
IN THE LEGISLATURE OF THE STATE OF ALASKA
SEVENTEENTH LEGISLATURE - SECOND SESSION

BY

Offered:
Referred:

Sponsor(s): HOUSE FINANCE COMMITTEE

A BILL

FOR AN ACT ENTITLED

1 "An Act authorizing use of the oil and hazardous substance release response fund for
2 certain activities related to the underground petroleum storage tank program, and
3 terminating that authorization; and providing for an effective date."

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

5 * Section 1. PURPOSE. The primary purpose of secs. 2, 4, 6, 7, and 8 of this Act is to provide a
6 mechanism

7 (1) that the United States Environmental Protection Agency can find to be a sure and
8 consistent source of money for providing state assurance to meet a portion of the federal financial
9 responsibility requirements for owners and operators of underground petroleum storage tanks; and

10 (2) to provide those owners and operators with financial assistance to upgrade
11 underground petroleum storage tanks so that the owner or operator can obtain private insurance to meet
12 federal financial responsibility requirements.

13 * Sec. 2. AS 46.03.420(h) is amended to read:

14 (h) This section does not affect the liability under state or federal law of any person, or

1 other entity that receives assistance under this section, for the costs of risk management,
2 containment, corrective action, and cleanup resulting from a release of petroleum. However,
3 notwithstanding the provisions of AS 46.08.070(a)(1) [AS 46.08.070(a)], the department may not
4 seek reimbursement of a grant made under this section unless the department determines that the
5 grant was requested under false pretenses or that other circumstances render the grant inconsistent
6 with this section or with applicable regulations. This section does not affect the authority of the
7 department to seek recovery from the owner or operator of costs other than grants and loans
8 actually made to an owner or operator under this section.

9 * Sec. 3. AS 46.03.420(h) is amended to read:

10 (h) This section does not affect the liability under state or federal law of any person, or
11 other entity that receives assistance under this section, for the costs of risk management,
12 containment, corrective action, and cleanup resulting from a release of petroleum. However,
13 notwithstanding the provisions of AS 46.08.070(a) [AS 46.08.070(a)(1)], the department may not
14 seek reimbursement of a grant made under this section unless the department determines that the
15 grant was requested under false pretenses or that other circumstances render the grant inconsistent
16 with this section or with applicable regulations. This section does not affect the authority of the
17 department to seek recovery from the owner or operator of costs other than grants and loans
18 actually made to an owner or operator under this section.

19 * Sec. 4. AS 46.08.010(c) is amended to read:

20 (c) The fund shall be used for actual expenses incurred under AS 46.08.040. Except as
21 provided in AS 46.08.040(a)(8) and (d)(2) [AS 46.08.040(d)(2)], the fund may not be used for
22 capital improvements.

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

24 (c) The fund shall be used for actual expenses incurred under AS 46.08.040. Except as
25 provided in AS 46.08.040(d)(2) [AS 46.08.040(a)(8) AND (d)(2)], the fund may not be used for
26 capital improvements.

27 * Sec. 6. AS 46.08.040(a) is amended to read:

28 (a) In addition to money in the fund that is transferred to the commissioner of community
29 and regional affairs to make grants under AS 29.60.510 and to pay for impact assessments under
30 AS 29.60.560, the commissioner of environmental conservation may use money from the fund
31 to

1 (8) pay for the grants and loans described in AS 46.03.410(b)(2) and (3); and
2 (9) pay the costs of enforcement of AS 46.03.360 - 46.03.450.

3 * Sec. 7. AS 46.08.040(c) is amended to read:

4 (c) Notwithstanding other provisions of this section, money from the fund may not be
5 used for a purpose specified in (a)(2) - (9) [(a)(2) - (7)] and (d)(2) of this section unless money
6 is available from an appropriation made specifically for that purpose.

7 * Sec. 8. AS 46.08.070(a) is amended to read:

8 (a) The commissioner

9 (1) shall seek reimbursement promptly under this section, AS 46.03.760(e), or
10 federal law for the cost incurred in the cleanup or containment of oil or a hazardous substance
11 that has been released;

12 (2) is not required to seek reimbursement under this section, AS 46.03.760(e),
13 or federal law of money spent for a purpose for which an expenditure of money from the
14 fund is authorized by AS 46.08.040(a)(8) if the commissioner finds that

15 (A) the owner or operator of an underground petroleum storage tank
16 system has been in compliance with all state and federal laws applicable to
17 underground petroleum storage tank systems and releases from them, including
18 notification and registration laws, but excluding financial responsibility
19 requirements; and

20 (B) the grant or loan made under AS 46.03.410(b)(2) or (3) was not
21 made to correct an underground storage tank release attributable to the owner's or
22 operator's gross negligence, recklessness, or intentional conduct.

23 * Sec. 9. RETROACTIVITY. AS 46.08.040(a)(8) and (9), added by sec. 6 of this Act, are retroactive
24 to September 5, 1990.

25 * Sec. 10. AS 46.08.040(a)(8) and 46.08.070(a)(2) are repealed.

26 * Sec. 11. Sections 1, 2, 4, 6, 7, 8, and 9 of this Act take effect immediately under AS 01.10.070(c).

27 * Sec. 12. Sections 3, 5, and 10 of this Act take effect July 1, 1996.

1 (1) investigate and evaluate the release or threatened release of oil or a hazardous
2 substance, and contain, clean up, and take other necessary action, such as monitoring and
3 assessing, to address a release or threatened release of oil or a hazardous substance that poses
4 an imminent and substantial threat to the public health or welfare, or to the environment;

5 (2) pay all costs incurred to

6 (A) establish and maintain the oil and hazardous substance response office;

7 (B) review oil discharge prevention and contingency plans submitted under
8 AS 46.04.030;

9 (C) conduct training, response exercises, inspections, and tests, in order
10 to verify equipment inventories and ability to prevent and respond to oil and hazardous
11 substance release emergencies, and to undertake other activities intended to verify or
12 establish the preparedness of the state, a municipality, or a party required by
13 AS 46.04.030 to have an approved contingency plan to act in accordance with that plan;
14 and

15 (D) verify or establish proof of financial responsibility required by
16 AS 46.04.040;

17 (3) pay the expenses incurred by the Alaska division of emergency services for
18 the oil and hazardous substance response corps and the oil and hazardous substance response
19 depots when presented with appropriate documentation by the division;

20 (4) provide matching funds for participation in federal oil discharge cleanup
21 activities and under 42 U.S.C. 9601 - 9657 (Comprehensive Environmental Response,
22 Compensation, and Liability Act of 1980);

23 (5) recover the costs to the state, a municipality, or a village of a containment and
24 cleanup resulting from the release or the threatened release of oil or a hazardous substance;

25 (6) prepare, review, and revise

26 (A) the state's master oil and hazardous substance discharge prevention
27 and contingency plan required by AS 46.04.200; and

28 (B) a regional master oil and hazardous substance discharge prevention
29 and contingency plan required by AS 46.04.210; [AND]

30 (7) restore the environment by addressing the effects of an oil or hazardous
31 substance release;

FISCAL NOTE

STATE OF ALASKA
1992 LEGISLATIVE SESSION

BILL NO. CSHB 264 (Res)

Revision Date: _____ Department Affected: Environmental Conservation
 Title: Using OHSRRF for UST Program BRU: Spill Prevention and Response
 Component: Storage Tank Assistance Program
 Sponsor: (H) Finance
 Requestor: (H) Resources COMPONENT SERIAL NO.

1	6	2	3
---	---	---	---

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 93	FY 94	FY 95	FY 96	FY 97	FY 98
PERSONAL SERVICES	0.0	0.0	0.0	0.0	0.0	0.0
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0

CAPITAL						
---------	--	--	--	--	--	--

REVENUE						
FUND SOURCE:						

FUNDING: (Thousands of Dollars)

GENERAL FUND	(6,024.9)					
FEDERAL FUNDS						
OTHER FUND SOURCE: 1052	6,024.9	6,024.9	6,024.9	6,024.9	0.0	0.0
TOTAL						

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

Estimate of current year impact: _____

ANALYSIS: (Attach a separate page if necessary.)

The committee substitute would provide funding for UST grants from the OHSRRF through the end of FY 96, at which time the authority would expire.

Prepared By: Janice Adair Phone: 465-5050
 Division: Commissioner's Office Date: February 12, 1992
 Approved by Commissioner: Janice Adair for John Sander
 Agency: Department of Environmental Conservation Date: 2/14/92

A M E N D M E N T

OFFERED IN THE HOUSE

BY REPRESENTATIVE DAVIDSON

TO: Draft CSHB 264() (dated 2/3/92)

Page 1, line 5:

Delete "and 8"

Insert "8, 10, and 11"

Page 4, line 23, following "Act,":

Insert "and sec. 10 of this Act"

Page 4, following line 24:

Insert the following new bills sections to read:

"* Sec. 10. USE OF MONEY IN THE OIL AND HAZARDOUS SUBSTANCE RELEASE RESPONSE FUND. Notwithstanding the limitations of AS 46.08.040, the commissioner of environmental conservation may use money in the oil and hazardous substance release response fund (AS 46.08.010) to pay the expenses incurred under the underground petroleum storage tank system reimbursement program authorized by sec. 7, ch. 96, SLA 1990.

* Sec. 11. Section 10 of this Act applies to reimbursement payments payable under sec. 7, ch. 96, SLA 1990, on and after September 5, 1990."

Renumber the following bill sections accordingly.

Page 4, line 26:

Delete "6, 7, 8, and 9"

Insert "and 6 - 11"

Page 4, line 27:

Delete "and 10"

Insert "and 12"

A M E N D M E N T

OFFERED IN THE HOUSE

BY REPRESENTATIVE LEMAN

TO: Draft C.S.B. 264() (dated 2/3/92)

Page 1, line 1 - page 4, line 27:

Delete all material and insert:

""An Act relating to motor fuels and to the storage tank assistance fund; and providing for an effective date."

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

* Section 1. AS 43.40 is amended by adding a new section to read:

Sec. 43.40.012. ADDITIONAL SURCHARGE ON MOTOR FUEL. (a) In addition to the tax levied by AS 43.40.010, there is levied a surcharge of two cents a gallon on all motor fuel subject to tax under AS 43.40.010 except the motor fuel taxes levied and collected

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

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

(b) The surcharge imposed by (a) of this section shall be collected and remitted in the same manner as the tax levied and collected under AS 43.40.010 except that the proceeds of the surcharge may not be returned to municipalities under AS 43.40.010(e), or deposited in a special account authorized under AS 43.40.010, but shall be remitted in full to the commissioner of revenue for deposit into the general fund.

(c) The legislature may use the annual estimated balance in the account maintained by the commissioner of administration under AS 37.05.142 to make appropriations to the Department of Environmental Conservation for the storage tank assistance fund established under AS 46.03.410.

* Sec. 2. AS 43.40.035(a) is amended to read:

(a) A person who resells fuel on which the tax under AS 43.40.010(a) or (b) and the

surcharge levied under AS 43.40.012 were [WAS] previously paid is entitled to a credit or refund of the tax or surcharge, or both, if (1) the resold fuel is not motor fuel and the requirements of AS 43.40.015 have been fulfilled; or (2) the amount of tax and surcharge previously paid exceeds the tax and surcharge due on the resale. The amount of the credit or refund under this section is equal to the amount of tax and surcharge previously paid on the resold fuel less the amount of tax prescribed by AS 43.40.010(a) or (b) and the surcharge prescribed by AS 43.40.012.

* Sec. 3. AS 43.40.012 is repealed July 1, 1998.

* Sec. 4. This Act takes effect July 1, 1992."

Alaska Oil and Gas Association



121 West Fireweed Lane, Suite 207
Anchorage, Alaska 99503-2035
Phone: (907) 272-1481 Fax: (907) 279-8114

February 4, 1992

VIA FACSIMILE

The Honorable Cliff Davidson, Chairman
Resources Committee
Alaska State House of Representatives
P. O. Box V
Juneau, Alaska 99811

Subject: HB 264, Response Fund: Use for
Tank Programs

Dear Chairman Davidson:

The Alaska Oil and Gas Association strongly opposes HB 264. The Association is submitting the attached testimony for the House Resources Committee hearing record.

I plan to deliver the testimony from Anchorage, by teleconference, at the Resources Committee hearing scheduled between 4:00 p.m.-5:00 p.m., today.

Sincerely,

WILLIAM W. HOPKINS
Executive Director

WWH:ts16:1620

Attachment

cc: John Sandor, Commissioner (via facsimile)
Ak. Department of Environmental Conservation

Paul Fuhs, Senior Legislative Liaison (via facsimile)
Office of the Governor

**Testimony of the
Alaska Oil and Gas Association
before the
Alaska State House of Representatives
Resources Committee
on**

**HB 264, An Act amending the purposes for which money in the
Oil and Hazardous Substance Release Response Fund
may be expended**

February 4, 1992

I am William W. Hopkins, Executive Director of the Alaska Oil and Gas Association. The Alaska Oil and Gas Association (AOGA) is a trade association whose member companies conduct the majority of oil and gas exploration, production and transportation in Alaska. AOGA appreciates this opportunity to express its position regarding House Bill 264.

AOGA strongly opposes HB 264 for several important reasons. This bill would, in effect, impose a hidden but real tax increase on all oil production in Alaska. It would impose unfair costs to the oil producers in Alaska to fund a program to correct underground storage tank problems over which they have no control and are not associated with crude oil production. Those costs are largely unknown but could be potentially significant based on the thousands of various underground tanks throughout Alaska. In addition, the bill does not require the state to seek reimbursement for costs of expenditures from responsible parties. We urge the state to consider alternatives and the potential impact of this proposed legislation on the oil producers.

AOGA Testimony
HB 264
Page 2

We understand that the Federal Superfund Reauthorization Legislation enacted in October 1986 has a provision to impose a 0.1 cent per gallon motor fuels excise tax as a revenue source to fund a separate Federal Leaking Underground Storage Tank Fund. Under certain conditions, that fund can pay up to 90% of any state's cost for cleanup resulting from a discharge from an underground storage tank. To use the federal fund, Alaska may need to establish its own fund to cover its 10% corrective action costs, but the 470 Fund is not the appropriate source.

In summary, House Bill 264 would place an unfair tax burden on oil producers to pay for problems not related to production. We urge this committee to reject it. Thank you for this opportunity to comment.

9:30 a.m., 2/4/92

WWH:PR202

Date: January 23, 1992

To: Rep. Cliff Davidson, Chairman,
House Resources Committee

From: David Cohen, Owner
Sheep Mountain Lodge

Subject: HB 264, Response Fund: Use for Tank Programs

I wish to voice my support for funding the Underground Storage Tank Financial Assistance Program. HB 264 is one vehicle for full funding of this important program. I urge you to support this or any means necessary to continue funding of the UST Financial Assistance Program.

Background Information:

Sheep Mountain Lodge located on the Glenn Highway.
2 -- 2000 gallon gas underground storage tanks.
1989 new federal EPA Regs on USTs.
Choose to close gas station portion of business & empty tanks.
Preliminary survey estimated that \$500,000 was needed to remove tanks, remove and destroy contamination in soils, and drill monitoring wells.
Applied for grant funds, received \$39,000 to begin clean-up, currently tanks have been removed and some soil has been removed and stockpiled.
New projection to finish the clean-up is an additional \$250,000, the contamination is great but not as large as originally projected.
The cost of clean-up is greater than the value of the property.

**FY 93 RESPONSE FUND REVENUE PROJECTION
(IN THOUSANDS)**

Unobligated Balance of FY92 Spill Reserve Allocation	12,400.0
Response Fund Balance Not Previously Allocated	5,093.4
Unappropriated Balance of the Mitigation Account	4,262.8
Available Monies from .05/bbl Surcharge	28,300.0
Projected Available Monies	50,056.2
Estimated FY93 Operating and Non Operating Allocations	23,104.0
Unallocated Balance	26,952.2

1 fund under sec. 13 of this Act.

2 (b) If the amount appropriated under (a) of this section is not sufficient to fully offset the effect
3 of inflation, then the additional amount necessary to fully inflation-proof the principal of the Alaska
4 permanent fund is appropriated from the earnings reserve account (AS 37.13.145) to the principal of the
5 Alaska permanent fund.

6 * Sec. 15. The interest earned during fiscal year 1992 on revenue from the sources set out in
7 AS 37.13.010 while the revenue is held in trust, escrow, or otherwise before receipt of the revenue by
8 the state is appropriated to the principal of the Alaska permanent fund.

9 * Sec. 16. The amount required to be deposited under AS 37.13.010(a)(1) and (2) during fiscal year
10 1992 is appropriated to the principal of the Alaska permanent fund in satisfaction of that requirement.

11 * Sec. 17. The lapsing balance of the employment assistance and training program account (sec. 3,
12 ch. 95, SLA 1989) on June 30, 1991, is appropriated to the unemployment compensation fund
13 (AS 23.20.130) on July 1, 1991.

14 * Sec. 18. All unrestricted mortgage loan interest payments and all other receipts, including, without
15 limitation, mortgage loan commitment fees, received by or accrued to the Alaska Housing Finance
16 Corporation during the fiscal year 1992, and all income earned on assets of the corporation during that
17 period, are appropriated to the Alaska housing finance revolving fund (AS 18.56.082) for the purposes
18 described in AS 18.56.

19 * Sec. 19. The sum of \$1,583,200 is appropriated to the general fund, as an additional revenue source,
20 from the following enterprise funds:

21	Commercial Fishing Revolving Loan Fund (AS 16.10.340)	\$ 408,200
22	Power Development Revolving Loan Fund (AS 44.83.500)	1,175,000

23 * Sec. 20. (a) The sum of \$28,500,000 is appropriated from the general fund to the oil and hazardous
24 substance release response fund (AS 46.08.010).

25 (b) The sum of ~~\$16,133,400~~^{45,980,500} is appropriated to the Department of Environmental Conservation
26 from the oil and hazardous substance release response fund (AS 46.08.010) for fiscal year 1992, and
27 allocated for the purposes expressed and in the amounts listed:

28	PURPOSE	AMOUNT
29	State and regional contingency planning	\$ 395,900
30	Spill prevention, response, planning, safety.	

1	cleanup, and cost recovery	3,934,300
2	State Emergency Response Commission	299,900
3	Local emergency planning committees	600,000
4	Response office, depots, and corps	2,911,400
5	Hazardous Substance Spill Technology Review Council	296,100
6	Site investigation, safety, cleanup, and	
7	cost recovery	3,655,000
8	Kenai cleanup project	807,000
9	Exxon Valdez-spill cleanup	4,126,000
10	Exxon Valdez-assessment and restoration	12,474,400
11	Exxon Valdez - litigation	3,653,100
12	Arctic Marine Resources Commission	100,000
13	Spill reserve	12,881,000

14 (c) The sum of ~~\$490,000~~ ^{237,300 W.J.H.} is appropriated from the oil and hazardous substance release response
15 fund (AS 46.08.010) to the Legislative Council for operation of the Citizens' Oversight Council on Oil
16 and Other Hazardous Substances for fiscal year 1992.

17 (d) The sum of \$175,000 is appropriated from the oil and hazardous substance release response
18 fund (AS 46.08.010) to the Department of Environmental Conservation for a contract with the Prince
19 William Sound Regional Citizens' Advisory Council for a ballast water testing and monitoring program.
20 to be developed in consultation with the Citizens' Oversight Council on Oil and Hazardous Substances.
21 at the Alyeska terminal ballast water treatment facility.

22 (e) The appropriation made by (a) of this section satisfies the appropriation requirements of
23 AS 43.55.240.

24 * Sec. 21. The sum of ~~\$10,000,000~~ ^{4,000,000 W.J.H.} is appropriated from the general fund to the Alaska Student Loan
25 Corporation, student loan fund (AS 14.42.210) to capitalize the fund.

26 * Sec. 22. The sum of \$666,000 is appropriated from the general fund to the bulk fuel revolving loan
27 fund (AS 44.83.600) for the bulk fuel loan program.

28 * Sec. 23. The sum of ~~\$5,501,000~~ ^{4,794,000 W.J.H.} is appropriated from the general fund to the fisheries enhancement
29 revolving loan fund (AS 16.10.505) for the fisheries enhancement loan programs.

30 * Sec. 24. The sum of ~~\$13,140,000~~ ^{13,140,000 W.J.H.} is appropriated to the Alaska clean water fund (AS 46.03.032)

_____ BILL NO.

IN THE LEGISLATURE OF THE STATE OF ALASKA
SEVENTEENTH LEGISLATURE - SECOND SESSION

Introduced:
Referred:

A BILL

FOR AN ACT ENTITLED

1 "An Act relating to use of the oil and hazardous substance release response fund for
2 certain activities related to the underground petroleum storage tank program; and providing
3 for an effective date."

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

5 * Section 1. PURPOSE. The primary purpose of secs. 2 - 6 of this Act is to provide a mechanism
6 that the United States Environmental Protection Agency can find to be a sure and consistent funding
7 source for providing state assurance to meet a portion of the federal financial responsibility requirements
8 for owners and operators of underground petroleum storage tanks, and to provide the owners and
9 operators with financial assistance to upgrade underground petroleum storage tanks so that the owner
10 or operator can obtain private insurance to meet federal financial responsibility requirements.

11 * Sec. 2. AS 46.03.420(h) is amended to read:

12 (h) This section does not affect the liability under state or federal law of any person, or
13 other entity that receives assistance under this section, for the costs of risk management,
14 containment, corrective action, and cleanup resulting from a release of petroleum. However,

1 notwithstanding the provisions of AS 46.08.070(a)(1) [AS 46.08.070(a)], the department may not
2 seek reimbursement of a grant made under this section unless the department determines that the
3 grant was requested under false pretenses or that other circumstances render the grant inconsistent
4 with this section or with applicable regulations. This section does not affect the authority of the
5 department to seek recovery from the owner or operator of costs other than grants and loans
6 actually made to an owner or operator under this section.

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

8 (c) The fund shall be used for actual expenses incurred under AS 46.08.040. Except as
9 provided in AS 46.08.040(a)(8) and (d)(2) [AS 46.08.040(d)(2)], the fund may not be used for
10 capital improvements.

11 * Sec. 4. AS 46.08.040(a) is amended to read:

12 (a) In addition to money in the fund that is transferred to the commissioner of community
13 and regional affairs to make grants under AS 29.60.510 and to pay for impact assessments under
14 AS 29.60.560, the commissioner of environmental conservation may use money from the fund
15 to

16 (1) investigate and evaluate the release or threatened release of oil or a hazardous
17 substance, and contain, clean up, and take other necessary action, such as monitoring and
18 assessing, to address a release or threatened release of oil or a hazardous substance that poses
19 an imminent and substantial threat to the public health or welfare, or to the environment;

20 (2) pay all costs incurred to

21 (A) establish and maintain the oil and hazardous substance response office;

22 (B) review oil discharge prevention and contingency plans submitted under
23 AS 46.04.030;

24 (C) conduct training, response exercises, inspections, and tests, in order
25 to verify equipment inventories and ability to prevent and respond to oil and hazardous
26 substance release emergencies, and to undertake other activities intended to verify or
27 establish the preparedness of the state, a municipality, or a party required by
28 AS 46.04.030 to have an approved contingency plan to act in accordance with that plan;
29 and

30 (D) verify or establish proof of financial responsibility required by
31 AS 46.04.040;

1 (3) pay the expenses incurred by the Alaska division of emergency services for
2 the oil and hazardous substance response corps and the oil and hazardous substance response
3 depots when presented with appropriate documentation by the division;

4 (4) provide matching funds for participation in federal oil discharge cleanup
5 activities and under 42 U.S.C. 9601 - 9657 (Comprehensive Environmental Response,
6 Compensation, and Liability Act of 1980);

7 (5) recover the costs to the state, a municipality, or a village of a containment and
8 cleanup resulting from the release or the threatened release of oil or a hazardous substance;

9 (6) prepare, review, and revise

10 (A) the state's master oil and hazardous substance discharge prevention
11 and contingency plan required by AS 46.04.200; and

12 (B) a regional master oil and hazardous substance discharge prevention
13 and contingency plan required by AS 46.04.210; [AND]

14 (7) restore the environment by addressing the effects of an oil or hazardous
15 substance release;

16 (8) pay the expenses of the department's programs described in
17 AS 46.03.410(b)(2) and (3); and

18 (9) enforce the underground petroleum storage tank program (AS 46.03.360 -
19 46.03.450).

20 * Sec. 5. AS 46.08.040(c) is amended to read:

21 (c) Notwithstanding other provisions of this section, money from the fund may not be
22 used for a purpose specified in (a)(2) - (9) [(a)(2) - (7)] and (d)(2) of this section unless money
23 is available from an appropriation made specifically for that purpose.

24 * Sec 6. AS 46.08.070(a) is amended to read:

25 (a) The commissioner

26 (1) shall seek reimbursement promptly under this section, AS 46.03.760(e), or
27 federal law for the cost incurred in the cleanup or containment of oil or a hazardous substance
28 that has been released;

29 (2) is not required to seek reimbursement under this section. AS 46.03.760(e).
30 or federal law of money spent for purposes authorized by AS 46.08.040(a)(8).

31 * Sec. 7. USE OF MONEY IN THE OIL AND HAZARDOUS SUBSTANCE RELEASE RESPONSE

1 FUND: Notwithstanding the limitations of AS 46.08.040, the commissioner of environmental
2 conservation may use money in the oil and hazardous substance release response fund (AS 46.08.010)
3 to pay the expenses incurred under the underground petroleum storage tank system reimbursement
4 program authorized by sec. 7, ch. 96, SLA 1990.

5 * Sec. 8. Section 7 of this Act applies to reimbursement payments payable under sec. 7, ch. 96, SLA
6 1990, on and after September 5, 1990.

7 * Sec. 9. AS 46.08.040(a)(8) and 46.08.070(a)(2), enacted by secs. 4 and 6, respectively, of this Act,
8 are repealed.

9 * Sec. 10. Sections 1 - 8 of this Act take effect immediately under AS 01.10.070(c).

10 * Sec. 11. Section 9 of this Act takes effect June 30, 1996.

LOG OF REQUESTS FOR FINANCIAL ASSISTANCE

April 30, 1991

<u>COMPANY/OWNER</u>	<u># FACIL</u>	<u>DATE</u>	<u>APPLICATIONS</u> (UST- FA FORM #)	<u>DOLLARS</u>
Aero Tech Flight Service Inc. 1100 Merrill Field Dr. Anchorage, AK 99501	1	3/5	NE	
Air Van Lines, Inc. P.O. Box 3447 Bellevue, WA 98009	2	3/5		5 26,322
Alascom Inc 210 E. Bluff Rd Anchorage, AK 99519-6607	17 12	12/10 1/31	1	5 (28,600) 200,000
Alaska Airlines(Petersburg) 19300 Pacific Hwy Seattle WA, 98188	1	2/21		5 16,821
Alaskan Federal Credit Union 3400 La Touch Anchorage AK 99508	1	12/19	3	288,942
Alaska Pipeline Co (Beaver Creek) (Also see ENSTAR) P.O. Box 190288 Anchorage, AK 99519-0288	1 2	3/5 3/5	2	5 15,373 2,086

Alaska Sales and Service Geo Cente 1300 E. 5th Avenue Anchorage AK 99501	1	12/5	3	5	25,055 28,689
Alaska Sportsman's Lodge P.O. Box 103926 Anchorage AK 99510	1	3/4		4	24,997
Leroy Allinger (Mt. McKin. Rental) 10510 Birch Road Anchorage, AK 99516-6605	1	3/5		5	24,779
Alyeska Pipeline Service Co 1835 S. Bragaw St Anchorage, AK 99512	3	3/5		5	98,631
Alaska Sightseeing Tours/Trav AK 349 Wrangell St Anchorage, AK 99501	1	4/3	3	4	110,665 34,607
Alaska USA Federal Credit Union P.O. Box 196613 Anchorage AK 99519-6613	3	3/5		4 5	97,390 44,755
Anchorage Clean Sweep 206 E 33rd Ave Anchorage, AK 99518	1	2/5	3	5	247,995 17,850
Anchorage Chrysler Center 2601 E. 5th Ave Anchorage, AK 99501	1	3/5		4 NE	1,323

Robert Andres (Bob's) 2201 E Parks Hwy Wasilla, AK 99687	1	3/5	2		2,200
Arctic Slope/Ocean Holdings (APC Fabrication Yard) 301 Danner Ave. Anchorage AK 99518	1	3/5		5	4,862
Arrow Moving and Storage P.O. Box 2025 Bellevue, WA 98009	1	3/5		5	16,609
Astoria Limited 1501 Queens Way Fairbanks, AK 99701	1	3/5	1	4	(3,200) 60,000
Aviation Insurance of Alaska 10543 Kenai Spur Hwy, Ste A Kenai, AK 99611	1	2/7		4	5,751
B & B Tools 300 La Touche St Anchorage AK 99501	1	1/30		5	22,238
Lyman Benshoff 2387 Badger Road N. Pole, AK 99705	1	12/21	2		2,400
Roy E. Benward 3030 320th Lane SE, U 101 Issaquah, WA 98027	1	12/17	3	5	2,228 4,734

John and Mary Blackard 1536 Cotley Lane Anchorage AK 99501	2	1/7	2		4	5	518 19,688 9,815
Ernest and Donna Brannon (Burkeshore Marina) P.O. Box 520226 Big Lake, AK 99652	1	3/5				5	8,276
Butler Aviation (AFSC) P.O. Box 190246 4565 Intnat'l Airport Rd. Anchorage AK 99512-0246	1	12/17	NE			5	131,228
Andrea and William Byers 450 Railroad Ave Wasilla, AK 99687	1	3/2	1	3	4		(3,300) 19,736 32,641
Carr Gottstein, Inc 6401 A Street Anchorage, AK 99518	1	3/5			4	5	26,000 25,340
Central Plumbing and Heating 212 E. Intnat'l Airport Rd. Anchorage, AK 99516	1	12/3				5	6,556
Chuck Higgins Company 174 Fireoved Dr Anchorage, AK 99508	1	4/23			4		9,223
Cline's Texaco 442 Gambell Anchorage, AK 99501	1	3/5			4		18,300

David Cohen (Sheep Mtn Lodge) HC03 Box 8490 Palmer, AK 99645 []	1	3/4	2	3	4	5	1,405 335,600 32,500 2,199
Consolidated Freightways 175 Linfield Dr Menlo Park, CA 94025	1	3/4				5	51,090
Continental Baking Company P.O. Box 92517 Anchorage, Ak 99509	1	3/5		3		5	95,655 93,822
Continental Motor Company 21940 Old Seward Hwy. Anchorage, AK	3	12/4				5	43,602
John Cook (Sterling Tesoro) P.O. Box 49 Anchorage, AK 99672	1	12/7	NE			5	29,658
Copper Basin Distributors, Inc P.O. Box 364 Glenallen, AK 99588	1	12/31	NE				
Copper Valley Electric Association P.O. Box 45 Glenallen, AK 99588	2	3/5				5	4,356
Culhane Borthers 6301 Rosewood Anchorage, AK 99518	1	3/5				5	200,000

William E. Dam(Govt Hill Tesoro) 211 E Cook Ave Anchorage, AK 99501	1	3/5	1	4	(4,400) 60,000
Leona Dawson (Wike's Service Sta) HCO1 Box 1736 Glenallen, AK 99588	1	3/5	No costs submitted		
Robert L Decker(Univ. Car Care) 4103 Geist Rd Fairbanks, AK 99701	1	12/5 3/5	NE	3	142,003
K.M. Dennison 21644 N 9th Ave, Ste 107 Phoenix, AZ 85027	1	3/4		4	2,000
DenTech 1313 Laona Circle Anchorage, AK 99511	1	2/21		5	19,796
James Dixon (Hood Lake #608) 311 E 77th Anchorage AK 99518	1	3/5	No costs submitted		
Eastwind Inc P.O. Box 11-1489 Anchorage, AK 99511-1489	1	3/4		5	91,799
ENSTAR Natural Gas Company P.O. Box 190288 Anchorage, AK 99519-0288	3	3/5	2	5	1,187 825
Fairbanks (city of) 410 Cushman St Fairbanks, AK 99701	11 9	1/9 3/5	1	5	(3,300) 29,358

Fairbanks Daily News Miner 200 Cushman St Fairbanks, AK 99701	1	2/26	2	3	5	600 29,579 19,098
Fairbanks North Star Borough P.O. Box 1267 Fairbanks Ak 99707	7	4/25			4	157,202
FDIC/St of AK Teachers Retirement Dept. of Revenue, P.O. Box SB Juneau, AK 99811	1	3/5			5	32,127
Ron Fennimore Box 957 Wrangell, AK 99929	1	3/5			4 5	5,274 7,023
Fisherman's Bend/Papadrew P.O. Box 210627 Auke Bay, AK 99821	1	2/21	1			(2,000)
Gana-a' Yoo Ltd P.O. Box 38 Galena, AK 99741	1	3/5			4 5	20,000 9,527
Garretts Tesoro 724 W. International Anchorage, Alaska 99518 []	1	2/21	2	3	4 5	2,200 250,000 39,600 37,517
Albert Gartz (OK Fuel) P.O. Box 607 Delta Junction, AK 99737	1	3/4	NE			

Golden Valley Electric Assoc. P.O. Box 71249 Fairbanks, AK 99707	1	3/5		4	5	5,152 3,361
Goldpanner Chevron 809 Cushman Fairbanks, AK 99707	1	3/4			5	5,716
Gene/Jeanette Grasto (Val Tire Ctr) 1369 Ballaine Road Fairbanks, AK 99709	1	4/9		4		12,611
Haines Light & Power Co P.O. Box 30 Haines, AK 99827	1	1/25	I	4		(3,300) 2,818
Dianne Halliwill(2nd Ave. Service) Box 570 Haines, AK 99827	1	4/24		4		34,424
John Haxby P.O. Box 11098 Anchorage, AK 99511	1	3/5		4		8,800
H.P. Head 1400 Benson Anchorage AK 99503	1	3/4		4	NE	210
Jerry Hess (Katmai Oil/Gas) P.O. Box 230207 Anchorage, AK 99523	1	3/5	NE		5	6,818

George & Mary Hiddleston c/o John Starke 20833 Grade St. SE Centralia, WA 98531	1	3/5		4	17,700
Charles Higgins 341 1/2 Boniface Pky Anchorage AK 99508	1	3/5	No formal application yet		
Holland America Line-Westours P.O. Box 100479 Anchorage, AK 99510	1	3/5		5	200,000
Horrell Investment Inc P.O. Box 354 Glenallen AK 99588	1	12/24	NE		
Dennis Illies (Valley Country Store) 1401 Inverness Dr Wasilla, AK 99687	1	2/21		5	1,848
Dennis Illies(R'ley, etc) (Stop and Shop) 1201 W. Parks Hwy Wasilla, AK 99687	1	4/24		3	629,564
Interior Fuels Co P.O. Box 199 Fairbanks, AK 99707	2	3/4	NE		
Dan Jordan 126 W Internat'l Airport Rd Anchorage AK 99510	1	3/2	I		(1,100)

K & L Distributors, Inc 6307 Arctic Spur Rd Anchorage, AK 99518	2	3/5	NE	4	5	72,611 87,784
Kenai Peninsula Borough 144 North Binkley Soldotna, AK 99669	2	1/20			5	37,615
OK Y Kim (Oceanview Texaco) 12751 Old Seward Hwy Anchorage AK 99515	1	3/4	2			735
Korovin Corporation (Stobaugh) 3302 Westmar Circle Anchorage, AK 99503	2	12/4	1			(3,300)
Kurani, Inc 210 Center Court Anchorage, AK 99518	1	3/5		4	NE	2,805
Laidlaw Transit P.O. Box 2560 Soldotna, AK 99669	2	3/5	2			1,125
Darrel G. LeFever 500 E 5th Ave Anchorage, AK 99501	1	3/29			NE	
Lynden Transport P.O. Box 3725 Seattle, WA 98124-3725	2	3/5		NE	5	8,335
Mapco Express Inc 3335 Arctic Blvc, Ste 100 Anchorage, AK 99503	15	3/5			5	1,366,704

Mark Air, Inc P.O. Box 196769 Anchorage, AK 99519	1	3/5		5	14,887
Jack and Viola Markley P.O. Box 90100 Anchorage, AK 99509	1	3/5	1	4	(2,200) 22,668
Barry Matteson (House of Harley) 4334 Spenard Road Anchorage, AK 99517	1	4/10		4	11,403
MATSU Electric Association, Inc P.O. Box 29201 Palmer, AK 99645	3	3/5		4 5	46,870 84,986
MATSU Telephone Pouch 5050 Palmer, AK 99645	6	12/28	1		(11,000)
Mike McBride (McBride Flight Op) P.O. Box 6 Kenai, AK 99611	1	4/8		4	13,553
Dale Miller (Alaska Chevron) 333 Illinois Fairbanks, AK 99701	1	3/5	3	4	825,148 30,923
MPH Trust (Loomis) 437 E Street, Suite 500 Anchorage, AK 99501	1	12/4		5	16,723

Municipality of Anchorage	40	12/31	2		90,400
P.O. Box 196650	2	2/21		4	44,084
Anchorage AK 99519-6650				5	4,050
Municipality of Anch-Merill Fld	1	2/5			(Exempt- heating fuel)
Dave Lunderby					
800 Merrill Field Drive					
Anchorage AK 99501					
N.C. Machinery	1	3/5			NE
6450 Arctic Blvd.					
Anchorage, AK 99518					
Wendell R. Neff (Healy Road House)	1	3/1		5	2,505
P.O. Box 81529					
Fairbanks, 99708					
Nenana Heating Service (A Frame Serv)	1	3/4		4	1,284
Box 315				5	2,025
Nenana, AK 99760					
Ninilchik Native Assoc. (Clam Gulch)	1	3/5		5	14,804
2600 Cordova Street, Ste 204					
Anchorage, AK 99503					
Northstore Ventures	28	2/21		3	109,000
4450 Cordova Street, Ste 200				5	259,856
Anchorage, AK 99503					
Nye Frontier Ford	2	2/15		5	49,911
2701 E. Mountain Village Drive					
Wasilla, AK 99687					

O'Kraft & Sons Inc P.O. Box 1217 Kodiak, AK 99615	1	3/5	2		1,200
Our Lady of Compassion 4900 Eagle Street Anchorage, AK	1	1/28		5	15,891
Palmer (City of) 231 W. Evergreen Ave. Palmer, AK 99645-6952	2	3/5		4	32,085
Parker Drilling Company P.O. Box 112870 Anchorage, AK 99511	1	1/19	NE	5	50,993
Ken Peters (Tudor Car Wash) 2621 E. Tudor Anchorage, AK 99507	1	3/4	NE		
Petrolane 2250 Cushman St Fairbanks, AK 99701	1	3/5		5	45,114
Petro Products Inc. 6401 Lake Otis Pkwy Anchorage AK 99507	1	2/19		5	110,124
Phillips Petroleum P.O. Drawer 66 Kenai, AK 99611	1	3/5		5	6,392

Pink Elephant Stores, Inc 8215 Old Seward Anchorage, AK 99518	1	3/4			5	650
Mary Lynn Robbins (Village Store) P.O. Box 111 Eagle, AK 99738	1	4/10			4	60,000
Paul Roderick Anchor Point Texaco Box 836 Homer, AK 99603	1	3/4	1	3	4 5	(3,300) 90,000 60,000 200,000
Darrel Renner (Renner's Chevron) P.O. Box 14044 Anchorage, AK 99515	1	3/30	2			2,619
Terry Renner (Renners Gas/Save) P.O. Box 141046 Anchorage, AK 99514	1	3/30	2			1,965
Rol-Don's Inc (Sterling Chevron) P.O. Box 82 Sterling, AK 99672	1	3/5			5	119,582
Darrell Russell 1931 Hilling Ave. Fairbanks, AK 99709	1	3/5	1			(3,300)
Sister's Construction 8547 Golden Street Anchorage, Ak 99502	1	3/11			4 NE	32,822

Skagway Fuels P.O. Box 375 Skagway, AK 99840	1	3/5		4	5	1,474 27,000
South Central Air, Inc 135 Granite Pt. Ct. Kenai, AK 99611	1	3/5	2			1,200
Suburban Propane 1200 Whitney Rd Anchorage, AK 99501	1	2/5			5	3,587
Summitt Lake Lodge (Delta Junct) P.O. Box 71956 Fairbanks, AK 99707	1	3/4		4		14,482
Sunrise Distributing Co. Amy Springer P.O. Box 855 Homer, AK 99603	1	12/31	1		4	(1,100) 6,543
T.C.T Communications Inc (KENI) 1777 Forest Park Dr. Anchorage, AK 99517	1	3/5		4		8,316
TEMSCO Helicopters P.O. Box 5057 Ketchikan, AK 99501	3	3/5		4	5	60,000 67,232
Tesoro Ak Petroleum Co 3230 C Street, Anchorage, AK 99503	7	2/28	2			3,850

Tope Equipment Company 6720 Arctic Blvd. Anchorage, AK 99518	1	1/29		5	55,681
Transpacific Resources (USPO) 437 E Street, Suite 500 Anchorage, AK 99501	1	12/4		5	25,948
Troy Air Inc. P.O. Box 5248 BellaVista, AR 72714	1	2/1		5	52,546
Tseyu Service Station (Johns) P.O. Box 26 Cantwell, AK 99729	1	3/5	3	4 5	18,828 11,736 33,121
Tundra Copters 3868 University Ave. S Fairbanks, AK 99709	1	2/19		4	2,500
Tundra Tours P.O. Box 74516 Fairbanks, AK 99907	2	3/5	1	5	(4,400) 18,198
United Lumber Co. Inc P.O. Box 19808 Anchorage, Ak 99502	2	3/5		4 5	10,000 47,910
United Utilities 5450 A Street Anchorage, AK 99518	1	3/5		5	8,134

Usibelli Coal Mine, Inc. 122 1st Ave., Ste 302 Fairbanks, AK 99702	1	3/5			5	11,079
Vertex P.O. Box 2244 Fairbanks, AK 99707		no costs submitted				
Kelly Vrem P.O. Box 670742 Chugiak, AK 99567	1	3/5	1		4	(600) 116,000
WALDEC Enterprises, Inc 3608 Staedem Dr Anchorage, AK 99504	1	3/3			5	74,313
Waldron Company 1675 E Fifth Ave Anchorage, AK 99501	1	3/5			5	23,929
G.B. Webber Wasilla Chevron Inc. P.O. Box 871216 Wasilla, AK 99687	1	12/17	2			4,400
Donald Wilson 1600 A St., Ste 300 Anchorage, AK 99501	1	3/5		3	5	100,000 29,036
Dennis Wise 1501 Queens Way Fairbanks, AK 99701	1	3/5	1	3		(3,200) 200,000

William/Carol Wortham (College Service Station) Rt 2, Box 145 Live Oak, FL 32060	1	3/4	5	11,477
Young Investments Box 91259 Anchorage AK 99509	1	12/28	5	21,935
John & Jacques Young(Dimond Chev) 1100 West Dimond Blvd Anchorage, AK 99515-1504	1	3/5	5	48,939

[NE = Not eligible, I = Intent to apply for TTT/SA]



The UST Financial Assistance Programs

(1) TANK TIGHTNESS TESTING AND SITE ASSESSMENT INCENTIVE PROGRAM:

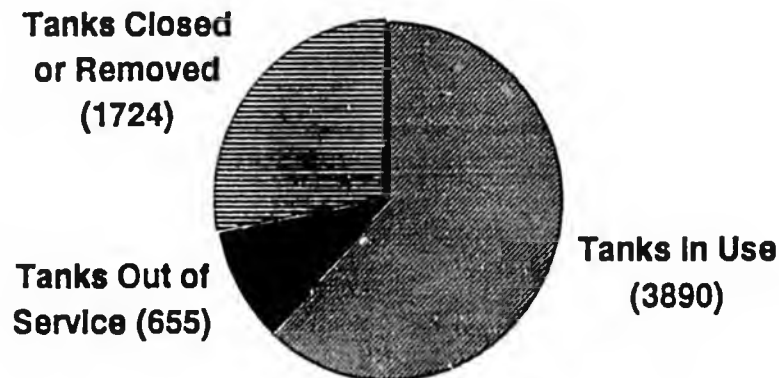
Reimbursement for up to 50% of the eligible costs to conduct a tank tightness test or a site assessment. This work must be completed within one year of registration in order to be considered for reimbursement. Limited to \$300 per tank up to \$1200 per facility for tightness tests and \$800 per tank and \$3200 per facility for site assessments.

(2) UPGRADE AND CLOSURE GRANT PROGRAM: Grants for 60%, up to \$60,000, for the costs of either upgrading (including replacing) or closing (including removing) a pre-1988 UST. Upgrading an UST would include adding leak detection, spill and overflow prevention, or cathodic protection. This money will be available to owners and operators either as an upfront grant or as a reimbursement for work done prior to application. All work must meet the performance standards set out in Article 1 in order to qualify.

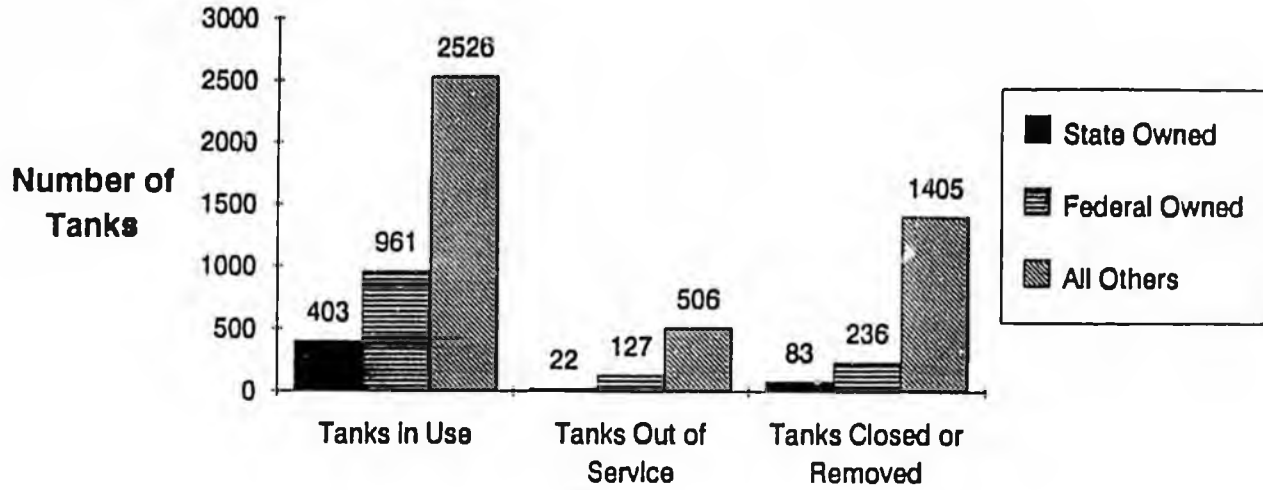
(3) CLEANUP GRANT AND LOAN PROGRAM: Grants for 90% up to \$1 million per occurrence for the cost of cleanup associated with a release from an UST. The owner is responsible for 10% of the cost up to a maximum of \$25,000. That amount may be loaned to him at no interest. The regulations propose that it be repaid to the state within 5 years.

(4) RETROACTIVE REIMBURSEMENT PROGRAM: Reimbursement for upgrading, closing, or cleanup of an UST done after the effective date of the EPA regulations (December 22, 1988) and before the effective date of HB 220 (September 5, 1990) may be applied for on or before March 5, 1991. Amounts are limited to 60% of upgrading or closing, 90% of cleanup, to a dollar maximum of \$200,000 per owner and operator.

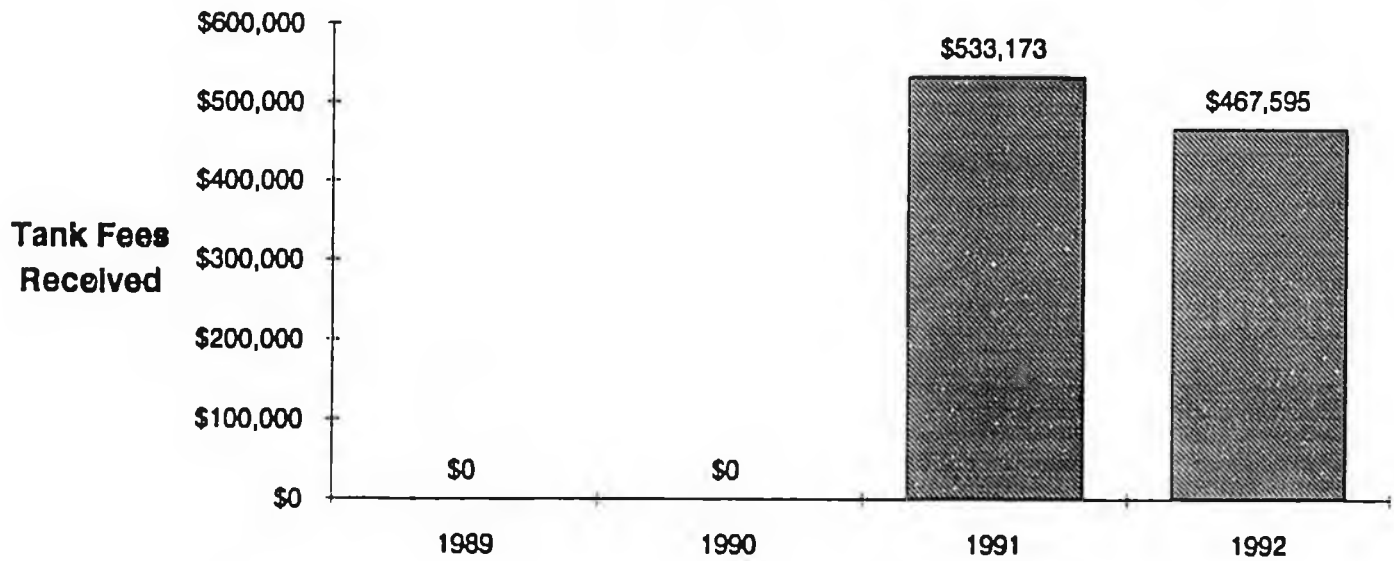
Status of Underground Storage Tanks in Alaska



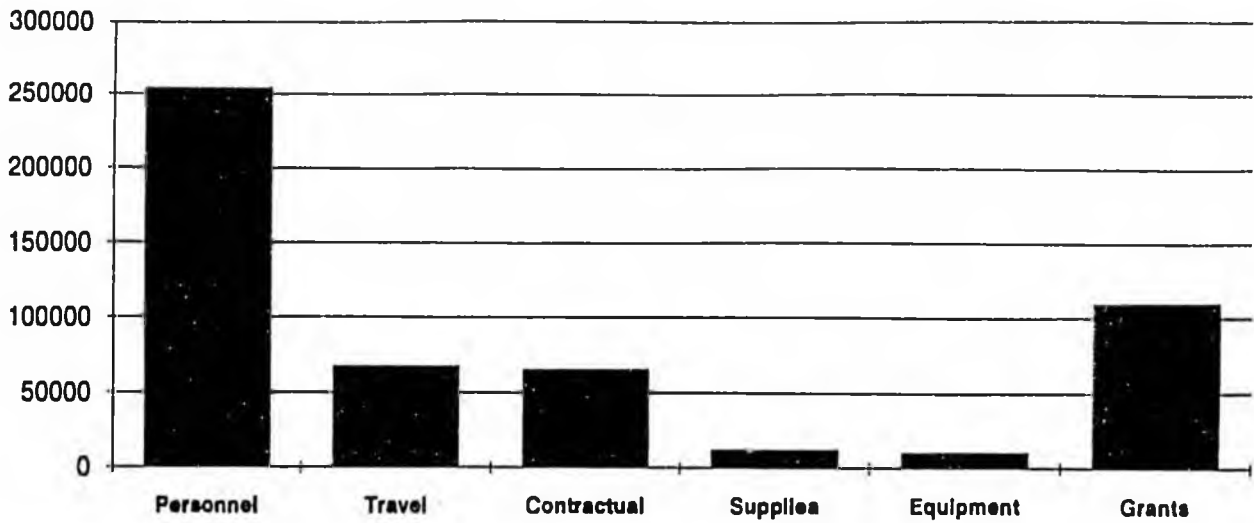
Ownership of Underground Storage Tanks in Alaska



Tank Registration Fees By Year (As Received Through January 15, 1992)

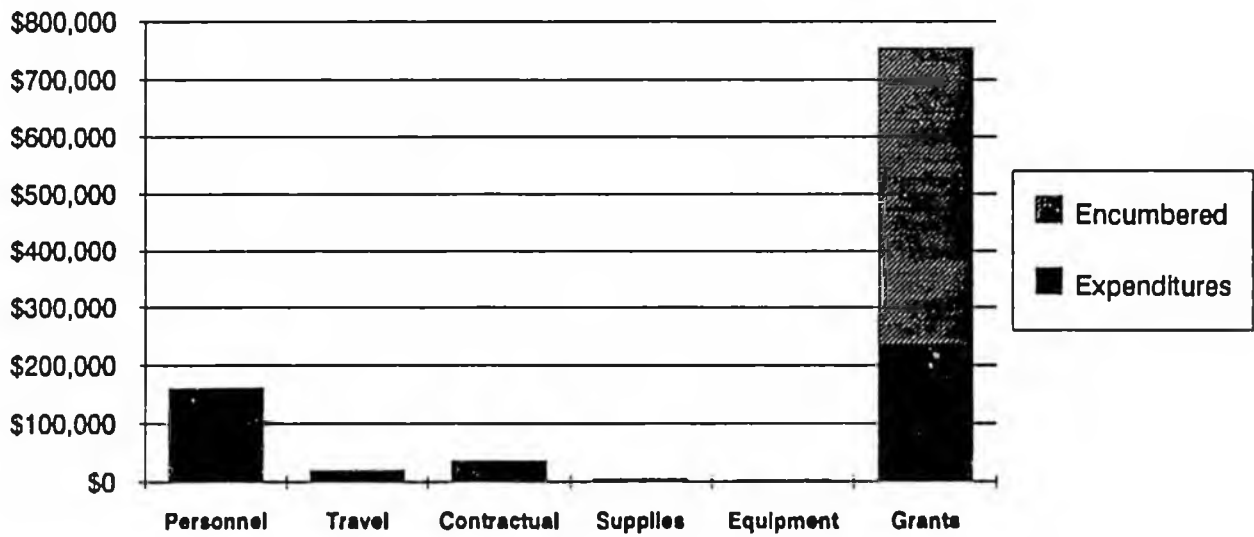


UST FINANCIAL ASSISTANCE PROGRAM FY 91 EXPENDITURES

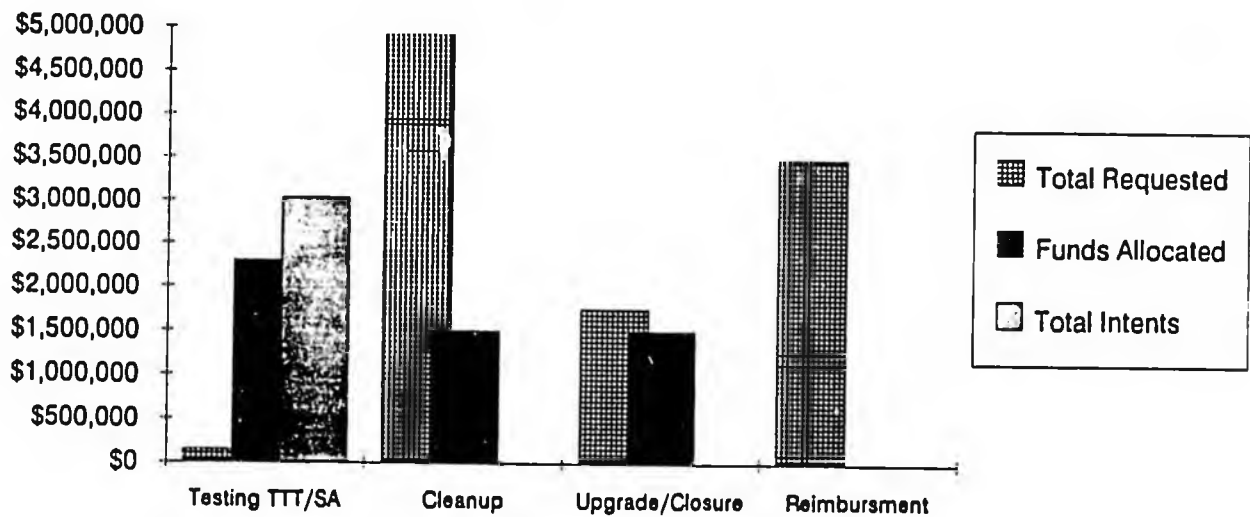


5

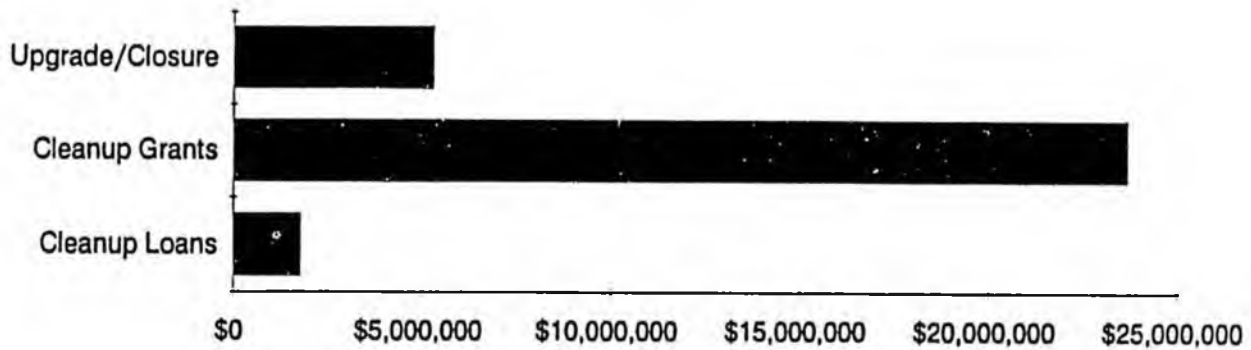
UST FINANCIAL ASSISTANCE PROGRAM FY 92 EXPENDITURES TO JANUARY, 1992



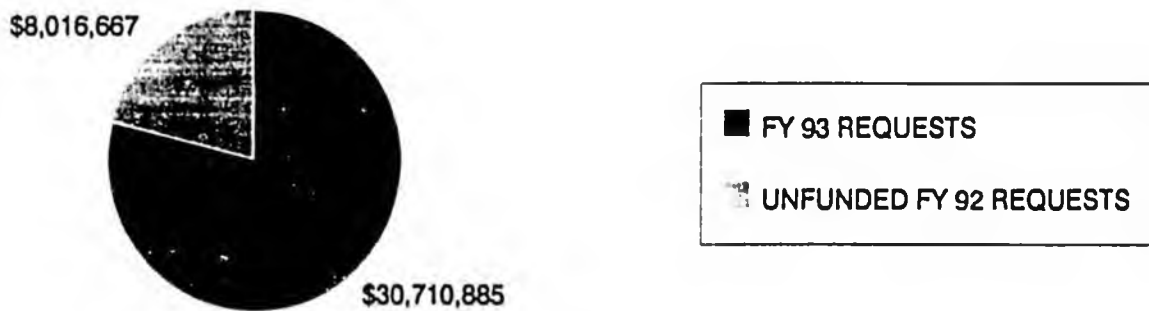
FY 92 SUMMARY OF GRANT PROGRAMS AS OF JANUARY 1992



Total Financial Assistance Requests to-date for FY 93



PROJECTED FINANCIAL ASSISTANCE GRANTS & LOANS FOR FY 93



Grant Funds For Financial Assistance Program Allocated For FY 92

PROGRAM SUMMARY FOR FY 92

Number Applications Received for FY 92 Funding	454
Total Dollar Amount of Application Requests	\$10,287,352
Total Dollar Amount of Application Requests Including TTT/SA Intents	\$13,316,667
Funds Allocated FY 92	\$5,300,000
Authorized Allocations to 12/31/91	\$2,790,380

TANK TIGHTNESS TESTING AND SITE ASSESSMENT INCENTIVE PROGRAM

Tank Tightness Testing	
Total Number Applications Received	131
Dollar Amount of Application Requests	\$95,008
Authorized Allocations to 12/31/91	\$22,023
Site Assessment	
Total Number Applications Received	29
Dollar Amount of Application Requests	\$45,257
Authorized Allocations to 12/31/91	\$13,758
Program Total	
Dollar Amount of Intents from 1991 Registrations	\$3,029,315
Funds Allocated FY 92	\$2,300,000
Authorized Allocations to 12/31/91	\$35,781

TANK CLEANUP GRANT AND LOAN PROGRAM

Total Number Applications Received	30
Dollar Amount of Application Requests	\$4,907,197
Funds Allocated FY 92	\$1,500,000
Authorized Grant Allocations to 12/31/91	\$1,173,429
Authorized Loan Allocations to 12/31/91	\$119,022

TANK UPGRADING AND CLOSURE PROGRAM

Tank Upgrading	
Total Number Applications Received	28
Dollar Amount of Application Requests	\$806,037
Authorized Allocations to 12/31/91	\$676,108
Tank Closure	
Total Number Applications Received	74
Dollar Amount of Application Requests	\$946,785
Authorized Allocations to 12/31/91	\$786,040
Program Total	
Funds Allocated FY 92	\$1,500,000
Authorized Allocations to 12/31/91	\$1,462,148

REIMBURSEMENT PROGRAM

Total Number Applications Received	162
Dollar Amount of Application Requests	\$3,487,068
Funds Allocated FY 92	\$0
Authorized Allocations to Date	\$0

Projected Costs For Financial Assistance Program For FY 93

PROGRAM SUMMARY FOR FY 93

Number Applications Received for FY 93 Funding	539
Total Dollar Amount of Application Requests	\$30,710,885

TANK CLEANUP GRANT AND LOAN PROGRAM

Total Number Applications Received	172
Dollar Amount of Application Requests (Grants)	\$23,663,538
Dollar Amount of Application Requests (Loans)	\$1,777,664
Total Dollar Amount of Application Requests	\$25,441,202

TANK UPGRADING AND CLOSURE PROGRAM

Tank Upgrading	
Total Number Applications Received	101
Dollar Amount of Application Requests	\$2,264,799

Tank Closure	
Total Number Applications Received	266
Dollar Amount of Application Requests	\$3,004,884

Program Total	
Total Number Applications Received	367
Total Dollar Amount of Application Requests	\$5,269,683



May 1, 1991

Position Paper

HB 264 - Amending Purposes for Which Money in Oil and Hazardous Substance Release Fund May Be Expended

The Alaska Municipal League supports HB 264, which would add regulation and pollution prevention activities involving underground motor fuel, petroleum, and chemical storage tanks to the list of purposes for which the oil and hazardous substance release response ("470") fund may be used, to the extent that the bill is a clear recognition of the need for funding for underground storage tank assessment, cleanup, and upgrading or closure.

The 1991 *Policy Statement* of the Alaska Municipal League states: "The League strongly encourages the State to develop regulations to implement the Underground Storage Tank Assistance Program created by the Legislature and to adequately fund programs necessary to mitigate the impact of EPA underground tank regulations on municipal budgets and facilities." HB 264 would provide access to some funds for this purpose.

It should be noted that the Underground Storage Tank Assistance Program, created by the Legislature by passage of HB 220 during the 1990 session, provides assistance to municipal owners of underground storage tanks as well as to private owners. Of over 2,800 tanks registered with the program, 14 percent, or nearly 400 of them, are owned by 45 municipalities.

The League and its members support providing funding to assist these municipal owners deal with their needs for funding for abatement and pollution prevention efforts, tank tightness and site assessment, tank cleanup, and tank upgrading and closure. To the extent that HB 264 would provide funds for these purposes, then, the Alaska Municipal League supports its passage.

C91TEST.HB264.501



Board of Storage Tank Assistance

410 WILLOUGHBY AVENUE
JUNEAU, ALASKA 99801
(907) 465-5200
FAX (907) 465-5218

Walter J. Hickel, Governor

ALASKA UNDERGROUND STORAGE TANK PROGRAM

Introduction

On June 7, 1990, former Governor Cowper signed into law, HB 220. This comprehensive legislation had been introduced in 1989 in response to a new EPA mandate to protect the nation's groundwater from contamination or potential contamination from large, generally non-residential underground storage tanks. The bill sets performance standards for both new and existing installations, mandates reporting and corrective action when leaks occur and directs owners to demonstrate their ability to respond financially to such an event. An underground storage tank is defined as a tank system, including its piping, that has at least 10 percent of its volume underground.

Federal Law

Nationwide, several million UST's contain petroleum or hazardous substances. According to EPA estimates, tens of thousands of these tanks, including their associated piping, are leaking. Leaks from USTs are nearly impossible to detect without special equipment. Groundwater is particularly threatened by contamination from them and a majority of the country depends on groundwater as a source of drinking water. Thus, Congress passed the Hazardous and Solid Waste Amendments to the Resource Conservation and Recovery Act (RCRA). These amendments in part require the EPA to regulate underground storage tanks containing petroleum or a hazardous substance as defined in the Comprehensive Environmental Response, Compensation and Liability Act of 1980 (CERCLA).

The EPA was directed to develop regulations for design, construction, and installation of new tanks as well as the addition of leak detection, corrosion prevention and spill and overflow protection to existing tanks. Congress also mandated that all UST owners, except state and federal governments, be able to demonstrate specific levels of financial responsibility for corrective action and cleanup associated with releases from their UST's, including third party loss and bodily injury. Certain tank systems are specifically excluded from federal law. The most common exemptions are 1) farm or residential tanks of 1,100 gallons or less capacity storing motor fuels for noncommercial purposes; and 2) tanks storing heating oil for consumptive use on the premises where stored. The EPA regulations went into effect on December 22, 1988. Tanks installed on or before that date are considered "existing tanks" and those installed after December 22, 1988 are considered new installations. New installations are to meet the performance standards set out in the regulations at the time of installation. Existing tanks are allowed to phase in these higher standards over a ten year period. The financial responsibility requirements were phased in for all tank owners, according to the type of owner and the number of tanks owned. Most tank owners will be required to demonstrate \$1 million of financial responsibility per occurrence and \$2 million aggregate.

State Law

It was primarily because of the Federal financial responsibility requirements that the Underground Storage Tank bill, HB 220, was introduced. Failure to meet the federal financial responsibility requirement could result in daily fines of up to \$10,000. Most businesses covered by the EPA's UST regulations are small, "Mom-and-Pop" businesses who cannot afford to meet the financial responsibility requirements, pay the fine or clean up contaminated sites.

ADEC estimates that of the 4,545 tanks that are in the ground in Alaska, there are 3,032 privately owned UST's in Alaska, of which approximately 2,700 are owned by small, independent companies. During the legislative process, the EPA told lawmakers that federal budget cutbacks would prevent the agency from providing owners with technical assistance for complying with the new performance requirements. Rather, they would establish an enforcement program only. As with the financial responsibility requirements, failure to meet the performance standards when due could also result in \$10,000 daily fines.

Board of Storage Tank Assistance

The bill established a seven-member Board of Storage Tank Assistance. The commissioners of the departments of Environmental Conservation and Transportation and Public Facilities are the government members. Each of the five public members are required to have special knowledge in the UST field. There is a registered engineer, a general contractor, a person from the insurance industry, a owner of more than 10 tanks, and an owner of 10 or less tanks. Members will serve staggered 4 year terms and the Board is scheduled to sunset on June 30, 1996. Former-Governor Cowper appointed the board members on September 5, the effective date of the legislation.

The Board was responsible for writing the regulations dealing with the financial assistance programs. The department is to implement the regulations. The Board is to resolve any disputes between the department and owners or operators of USTs relating to cleanup activities. The Board was directed to write jointly with the department any regulations as to acceptable methodologies for testing, containment and cleanup of corrective action of UST sites. The department was to consult with the Board before adopting any regulations on cleanup standards, i.e. the level of a contaminant that is allowed to remain in the soil or groundwater after cleanup.

State UST Regulations

The UST regulations cover the following general topics: Article 1, Underground Storage Tanks, sets out the registration requirements, performance standards, methodology for conducting a site assessment and reporting of releases; Article 2, Corrective Action for Leaking Underground Storage Tanks, covers investigation of a release or suspected release and the requirements for corrective action; Article 3, Cleanup Standards sets out the cleanup levels for soil and groundwater; Article 4, Certification of Storage Tank Workers, establishes the program for certifying those people who supervise the various aspects of UST installation, closure and testing; and Article 5, Storage Tank Assistance Fund, sets up the operation of the four different financial assistance programs created in HB 220. Article 9 contains the General Provisions and definitions.

The UST Financial Assistance Programs

(1) TANK TIGHTNESS TESTING AND SITE ASSESSMENT INCENTIVE PROGRAM:

Reimbursement for up to 50% of the eligible costs to conduct a tank tightness test or a site assessment. This work must be completed within one year of registration in order to be considered for reimbursement. Limited to \$300 per tank up to \$1200 per facility for tightness tests and \$800 per tank and \$3200 per facility for site assessments.

(2) UPGRADE AND CLOSURE GRANT PROGRAM: Grants for 60%, up to \$60,000, for the costs of either upgrading (including replacing) or closing (including removing) a pre-1988 UST. Upgrading an UST would include adding leak detection, spill and overflow prevention, or cathodic protection. This money will be available to owners and operators either as an upfront grant or as a reimbursement for work done prior to application. All work must meet the performance standards set out in Article 1 in order to qualify.

(3) CLEANUP GRANT AND LOAN PROGRAM: Grants for 90% up to \$1 million per occurrence for the cost of cleanup associated with a release from an UST. The owner is responsible for 10% of the cost up to a maximum of \$25,000. That amount may be loaned to him at no interest. The regulations propose that it be repaid to the state within 5 years.

(4) RETROACTIVE REIMBURSEMENT PROGRAM: Reimbursement for upgrading, closing, or cleanup of an UST done after the effective date of the EPA regulations (December 22, 1988) and before the effective date of HB 220 (September 5, 1990) may be applied for on or before March 5, 1991. Amounts are limited to 60% of upgrading or closing, 90% of cleanup, to a dollar maximum of \$200,000 per owner and operator.

FOR ADDITIONAL INFORMATION CALL
1-800-478-4974 (IN ALASKA)



Alaska State Legislature

HOUSE OF REPRESENTATIVES

Official Business

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

TO: Representative Cliff Davidson, Chair
House Resources Committee

FROM: Representative Mike Navarre, Co-Chair
House Finance Committee

Representative Kay Brown, Chair
House Finance DEC Budget Subcommittee

DATE: April 29, 1991

SUBJ: House Bill 264/UST Program & Use of the 470 Fund

The purpose of this memorandum is to provide the Resources Committee with an explanation of the reasons the Finance Committee has sponsored House Bill 264, legislation that would authorize use of the Oil and Hazardous Substance Release Response Fund (the so-called "470 Fund") for the underground storage tank program established by the legislature last session (House Bill 220).

Background

The federal Environmental Protection Agency (EPA) adopted provisions in 1986 that extensively regulated underground petroleum storage tanks. EPA regulations include the requirement that all owners and operators demonstrate a minimum of \$1,000,000 in financial responsibility for pollution cleanup by October 26, 1991.

Last session, in response to the fact that many small businesses would be incapable of meeting this federal financial responsibility requirement, and in recognition of the need to provide financial assistance to small tank owners who would otherwise be unable to meet the federal and state UST program regulatory requirements, the legislature enacted House Bill 220.

During the development of the FY 92 Department of Environmental Conservation operating budget, a great deal of testimony was received by the committee on the UST program and its importance to small businesses. Oversight hearings were also held by the House Oil and Gas Committee to examine the status of the UST program and the implementation of the legislation enacted last session.

At this point, the Department of Environmental Conservation and the Board of Storage Tank Assistance are in the process of seeking federal approval of the state underground storage tank program. In particular, it has been hoped all along that the establishment of a state's Storage Tank Assistance Fund could serve as the means for businesses to achieve compliance with the federal financial responsibility requirements. Unfortunately, it appears that this may not be possible without the identification of a stable and secure long-term funding source for the Storage Tank Assistance Fund such as the state's Oil and Hazardous Substance Release Response Fund.

The Need for House Bill 264

The magnitude of the leaking underground tank problem is enormous. Cost estimates of \$100 million or more are common and it will clearly take many years to address the problem of abandoned or leaking tanks, to clean up contamination that has occurred and take the necessary steps to prevent future contamination.

It was apparent from the DEC FY 92 budget deliberations and the hearings held by the House Oil and Gas Committee that it is imperative that the legislature identify a stable, long-term funding for the state UST program. With the decline in production in Prudhoe Bay and pressures to cut state spending coming from all directions, it is clear that the state General Fund is not a viable answer to funding for a program which is eventually expected to cost \$100 million or more.

As proposed by HB 264, authorization to use the 470 Fund to support the UST program would put the program on a secure funding basis and we urge the committee's favorable consideration of this legislation.

4/30/91

Sectional Analysis

HB 264 — UST Program Funding & the 470 Fund

Section 1

Amends existing underground storage tank assistance program statutes at 46.03.420(h) to recognize that, notwithstanding the general cost-recovery requirements associated with use of the Oil and Hazardous Substance Release Response Fund (470 Fund), financial assistance from the fund provided to underground tank owners under the terms of Chapter 90 SLA 1990 (HB 220) is not subject to cost recovery. (See Section 5.)

Section 2

Amends the existing law pertaining to use of the Oil and Hazardous Substance Release Response Fund to allow for use of the fund to finance capital improvements under the terms of the underground storage tank assistance program.

Section 3

Amends the purposes of the Oil and Hazardous Substance Release Response Fund to provide that the fund may be used to support the underground storage tank assistance program (AS 46.03.360 - 430).

Section 4

Conforming amendment. Amends existing law regarding use of the Oil and Hazardous Substance Release Response Fund to provide that money from the fund, including funding for the underground storage tank program, may not be used without a specific appropriation.

Section 5

Amends current law regarding use of the Oil and Hazardous Substance Release Response Fund to provide that the Commissioner

of the Department of Environmental Conservation is not required to seek reimbursement to the fund for costs incurred as a result of funding provided under the terms of the state's underground storage tank assistance program.

Section 6

Provides authorization to use the Oil and Hazardous Substance Release Response Fund to provide funding for the reimbursement program established by section 7, chapter 96 SLA 1990 (HB 220).

Section 7

Provides that Section 6 applies to reimbursement payments payable under section 7 chapter 96 SLA 1990 (HB 220) on or after September 5, 1990.

Section 8

Immediate effective date.

MEMORANDUM

State of Alaska

Department of Revenue

TO: Nancy Bennett, Director
Admin. Services Division

DATE: March 7, 1991

FILE NO:

TELEPHONE NO: 277-5627

THRU: Bill Floerchinger
Assistant Commissioner

SUBJECT: 470 FUND

FROM: Chuck Logsdon *Ch*
Petroleum Economist

As you requested I have put together a ten year projection of the revenues which can be expected from the \$.05/bbl hazardous release surcharge on taxable (non-royalty) oil production in the State.

Projected Hazardous Spill Surcharge Revenue (Million \$)

Fiscal Year	Scenario		
	A	B	C
1991	28.2	28.2	28.2
1992	28.5	28.5	28.5
1993	27.5	27.5	27.5
1994	27.0	27.0	27.0
1995	26.4	26.4	26.8
1996	24.8	25.0	25.7
1997	22.5	22.9	23.9
1998	20.5	21.0	22.2
1999	18.0	18.6	19.9
2000	16.0	16.7	18.0

 FAX TRANSMITTAL MEMO
 TO: NANCY BENNETT
 DEPT: _____ FAX #: 465-2037
 FROM: Chuck Logsdon PHONE: 277-5627
 CO: _____ FAX #: 278-5026
 Post-it® brand fax transmittal memo 7871

NO. OF PAGES
1



Board of Storage Tank Assistance

P.O. BOX "O"
JUNEAU, AK
99811-1800
(907) 465-2110

Walter J. Hickel, Governor

POSITION PAPER

IN SUPPORT OF:

House Bill No. 264 (HB264)
By the House Finance Committee

SUBJECT:

"An Act amending the purposes for which money in the oil and hazardous substance release response fund may be expended; and providing for an effective date"

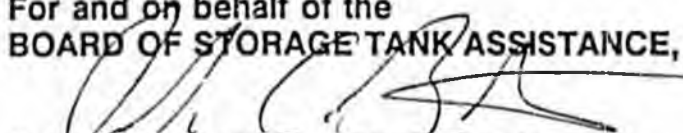
The public members of the Board of Storage Tank Assistance support House Bill Number 264 amending the oil and hazardous substance release response fund. The new state underground storage tank program has been implemented to assist owners and operators determine the extent and subsequently clean up contamination resulting from underground petroleum storage tanks, to close out their tanks properly if necessary and to upgrade existing tanks to new performance standards that will prevent future leaks. A considerable amount of time, effort and funds will need to be invested to assess, cleanup and upgrade these tanks to protect the public health and environment and keep Alaska's small business tank owners and operators in business. It is also important to provide sufficient funding for underground petroleum storage tank owners and operators to adequately clean up their sites to become insurable to satisfy the EPA's financial responsibility requirements.

The financial assistance programs established by the original enabling legislation (HB 220) are (1) reimbursements for a portion of the costs to conduct a tank tightness test or a site assessment, (2) grants for a portion of the costs of either upgrading (including replacing) or closing (including removing) a pre-1988 tank, (3) grants and loans for the cost of cleanup associated with a release from an underground petroleum storage tank and (4) reimbursement for upgrading, closing, or cleanup of an UST done after the effective date of the EPA regulations (December 22, 1988) and before the effective date of HB 220 (September 5, 1990).

At the present time the grant requests far exceed the available funds. Concerns for continued appropriations from the general fund have prompted a need for identifying an alternative funding source for this program. The state underground petroleum storage tank program is based on providing technical, educational, and financial assistance to Alaska's underground tank owners. It is imperative that a secure funding source be in place to address the intent and purpose of that program. House Bill 264 provides assurance that the original intent and purpose of HB 220 will be realized.

Dated: April 30 1991

For and on behalf of the
BOARD OF STORAGE TANK ASSISTANCE,


John C. Barnett, Executive Director

STATE OF ALASKA

WALTER J. HICKEL, GOVERNOR

DEPT. OF ENVIRONMENTAL CONSERVATION

April 30, 1991

BILL NUMBER: HB 264

TITLE: Amending the purposes for which money in the Oil and Hazardous Substance Release Response Fund may be expended; and providing for an effective date.

DEPARTMENT POSITION: Support with amendments.

ANALYSIS:

This will would expand the uses for which the Legislature may appropriate from the "470 Fund" to include the various components of the Underground Storage Tank Program enacted last year with the passage of HB 220.

AMENDMENTS:

- (1) Applications for financial assistance must be filed with the Department on or before July 1, 1994 (AS 46.03.420(a)). The Board of Storage Tank Assistance, which is intrinsically involved in the grant process, sunsets on June 30, 1996 (AS 44.66.010(17)), essentially allowing the final grants to be properly handled. The Department requests this funding authorization also sunset on June 30, 1996.
- (2) The Department also requests that a ceiling be placed on the annual allocation which may be made to the UST program. It is unclear at this time what the level of the problem is with respect to leaking USTs. After the mandatory testing is completed on March 5, 1992, we will have a better idea. However, given the staffing level of the program, the availability of certified tank workers, and Alaska's short construction season, the Department believes that approximately \$6 million would be appropriate.



John A. Sandor, Commissioner
Alaska Department of Environmental Conservation

FISCAL NOTE

STATE OF ALASKA
1991 LEGISLATIVE SESSION

BILL NO. HB 264

Revision Date: _____
 Title: Using OHSRRF for UST program

Department Affected: DEC
 BRU: Environmental Quality

Sponsor: House Finance
 Requestor: House Resources

Component: E.Q. Tanks

COMPONENT SERIAL NO.

1	2	0	7
---	---	---	---

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 92	FY 93	FY 94	FY 95	FY 96	FY 97
PERSONAL SERVICES	0.0	0.0	0.0	0.0	0.0	0.0
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND&STRUCTURES						
GRANTS, CLAIMS	0.0	6,000.0	6,000.0	6,000.0	6,000.0	0.0
MISCELLANEOUS						
TOTAL OPERATING	0.0	6000.	6000.	6000.	6000.	0.0

CAPITAL						
----------------	--	--	--	--	--	--

REVENUE						
----------------	--	--	--	--	--	--

FUNDING: (Thousands of Dollars)

GENERAL FUND						
FEDERAL FUNDS						
OTHER (OHSRRF)	0.0	6,000.0	6,000.0	6,000.0	6,000.0	0.0
TOTAL	0.0	6000.	6000.	6000.	6000.	0.0

POSITIONS:

FULL-TIME	0.0	0.0	0.0	0.0	0.0	0.0
PART-TIME						
TEMPORARY						

Estimate of current year impact: None

ANALYSIS: (Attach a separate page if necessary.)

* These are estimates only.

Prepared by: Janice Adair
 Division: Commissioner's Office

Phone: 465-2600
 Date: 4/30/91

Approved by Commissioner: [Signature]
 Agency: Dept. of Environmental Conservation

Date: 4/30/91

Distribution (by preparer): Legislative Finance, Legislative Sponsor, Requestor, OMB, & Impacted Agency(ies).



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C. 20460

JAN 30 1990

OFFICE OF
SOLID WASTE AND EMERGENCY RESPONSE

MEMORANDUM

SUBJECT: Preliminary Comments on the Alaska State Fund
Legislation

FROM: Sammy K. Ng, Chief *S.K. Ng*
Regulatory Analysis Branch

TO: Joan Cabreza, UST Program Manager
Region 10

This memorandum is in response to your request for assistance on reviewing Alaska's State Fund legislation. We have divided the comments into three parts: first, that aspect of the legislation that could result in a disapproval of the fund as a financial responsibility mechanism; second, those aspects of the fund that must be clarified in order to obtain approval; and third, aspects of the fund that Alaska may want to address for other reasons. If you have any questions about these comments, please telephone Nancy Martin (ETS 382 4760) or John Heffelfinger (ETS 382-2199).

Potential Stopper

The Alaska legislation creates a fund that is potentially deficient in one primary area. Specifically, the fund depends upon legislative appropriations from the general fund. Pages 0 and 13 of the legislation state that the Alaskan legislature may appropriate money to the fund from the general fund. The money collected from tank fees and certification fees is accounted for separately in the general fund, but it is our understanding that it could be used for any purpose, and there is no guarantee that

it will be appropriated for HSTPA. This funding structure is not certain, and therefore not acceptable.

We understand that Alaska has constitutional limitations on creating separate funds; however, there is a separate fund for hazardous substance response. Perhaps the tank and certification fees could be routed to this fund in some type of sub-account.

Additional Information Needed

- o **Revenues vs. Expenditures:** The legislation requires certification fees of an unknown amount and annual tank fees ranging from \$10 to \$500. Will these fees generate enough revenues to meet the projected expenditures of the fund, particularly as more tanks qualify for the \$10 fee or more tanks close? This information would not have to be included in the legislation; it could be supplied less formally.
- o **Method and Timing of Payments:** The legislation does not provide enough information regarding the method and timing of payments from the fund. The key point is that claimants should not be held responsible for any amount beyond their deductibles¹, regardless of the promise of eventual reimbursement. The State Fund Approval Guidance outlines several acceptable methods of payment. As long as the legislation allows enough room to implement one of these methods, which it appears to, Alaska could provide this information in another format.

Other Comments

The following comments represent areas to clarify or perhaps re-think.

- o **Definition of Owner:** The Alaska legislation states that "owners" are eligible for payments from the fund. Does the definition of "owner" include operators, or are operators intentionally excluded?
- o **Third-Party Coverage:** The fund can be used to address private property damage only (p. 8). Does Alaska

¹10% of costs, up to \$25,000

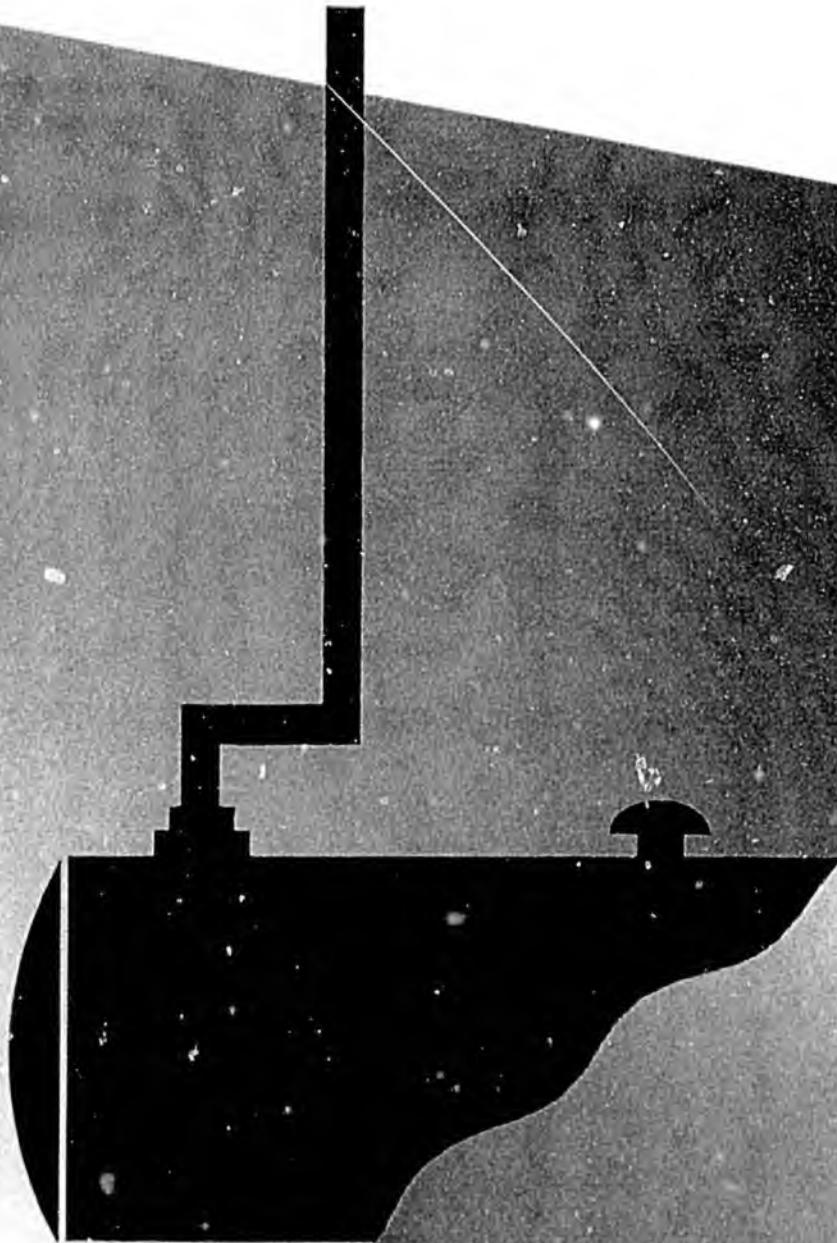
intend to exclude bodily injury and public property damages? As the legislation stands, owners would have to obtain additional coverage for these and other categories of third-party damages.

- o First Dollar Coverage: The fund does not appear to provide first-dollar coverage (p. 10), in that owners will be required to pay 10% of costs up to \$25,000. This limitation is acceptable, but the fund could only be approved as a partial coverage fund for corrective action.
- o Eligibility: Owners must agree to upgrade or close their tanks in order to be eligible for payments from the fund. We do not have a problem with this condition of coverage. Owners who are not willing to make this commitment, should they have a release, should find another mechanism.
- o Coverage Limit: The fund covers \$1 million per facility, which limits the aggregate coverage provided. Owners with more than 100 tanks, who need \$2 million aggregate coverage, would have to obtain additional coverage, because they may experience two \$1 million releases at one facility. Does Alaska intend to limit coverage in this way? As an alternative, Alaska could change the coverage limits to \$1 million per occurrence, which would reflect the federal requirements.
- o Sunset Provision: The Alaska fund covers releases through December 22, 1993, that are reported before July 1, 1994. If the fund is approved, you should note in the letter that the approval is only valid through December 22, 1993, or until it ceases to provide the required level of coverage. Please see the State Fund Review Guidance for sample language.

cc: Jim McCormick, OUST
Mike Williams, OUST



Dollars and Sense



DOLLARS AND SENSE

**A Summary of the Financial Responsibility Regulations
for Underground Storage Tank Systems**

**U.S. Environmental Protection Agency
Office of Underground Storage Tanks**

December 1988

TABLE OF CONTENTS

What Are These Regulations All About?	1
Who Is Affected By These Regulations?	3
How Do You Comply With The Financial Responsibility Requirements?	6
What Records Must You Keep Or File With The Implementing Agency?	9
Samples of Financial Responsibility Forms	10
Videos, Brochures, And Handbooks On USTs	13
Financial Test Options	15

DOLLARS AND SENSE

**A Summary of the Financial Responsibility Regulations
for Underground Storage Tank Systems**

**U.S. Environmental Protection Agency
Office of Underground Storage Tanks**

December 1988

TABLE OF CONTENTS

What Are These Regulations All About?	1
Who Is Affected By These Regulations?	3
How Do You Comply With The Financial Responsibility Requirements?	6
What Records Must You Keep Or File With The Implementing Agency?	9
Samples of Financial Responsibility Forms	10
Videos, Brochures, And Handbooks On USTs	13
Financial Test Options	15

WHAT ARE THESE REGULATIONS ALL ABOUT?

The U.S. Environmental Protection Agency (EPA) has published final regulations concerning financial responsibilities if you own or operate underground storage tank systems containing petroleum. (EPA plans to develop similar regulations for tanks containing hazardous substances in the future.) Although the full regulations appear in the Federal Register (October 26, 1988), this brochure provides a brief summary and answers some important questions about your financial responsibilities.

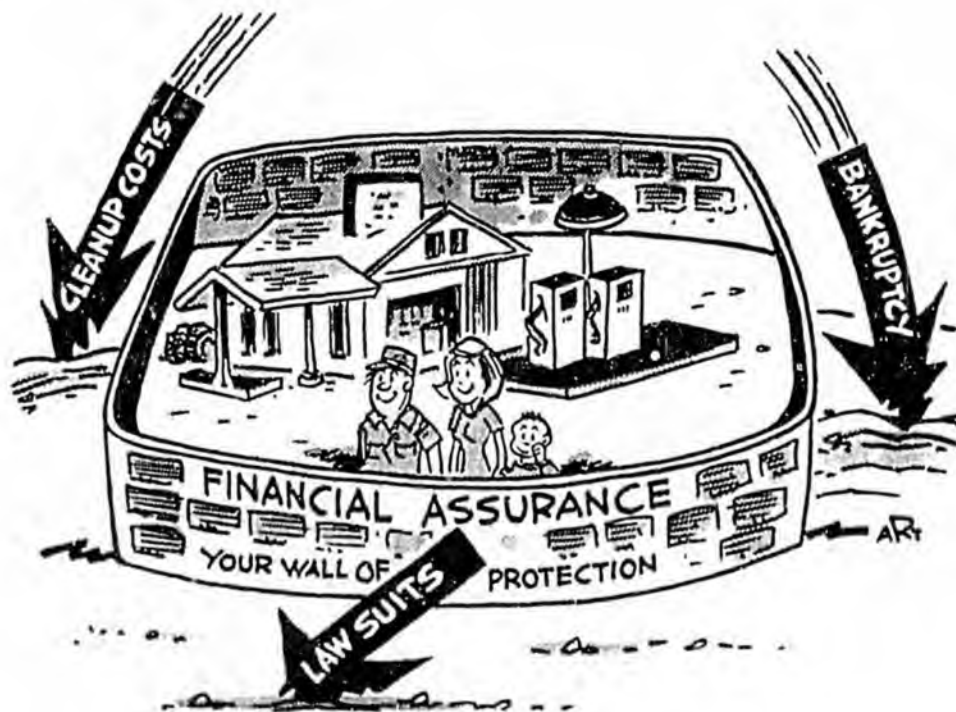
Why Has EPA Written These New Regulations?

Several million underground storage tank systems (USTs) in the United States contain petroleum. Tens of thousands of these USTs, including their piping, are currently leaking. Many more are expected to leak in the future. Leaking USTs can cause fires or explosions that threaten human safety. In addition, leaking USTs can contaminate nearby ground water. Because many of us depend on ground water for the water we drink, Federal legislation seeks to safeguard our nation's ground-water resources.

Congress responded in 1984 to the problem of leaking USTs by adding Subtitle I to the Resource Conservation and Recovery Act. Subtitle I requires EPA to develop regulations to protect human health and the environment from leaking USTs and specifically mandates requirements for financial responsibility.

What Is "Financial Responsibility" And Why Is It Necessary For You?

Financial responsibility means that if you own or operate an UST, you must ensure, either through insurance or other means explained below, that there will be money to help pay for the costs of third-party liability and corrective action caused by a leak from your tank. These costs could include cleaning up leaked petroleum, correcting environmental damage, supplying drinking water, and compensating people for personal injury or property damage. Financial responsibility also protects you. If your UST leaks, you may be faced with high cleanup costs or with lawsuits brought by third parties. Having financial responsibility means that money will be available to meet these costs.



What Kinds Of Tanks Are Covered By The Rule?

Financial responsibility must be shown for all USTs containing petroleum products. USTs are defined by law to be tank systems with at least 10 percent of their volume below the surface of the ground. The term "tank systems" also includes the piping connected to the tank.

What Kinds Of Tanks Are Not Covered?

Some tank systems have been exempted or deferred from the financial responsibility rule:

- ◆ USTs containing hazardous wastes already regulated under RCRA.
- ◆ UST systems containing electrical equipment and hydraulic lifts.
- ◆ Wastewater treatment USTs that are regulated by the Clean Water Act.
- ◆ USTs with a capacity of less than 110 gallons, and tanks holding a minimal concentration of regulated substances.
- ◆ USTs that serve as emergency back up, hold regulated substances for only a short time, and are expeditiously emptied after use.
- ◆ Field-constructed tanks.
- ◆ USTs containing radioactive materials and USTs used as backup diesel tanks at nuclear facilities.
- ◆ Airport hydrant fueling systems.
- ◆ Farm or residential tanks with capacity of 1,100 gallons or less storing motor fuel which is not for resale.
- ◆ Tanks for storing heating oil which is used on-site.
- ◆ Septic tanks.
- ◆ Certain pipeline systems, such as those regulated under the Natural Gas Pipeline Safety Act of 1968.
- ◆ Surface impoundments, pits, ponds, or lagoons.
- ◆ Storm or waste water collection systems.
- ◆ Flow-through process tanks.
- ◆ Liquid trap and other lines used in oil or gas production.
- ◆ Storage tanks on or above the floor of an underground area, such as a basement or tunnel.

WHO IS AFFECTED BY THESE REGULATIONS?

Do You Have To Show Financial Responsibility?

Either the owner or the operator of the tank must show financial responsibility, but not both if the owner and operator are different individuals or firms. It is the responsibility of the owner and operator to decide which of them will show financial responsibility.

Federal and State governments and their agencies that own USTs are not required to document financial responsibility. Local governments, however, must comply with the new rule.

If you owned or operated a tank that was properly closed before the date for compliance that applies to you, then the financial responsibility requirements will not apply to your closed tank.

What Do You Have To Do?

The new financial responsibility regulations require you to show that you have one of the following:

- ◆ at least \$1 million to cover the costs of a leak or spill from your underground storage tank if you are a **PETROLEUM MARKETER** (page 43334 of the Federal Register of October 26, 1988); or
- ◆ at least \$500,000 if you are **NOT A MARKETER** (page 43330 of the Federal Register of October 26, 1988).

You may show that you have this coverage by using insurance or any of the other methods of coverage explained in this brochure. The amount of financial responsibility that you must show does not limit your total liability for damages caused by a leak from your tank system.

When Must You Comply With The Financial Responsibility Requirements?

The rule takes effect 90 days after its publication in the Federal Register (i.e., January 24, 1989). The date when you will have to show financial responsibility, however, depends on the compliance category that you fall into, as shown below:

- ◆ If you fall into one of the following groups, you must show financial responsibility on the same day that the rule becomes effective on January 24, 1989: 1) petroleum marketing firms that own 1,000 or more USTs; and 2) any other UST owners that report a tangible net worth of \$20 million or more to the SEC, Dun and Bradstreet, the Energy Information Administration, or the Rural Electrification Administration.
- ◆ If you are a petroleum marketing firm that owns 100 to 999 USTs, you must show financial responsibility by October 26, 1989.
- ◆ If you are a petroleum marketing firm that owns 13 to 99 USTs at more than one site, you must show financial responsibility by April 26, 1990.
- ◆ If you fall into one of the following groups, you must show financial responsibility by October 26, 1990: 1) petroleum marketing firms owning 1 to 12 USTs or those having fewer than 100 USTs at one site; 2) all other UST owners with a tangible net worth of less than \$20 million; and 3) local governments.

What Happens If You Install A New UST Before Your Scheduled Compliance Date?

The regulations require that you show financial responsibility for a new UST when you notify EPA that you have installed the tank. If you install a new UST before the date when you must first show financial responsibility as described above, then you must only show financial responsibility for the new tank by that compliance date. You may ignore the line on the new tank notification form concerning financial responsibility.

What Amount Of Money Are You Responsible For?

The amount of money for which you must show financial responsibility depends on the type of business you operate, the amount of throughput of your tank, and the number of tanks you have:

- ◆ If your tank is used in petroleum production, refining or marketing (for example, service stations and truck stops), then you must be able to show that you have \$1 million of "per occurrence" coverage. "Per occurrence" means the amount of money that must be available to pay the costs of one occurrence.
- ◆ You must also have coverage for an annual aggregate amount. The annual aggregate amount is the total amount of financial responsibility that you must have to cover all leaks that might occur in one year. The amount of aggregate coverage that you must have depends on the number of tanks that you own or operate. The annual aggregate limits are:
 - 1 to 100 tanks, \$1 million annual aggregate; or
 - 101 or more tanks, \$2 million annual aggregate.

For example, if you own or operate three service stations with a total of 18 tanks, then you must have financial responsibility in the amount of \$1 million per occurrence and \$1 million annual aggregate. If you own or operate 50 service stations with a total of 200 tanks, you must have financial responsibility in the amount of \$1 million per occurrence and \$2 million annual aggregate.

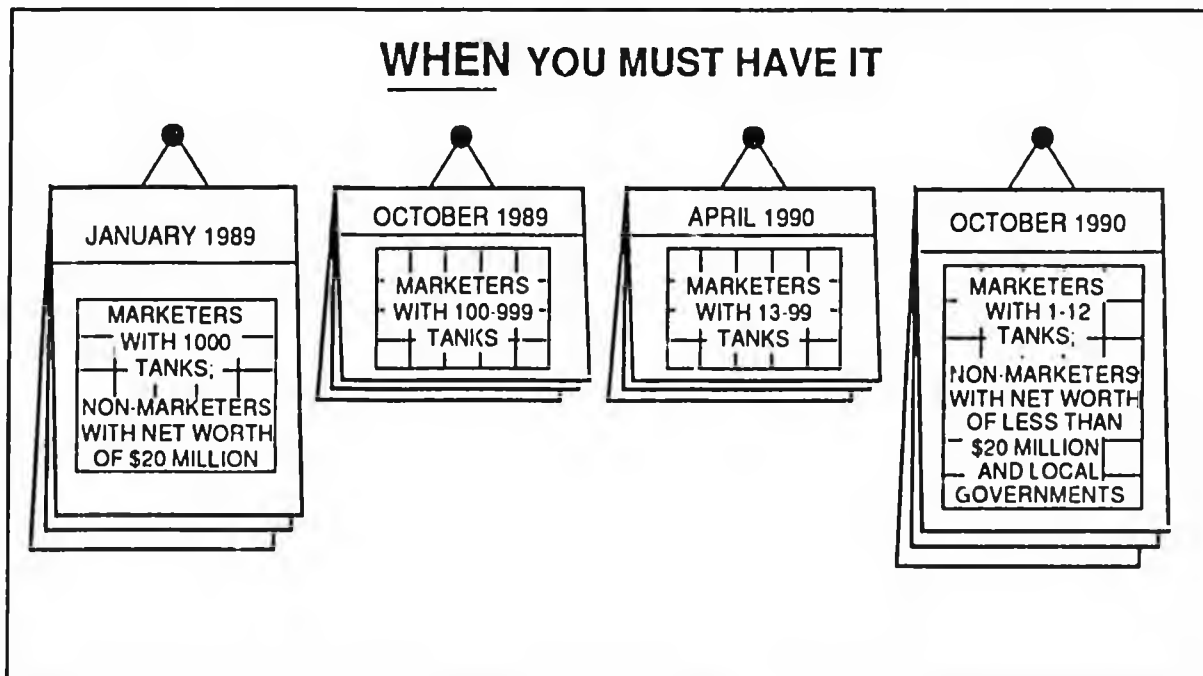
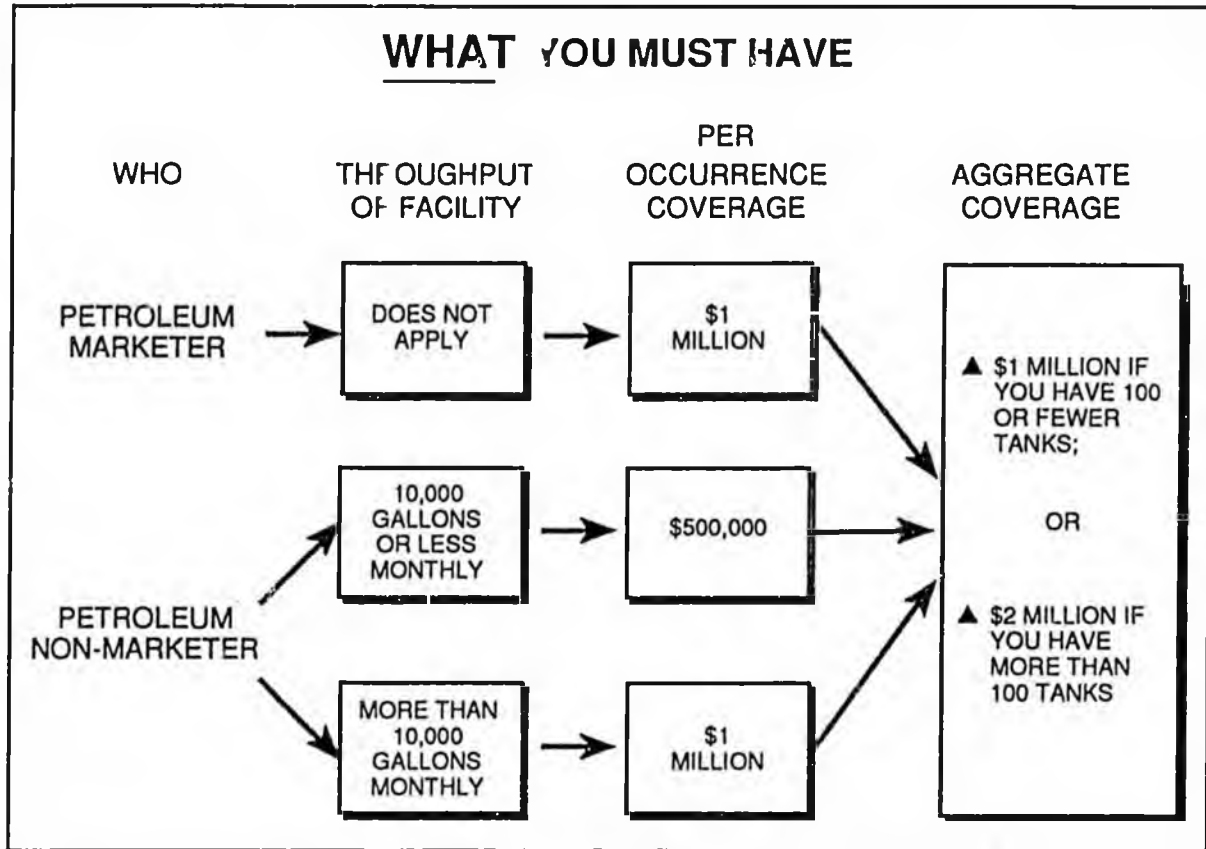
- ◆ If your tanks are located at a facility not engaged in petroleum production, refining or marketing, and your facility has a monthly throughput of more than 10,000 gallons, then you must show that you have \$1 million of "per occurrence" coverage. If the facility has a monthly throughput of 10,000 gallons or less, then you must show that you \$500,000 of "per occurrence" coverage and \$1 million or \$2 million of annual aggregate coverage depending on the number of tanks you own or operate, as discussed above.

For example, if you are an automobile dealer with four small tanks with a total monthly throughput of 10,000 gallons, then you would only need to have financial responsibility in the amount of \$500,000 per occurrence and \$1 million annual aggregate. If you have 30 dealerships with a total of 110 tanks, you would need to have financial responsibility in the amount of \$500,000 per occurrence, but you would need \$2 million annual aggregate.

The chart on page 5 displays these financial responsibility requirements.



IMPORTANT REQUIREMENTS AND MINIMUM DEADLINES FOR YOUR FINANCIAL RESPONSIBILITY



HOW DO YOU COMPLY WITH THE FINANCIAL RESPONSIBILITY REQUIREMENTS?

How Can You Show Financial Responsibility For Your USTs?

You can demonstrate financial responsibility for your USTs in several ways:

◆ Show that your firm can meet the costs of potential releases. If your firm has a tangible net worth of at least \$10 million, you can prove your financial responsibility by passing one of these two financial tests described on page 15.

◆ Show that someone else is responsible for cleanup and damage costs. You may arrange to have someone else be responsible for paying the costs of leaks from your USTs. This may be done in a number of ways (all are described in detail in the rule):

1. Obtain insurance coverage from an insurer or a risk retention group (page 8); or
2. Obtain a guarantee for the amount you are responsible for from a corporate parent, grandparent, sibling, or from another firm with whom you have a substantial business relationship. The provider of the guarantee has to pass

one of the financial tests described on page 15; or

3. Obtain a surety bond for the amount you are responsible for; or
4. Obtain a letter of credit for the amount you are responsible for.

◆ Use State funds. If your State has established a State fund that will pay for the cleanup costs of a leak from your tank systems, then you may not need additional coverage to show you can pay for the same costs (page 7). You need to check to see if the State fund covers your tanks. You may also still need to show financial responsibility for the costs of compensating those injured by leaks, unless the State fund would also pay for those costs.

◆ Use State approved methods. You may also use any method of coverage approved by your State.

◆ Set up a trust fund. You may set up a fully-funded trust fund to cover your financial responsibility requirement.



Can You Use A Combination Of Methods To Show Financial Responsibility?

You may also use a combination of methods to show financial responsibility. The methods you choose must cover all the costs that you are responsible for (both third-party liability and corrective action) and add up to the amount of coverage you are required to show. If the methods you choose cover different costs (for example, the insurance policy covers damages to other people and property and the guarantee covers cleanup costs), then each method must provide the total amount of responsibility that you must demonstrate.

What About State Funds?

Some States have established programs to pay for cleanup costs from petroleum leaks. These State funds often may be used by owners and operators of USTs to demonstrate financial responsibility. In most States, however, funds will pay only part of cleanup costs. In addition, few States will pay for third-party damages caused by petroleum leaks.

You should contact your State environmental agency to determine if the State has a fund that you may use to show financial responsibility. Find out what the State will pay for and what amount of financial responsibility you must obtain. In several States, for example, you must demonstrate financial responsibility for the first \$100,000 of cleanup costs before the State will demonstrate financial responsibility for the remaining costs. Most State funds will not pay more than \$1 million per occurrence.

If you don't know how to reach your State Coordinator, call EPA's Hotline for the phone number of your State Coordinator (1-800-424-9346)

What Happens If Your Coverage Is Cancelled?

If your method of financial responsibility is cancelled, you must find another mechanism to replace it within 60 days after you receive the notice of cancellation. If you cannot get another mechanism in that time, then you must notify the implementing Agency or the State.

Your coverage or insurance contract must specify that the provider of coverage or insurance may only cancel your coverage by sending you a notice by certified mail. For guarantees, surety bonds, or letters of credit, cancellation can only occur 120 days after you receive the notice. Insurance policy coverage can be cancelled 60 days after you receive the notice.

Can You Get Private Insurance Coverage For Your USTs?

Private insurance coverage for USTs is still limited, but there are several major insurers who offer policies. Insurers are often selective in the tanks they will cover. If you want to purchase insurance, you may be required to meet certain conditions for coverage. For example, your insurer may ask you to test your tank for tightness, or he may require certain improvements in your tank system, such as liners, cathodic corrosion protection, and leak detection. Some insurers simply will not provide coverage for certain types of tanks, like tanks that are more than 20 years old.

You may also be able to get insurance coverage through a risk retention group. A risk retention group is an insurance company formed by businesses or individuals with similar risks to provide insurance coverage for those risks. To join a risk retention group, you will probably be asked to make a one-time payment -- called a capital contribution -- and thereafter pay annual premiums as with any other insurance policy.

If you are interested in purchasing insurance through either a private insurer or a risk retention group to show financial responsibility for your USTs, you should contact your insurance agent. You may want to take with you the sample Endorsement or Certificate of Insurance that appear on pages 11 and 12. These documents are examples of policies that meet EPA financial responsibility requirements. If you belong to a trade association, it may also be able to provide you with information about insurers and risk retention groups that cover USTs.



WHAT RECORDS MUST YOU KEEP OR FILE WITH THE IMPLEMENTING AGENCY?

You must keep records of the type of coverage you have at your tank site or your place of business. In addition, you must maintain a certification of financial responsibility (see page 10). You must keep both of these records until your tanks are properly closed.

You only need to report and/or file copies of these records with EPA in the following cases:

- ◆ You install a new tank system.
- ◆ You have confirmed that a tank system is leaking.

- ◆ You receive notice that a method of coverage you have will be cancelled or will not provide sufficient coverage, and you are unable to get other coverage.
- ◆ EPA or a State agency requests your records.



SAMPLES OF FINANCIAL RESPONSIBILITY FORMS

CERTIFICATION OF FINANCIAL RESPONSIBILITY

[Owner or operator] hereby certifies that it is in compliance with the requirements of Subpart H of 40 CFR Part 280.

The financial assurance mechanism[s] used to demonstrate financial responsibility under Subpart H of 40 CFR Part 280 is [are] as follows:

[For each mechanism, list the type of mechanism, name of issuer, mechanism number (if applicable), amount of coverage, effective period of coverage and whether the mechanism covers "taking corrective action" and/or "compensating third parties for bodily injury and property damage caused by" either "sudden accidental releases" or "non-sudden accidental releases" or "accidental releases."]

[Signature of owner or operator]

[Name of owner or operator]

[Title]

[Date]

[Signature of witness or notary]

[Name of witness or notary]

[Date]

The owner or operator must update this certification whenever the financial insurance mechanism(s) used to demonstrate financial responsibility change(s).

ENDORSEMENT

Name: _____ [name of each covered location]

Address: _____ [address of each covered location]

Policy Number: _____

Period of Coverage: _____ [current policy period]

Name of [Insurer or Risk Retention Group]: _____

Address of [Insurer or Risk Retention Group]: _____

Name of Insured: _____

Address of Insured: _____

Endorsement:

1. This endorsement certifies that the policy to which the endorsement is attached provides liability insurance covering the following underground storage tanks:

[List the number of tanks at each facility and the name(s) and address(es) of the facility(ies) where the tanks are located. If more than one instrument is used to assure different tanks at any one facility, for each tank covered by this instrument, list the tank identification number provided in the notification submitted pursuant to 40 CFR 280.22, or the corresponding state requirement, and the name and address of the facility.]

for [insert: "taking corrective action" and/or "compensating third parties for bodily injury and property damage caused by" either "sudden accidental releases" or "nonsudden accidental releases" or "accidental releases"; if coverage is different for different tanks or locations, indicate the type of coverage applicable to each tank or location] arising from operating the underground storage tank(s) identified above.

The limits of liability are [insert the dollar amount of the "each occurrence" and "annual aggregate" limits of the Insurer's or Group's liability; if the amount of coverage is different for different types of coverage or for different underground storage tanks or locations, indicate the amount of coverage for each type of coverage and/or for each underground storage tank or location], exclusive of legal defense costs. This coverage is provided under [policy number]. The effective date of said policy is [date].

2. The insurance afforded with respect to such occurrences is subject to all of the terms and conditions of the policy; provided, however, that any provisions inconsistent with subsections (a) through (e) of this Paragraph 2 are hereby amended to conform with subsections (a) through (e):

a. Bankruptcy or insolvency of the insured shall not relieve the ["Insurer" or "Group"] of its obligations under the policy to which this

endorsement is attached.

b. The ["Insurer" or "Group"] is liable for the payment of amounts within any deductible applicable to the policy to the provider of corrective action or a damaged third-party, with a right of reimbursement by the insured for any such payment made by the ["Insurer" or "Group"]. This provision does not apply with respect to that amount of any deductible for which coverage is demonstrated under another mechanism or combination of mechanisms as specified in 40 CFR 280.95-280.102.

c. Whenever requested by [a Director of an implementing agency], the ["Insurer" or "Group"] agrees to furnish to [the Director] a signed duplicate original of the policy and all endorsements.

d. Cancellation or any other termination of the insurance by the ["Insurer" or "Group"] will be effective only upon written notice and only after the expiration of 60 days after a copy of such written notice is received.

[Insert for claims-made policies:

e. The insurance covers claims for any occurrence that commenced during the term of the policy that is discovered and reported to the ["Insurer" or "Group"] within six months of the effective date of the cancellation or termination of the policy].

I hereby certify that the wording of this instrument is identical to the wording in 40 CFR 280.97(b)(1) and that the ["Insurer" or "Group"] is ["licensed to transact the business of insurance or eligible to provide insurance as an excess or surplus lines insurer in one or more states".]

[Signature of authorized representative of Insurer or Risk Retention Group]

[Name of person signing]

[Title of person signing], Authorized

CERTIFICATE OF INSURANCE

Name: _____ [name of each covered location]

Address: _____ [address of each covered location]

Policy Number: _____

Endorsement (if applicable): _____

Period of Coverage: _____ [current policy period]

Name of [Insurer or Risk Retention Group]: _____

Address of [Insurer or Risk Retention Group]: _____

Name of Insured: _____

Address of Insured: _____

Certification:

1. [Name of Insurer or Risk Retention Group], [the "Insurer" or "Group"], as identified above, hereby certifies that it has issued liability insurance covering the following underground storage tank(s):

[List the number of tanks at each facility and the name(s) and address(es) of the facility(ies) where the tanks are located. If more than one instrument is used to assure different tanks at any one facility, for each tank covered by this instrument, list the tank identification number provided in the notification submitted pursuant to 40 CFR 280.22, or the corresponding state requirement, and the name and address of the facility.]

for [insert: "taking corrective action" and/or "compensating third parties for bodily injury and property damage caused by" either "sudden accidental releases" or "nonsudden accidental releases" or "accidental releases"; if coverage is different for different tanks or locations, indicate the type of coverage applicable to each tank or location] arising from operating the underground storage tank(s) identified above.

The limits of liability are [insert the dollar amount of the "each occurrence" and "annual aggregate" limits of the Insurer's or Group's liability; if the amount of coverage is different for different types of coverage or for different underground storage tanks or locations, indicate the amount of coverage for each type of coverage and/or for each underground storage tank or location], exclusive of legal defense costs. This coverage is provided under [policy number]. The effective date of said policy is [date].

2. The ["Insurer" or "Group"] further certifies the following with respect to the insurance described in Paragraph 1:

a. Bankruptcy or insolvency of the insured shall not relieve the ["Insurer" or "Group"] of its obligations under the policy to which this certificate applies.

b. The ["Insurer" or "Group"] is liable for the payment of amounts within any deductible applicable to the policy to the provider of corrective action or a damaged third-party, with a right of reimbursement by the insured for any such payment made by the ["Insurer" or "Group"]. This provision does not apply with respect to that amount of any deductible for which coverage is demonstrated under another mechanism or combination of mechanisms as specified in 40 CFR 280.95-280.102.

c. Whenever requested by [a Director of an implementing agency], the ["Insurer" or "Group"] agrees to furnish to [the Director] a signed duplicate original of the policy and all endorsements.

d. Cancellation or any other termination of the insurance by the ["Insurer" or "Group"] will be effective only upon written notice and only after the expiration of 60 days after a copy of such written notice is received by the insured.

[Insert for claims-made policies:

e. The insurance covers claims for any occurrence that commenced during the term of the policy that is discovered and reported to the ["Insurer" or "Group"] within six months of the effective date of the cancellation or other termination of the policy.]

I hereby certify that the wording of this instrument is identical to the wording in 40 CFR 280.97(b)(2) and that the ["Insurer" or "Group"] is [licensed to transact the business of insurance or eligible to provide insurance as an excess or surplus lines Insurer in one or more states".]

[Signature of authorized representative of Insurer]

[Type name]

[Title], Authorized Representative of [name of Insurer or Risk Retention Group]

[Address of Representative]

AUDIOVISUALS, BROCHURES, AND HANDBOOKS ON USTs

Audiovisual Programs...

Installation

"Doing It Right"

Installation for the crews who do it

Order from:

American Petroleum Institute
1220 L Street, N.W.
Washington, DC 20005
or
Petroleum Equipment Institute
Box 2380
Tulsa, OK 74101
\$16.00 prepaid

"Recommended Practices on Tank Installation"

Companion booklet

Available from both API and PEI

\$10.00 prepaid

"A Question of When: Tank Installation for Inspectors"

"In Your Own Backyard"

Shorter version of inspector video for tank
owners

Order both from:

National Fire Protection Association
Attn: Jim Smalley
Batterymarch Park
Quincy, MA 02269
\$22.85 each prepaid

Tank Program Management

"Managing Underground Storage Tanks"

185-Slide Presentation Action Plan

Order from:

National Audiovisual Center
Customer Services Section/WD
8700 Edgeworth Drive
Capitol Heights, MD 20743-3701
(301) 763-1891
\$120.00 prepaid

Closure

"Tank Closure Without Tears: An Inspector's Safety Guide"

Order from:

New England Interstate Water
Pollution Control Commission
Attn: VIDEOS
85 Merrimac Street
Boston, MA 02114
\$20.00 prepaid

Companion booklet

\$5.00 prepaid

To borrow:

New England Regional Wastewater Institute
2 Fort Road
South Portland, ME 04106
Video and booklet
\$5.00 prepaid

"What Do We Have Here?: A Guide to Site Assessment at Closure"

Order from:

New England Interstate Water
Pollution Control Commission
Attn: VIDEOS
85 Merrimac Street
Boston, MA 02114
\$40.00 prepaid

Companion booklet

\$5.00 prepaid

Brochures...

Technical Requirements

"Musts for USTs" -- A Summary of the Regulations for Underground Storage Tank Systems
Stock No. 055-000-00294-1
\$2.50

Financial Responsibility

"Dollars and Sense" -- A Summary of the Financial Responsibility Regulations for Underground Storage Tank Systems
Stock No. 055-000-00293-2
\$1.25

Order both from:

Superintendent of Documents
U.S. Government Printing Office
Washington, DC 20402
(202) 783-3238

Leak Detection

"Leak Lookout" -- Using External Leak Detectors to Prevent Petroleum Contamination from Underground Storage Tanks

Emergency Response

"Oh No!" -- Petroleum Leaks and Spills: What Do You Do?

Order both from:

U.S. Environmental Protection Agency
Office of Underground Storage Tanks
P.O. Box 6044
Rockville, MD 20850
Free

Handbooks...

Technology

"Cleanup of Releases from Petroleum USTs: Selected Technologies"
Stock No. 055-000-00272-0
\$7.50

"Petroleum Tank Releases Under Control: A Compendium of Current Practices for State UST Inspectors"
Stock No. 055-000-00295-9
\$8.50

"Processes Affecting Subsurface Transport of Leaking Underground Tank Fluids"
Stock No. 055-000-00269-0
\$3.25

"Survey of Vendors of External Petroleum Leak Monitoring Devices for Use with USTs"
Stock No. 055-000-00277-1
\$4.25

Order from:

Superintendent of Documents
U.S. Government Printing Office
Washington, DC 20402
(202) 783-3238

FINANCIAL TEST OPTIONS

Test I

- a. Your firm must have a tangible net worth of at least \$10 million; and
- b. Your firm must have a tangible net worth of at least 10 times the amount of aggregate coverage that you are required to demonstrate plus any other liability coverage for which your firm is using the test to demonstrate financial responsibility to EPA; and
- c. Your firm must file the firm's annual financial statements with the Securities and Exchange Commission (SEC), or annually report the firm's tangible net worth to Dun and Bradstreet and receive a rating of 4A or 5A. Utilities may file financial statements with the Energy Information Administration, or the Rural Electrification Administration instead of the SEC; and
- d. Your firm must have audited financial statements that do not include an adverse auditor's opinion or disclaimer of opinion.

Test II

- a. Your firm must have a tangible net worth of at least \$10 million; and
- b. Your firm must have a tangible net worth of at least 6 times the amount of aggregate coverage that you are required to demonstrate; and
- c. Have U.S. assets that are at least 90 percent of total assets or at least 6 times the required aggregate amount; and
- d. Have net working capital at least 6 times the required aggregate amount, or a bond rating of AAA, AA, A, or BBB from Standard and Poor's, or Aaa, Aa, or Baa from Moody's; and
- e. Your firm must have audited financial statements that do not include an adverse auditor's opinion or disclaimer of opinion.