

**SB**

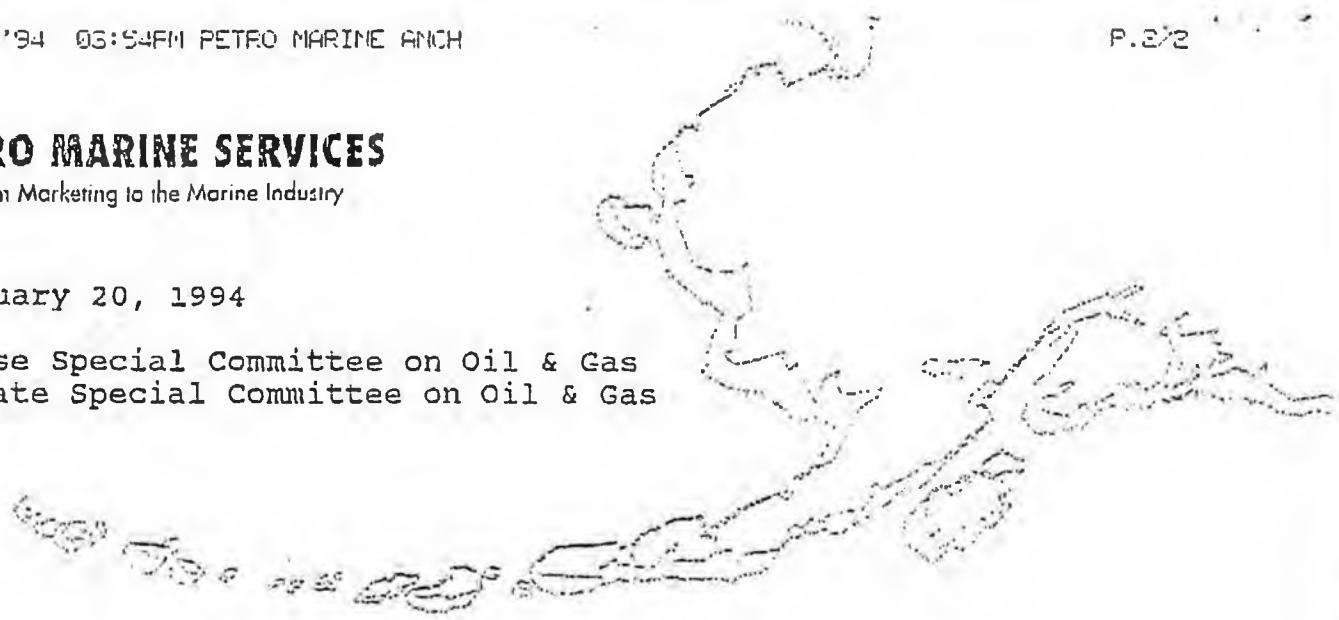
**239**

# PETRO MARINE SERVICES

Petroleum Marketing to the Marine Industry

January 20, 1994

House Special Committee on Oil & Gas  
Senate Special Committee on Oil & Gas



Subject: Direct access insurance for noncrude operators

Petro Marine Services is the largest Alaskan owned fuel distributor and specializes in marketing bulk fuel and packaged petroleum products to the marine industry. We operate seven bulk marine terminals and several harbor fuel facilities in Alaska. We have been trying unsuccessfully to obtain direct access insurance as a means of certifying financial responsibility. At this time we do not have any indication that such insurance is available to us in a form we can afford.

In the absence of any indications that such insurance is or soon will be available, the temporary law which permits ADEC to approve Certification of Financial Responsibility (COFR) without direct access should be permanently adopted. I encourage you to enact SB 239 and HB 384 thereby repealing the temporary nature of ADEC's authority to approve applications for COFR for noncrude operators. This action would assure that we could continue to operate without continually having to ask the legislature to reenact ADEC's authority to approve our COFR. I appreciate your attention and interest in eliminating this extra and unnecessary work.

Sincerely,

W. B. Schoephoester  
Manager, Planning & Projects



# Delta Western

## ALASKA'S PETROLEUM DISTRIBUTOR

A Division of Western Pioneer, Inc.

### ANCHORAGE

500 L Street, Suite 306  
Post Office Box 102916  
Anchorage, Alaska 99501  
Toll-Free: (800) 478-2666  
Tel: (907) 275-2688  
Fax: (907) 275-3741

### DILLINGHAM

Post Office Box 1209  
Dillingham, Alaska 99576  
Tel: (907) 842-5444  
Fax: (907) 842-2697

### DUTCH HARBOR

1577 E. P. Loop Rd.  
Pouch 716  
Dutch Harbor, Alaska 99692  
Tel: (907) 581-1284  
Fax: (907) 581-1764

### JUNEAU

449 W. Willoughby  
Juneau, Alaska 99801  
Tel: (907) 585-2600  
Fax: (907) 585-1276

### NAKNEK

Post Office Box 209  
Naknek, Alaska 99633  
Tel: (907) 246-6174  
Fax: (907) 246-6212

### NIKISKI

53203 Nikiski Beach Road  
Post Office Box 6069  
Nikiski, Alaska 99635  
Tel: (907) 776-3400  
Fax: (907) 776-3400

### SEATTLE

4501 Shilshole Avenue N.W.  
Post Office Box 70438  
Seattle, Washington 98107  
Toll-Free (800) 528-0191  
Tel: (206) 782-5977  
Fax: (206) 784-8348

### SEATTLE LUBE

4511 Shilshole Avenue N.W.  
Post Office Box 70438  
Seattle, Washington 98107  
Toll-Free (800) 782-2213  
Tel: (206) 781-0100  
Fax: (206) 781-0405

### SELKOVIA

219 Main Street, Drawer C  
Selkovia, Alaska 99663  
Tel: (907) 234-7622  
Fax: (907) 234-7442

### WRANGELL

Post Office Box 50  
Wrangell, Alaska 99929  
Tel: (907) 874-2366  
Fax: (907) 874-3917

### YAKUTAT

Post Office Box 29  
Yakutat, Alaska 99689  
Tel: (907) 784-3311  
Fax: (907) 784-3409

January 24, 1994

House Special Committee on Oil & Gas  
Senate Special Committee on Oil & Gas

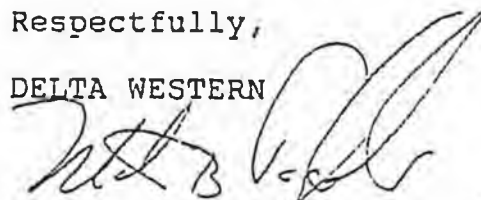
Subject: Direct access insurance for noncrude operators

Delta Western is one of the largest fuel distributors in the State of Alaska specializing in bulk fuels, Chevron lubricants and petroleum transportation services. We operate ten bulk fuel facilities and provide marine transportation throughout Southeast Alaska, Cook Inlet, the Alaska Peninsula, the Aleutian Chain, Bristol Bay and in the Kuskokwim and Yukon Rivers. Delta Western has been unsuccessful in its endeavors to obtain direct access insurance as a means of certifying financial responsibility. We have had no indication at this time that such insurance will be available to us in a form we can afford.

In the absence of any indications that such insurance is or soon will be available, the temporary law which permits ADEC to approve Certification of Financial Responsibility (COFR) without direct access should be permanently adopted. I encourage you to enact SB 239 and HB 384 thereby repealing the temporary nature of ADEC's authority to approve applications for COFR for noncrude operators. This action would assure that we could continue to operate without continually having to ask the legislature to reenact ADEC's authority to approve our COFR. I appreciate your attention and interest in eliminating this extra and unnecessary work.

Respectfully,

DELTA WESTERN

  
Mike B. Tagliavento  
General Manager  
Marketing/Operations



## CROWLEY MARINE SERVICES, INC.

January 24, 1994

House Special Committee on Gas & Oil  
Senate Special Committee on Gas & Oil

Subject: Direct access insurance for noncrude operators

Crowley Marine Services, Inc. ("Crowley") is a major tug and barge transporter of noncrude petroleum products in the State of Alaska. Crowley transports and delivers approximately 100 million gallons of bulk petroleum products annually to the Western Alaska region. Deliveries are performed to approximately 125 coastal and river communities. These communities are spread across some 4,000 miles of coastlines and rivers stretching from Kodiak Island to Barter Island. Virtually all of these villages are dependent on seasonal deliveries of fuel for their existence.

Our company has asked its insurance brokers to investigate the availability of direct access insurance. Direct access insurance is currently not available with the limits and extent of coverage provided by the P&I insurance in place for the Crowley fleet. Crowley presently has one billion dollars per occurrence P&I insurance coverage for pollution liability. Any limited direct access insurance would be in addition to our P&I insurance and a significant business cost with questionable benefit.

We ask that you enact SB 239 and HB 384 repealing the temporary nature of ADEC's authority to approve applications for Certification of Financial Responsibility (COFR) for noncrude operators. The temporary law which permits ADEC to approve COFR without direct access should be permanently adopted. We believe that the uncertainty of continued operations in Alaska by having to ask the legislature to reenact ACEC's authority to approve Crowley's COFR will be eliminated by this legislation.

I thank you for your interest and action in eliminating this confusing and unnecessary work.

Sincerely,

Charles F. Nalen  
Vice President Environmental Affairs

SENATE SPECIAL COMMITTEE ON OIL & GAS  
March 25, 1993  
5:12 p.m.

MEMBERS PRESENT

Senator Loren Leman, Chairman  
Senator Judith Salo

MEMBERS ABSENT

Senator Rick Halford  
Senator Bert Sharp  
Senator Al Adams

COMMITTEE CALENDAR

Group Insurance Pooling

WITNESS REGISTER

Larry Eppenbach  
Legislative Research Agency  
130 Seward St. Suite 218  
Juneau, Alaska 99801-2196

POSITION STATEMENT: Commented on Group Insurance Pooling.

Ray Gillespie  
Association of Refined Fuel Distributors  
9478 Riverbend Court  
Juneau, Alaska 99801

POSITION STATEMENT: Commented on Direct Action Insurance.

James Cantor, Assistant Attorney General  
Department of Law  
1031 W. 4th, Suite 200  
Anchorage, Alaska 99501-1994

POSITION STATEMENT: Commented on Direct Action Insurance.

ACTION NARRATIVE

TAPE 93-11, SIDE A  
Number 001

SENATOR LEMAN called the Special Committee on Oil and Gas meeting to order at 5:12 p.m. and announced they would discuss group insurance pooling.

LARRY EPPENBACH, Legislative Research, said his report grew out of SB 405 from last year which was remedial in nature. It solved the open ended liability insurance companies faced with uncertain coverage amounts that could have exceeded their

policies. SB 405 limited the policy amounts.

The Section of SB 405 addressed to non-crude operators waived a requirement for non-crude operators to pay for financial responsibility with insurance with a direct action clause.

The major findings in this report say that state or private pooling isn't likely to create a competitive insurance product, because there are not that many non-crude operators. There are about 72 in the state and 9 of those are exempt (because they're part of the federal government), 29 are quite large and self insure or are guaranteed by others. Thirty one of them purchase insurance. Six of those have insurance that successfully contains a direct action clause. The other 25 have been granted waivers by the DEC.

The most attractive alternative is for a private insurance product to be developed that would have a direct action clause. There are two ways that could occur, MR. EPPENBACH said. One, the clause could be directly in the insurance, and two, an umbrella policy could be written that provided direct action in addition to other insurance the operator might possess. Therefore, the package of the two might meet all the requirements.

Number 177

SENATOR LEMAN asked if the direct action clause would be secondary to the other insurance. MR. EPPENBACH answered almost certainly.

MR. CANTOR said some private entities are working to put together a package with Lloyd's of London that will solve Alaska's problems.

MR. EPPENBACH commented that it looked a lot like private insurance would be solving the insurance problem in the very immediate future and the delay suggested in the report was not unreasonable.

Number 244

RAY GILLESPIE, representing three refined product distributors, said direct action insurance has been consistently unavailable since the Exxon-Valdez incident. He said right now the companies have an indemnification policy underwritten by Lloyd's of London, which says if there is a judgement rendered against the company, they will come in and pay the judgement. Lloyd's of London has never agreed to be sued in any court in the United States.

MR. GILLESPIE said that the direct action requirement for

companies like the ones he represents is superfluous, because they have strong ties in Alaska and have assets large enough to cover any spill. He noted that California, Florida, Washington, and Virginia have dropped their direct action requirement. These states have in law a requirement for a bond. The bond is waived if the company meets certain conditions - that is substantial assets and a history of connections with the state.

Number 323

SENATOR SALO asked what our history was on lawsuits over direct action issues. MR. GILLESPIE said there had been maybe one at the most.

SENATOR SALO said she understood that Lloyd's of London was having financial difficulties and asked if that would affect their ability to write insurance for direct action.

MR. CANTOR explained that one part of Lloyd's was in trouble and possibly the Exxon Valdez incident was making it difficult to purchase this type of insurance.

Number 355

SENATOR LEMAN asked why other states were dropping the direct action provision. MR. CANTOR said that the realities of the insurance market have caused the other states to change their financial responsibility requirements.

SENATOR LEMAN thanked everyone for their participation and adjourned the meeting at 5:40 p.m.

8-LS1408E  
Lauterbach  
1/26/94

CS FOR SENATE BILL NO. 239(O&G)  
IN THE LEGISLATURE OF THE STATE OF ALASKA  
EIGHTEENTH LEGISLATURE - SECOND SESSION

BY THE SENATE SPECIAL COMMITTEE ON OIL AND GAS

Offered:  
Referred:

Sponsor(s): SENATE SPECIAL COMMITTEE ON OIL AND GAS

A BILL

FOR AN ACT ENTITLED

1 "An Act relating to evidence of financial responsibility provided by persons who  
2 conduct oil operations; and providing for an effective date."

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

4 \* Section 1. AS 46.04.040(b) is amended to read:

5 (b) A person may not cause or permit the operation of a pipeline or an  
6 exploration or production facility in the state unless the person has furnished to the  
7 department, and the department has approved, proof of financial ability to respond in  
8 damages. Proof of financial responsibility required for

9 (1) a pipeline or an offshore exploration or production facility is  
10 \$50,000,000 per incident;

11 (2) [~~PROOF OF FINANCIAL RESPONSIBILITY REQUIRED FOR~~]  
12 an onshore production facility is

13 (A) \$20,000,000 per incident if the facility produces over  
14 10,000 barrels per day of oil;

1                                    (B) \$10,000,000 per incident if the facility produces over  
2                                    5,000 barrels per day but not more than 10,000 barrels per day of oil:

3                                    (C) \$5,000,000 per incident if the facility produces over  
4                                    2,500 barrels per day but not more than 5,000 barrels per day of oil:

5                                    (D) \$1,000,000 per incident if the facility produces 2,500  
6                                    barrels per day or less of oil:

7                                    (3) [. PROOF OF FINANCIAL RESPONSIBILITY REQUIRED FOR]  
8                                    an onshore exploration facility is \$1,000,000 [\$5,000,000] per incident.

9                                    \* Sec. 2. Section 6, ch. 102, SLA 1992, is repealed.

10                                   \* Sec. 3. If this Act takes effect after June 1, 1994, sec. 2 of this Act is retroactive to  
11 June 1, 1994.

12                                   \* Sec. 4. This Act takes effect immediately under AS 01.10.070(c).

# FISCAL NOTE

STATE OF ALASKA  
1994 LEGISLATIVE SESSION

BILL NO. Senate Bill No. 239

Revision Date: \_\_\_\_\_  
 Title: Financial Requirements: Noncrude  
Oil Operations  
 Sponsor: Senate Special Committee on Oil & Gas  
 Requestor: Senate Special Committee on Oil & Gas

Department Affected: Environmental  
Conservation  
 BRU: Spill Prevention and Response  
 Component: Industry Preparedness and Response

COMPONENT SERIAL NO. \_\_\_\_\_

**Expenditures/Revenues:**

(Thousands of Dollars)

OPERATING EXPENDITURES	FY 95	FY 96	FY 97	FY 98	FY 99	FY 00
PERSONAL SERVICES	0.0	0.0	0.0	0.0	0.0	0.0
TRAVEL	0.0	0.0	0.0	0.0	0.0	0.0
CONTRACTUAL	0.0	0.0	0.0	0.0	0.0	0.0
SUPPLIES	0.0	0.0	0.0	0.0	0.0	0.0
EQUIPMENT	0.0	0.0	0.0	0.0	0.0	0.0
LAND&STRUCTURES						
GRANTS,CLAIMS						
MISCELLANEOUS						
<b>TOTAL OPERATING</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

CAPITAL EXPENDITURES						
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CHANGE IN REVENUES ( )						
------------------------	--	--	--	--	--	--

**FUND SOURCE**

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipt						
1006 GF/MIITA						
Other: 1052 Oil/11az. "470" Fund	0.0	0.0	0.0	0.0	0.0	0.0
<b>TOTAL</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

Estimate of any current year (FY94) cost: \$ not applicable

**POSITIONS:**

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

ANALYSIS: (Attach a separate page if necessary.)

No fiscal impact anticipated.

Prepared by: Robert Poe, Director  
 Division: Information and Administrative Services

Phone: 465-5010  
 Date: 1/21/94

Approved by Commissioner: John Sandor, Commissioner  
 Agency: Department of Environmental Conservation

Date: 1/21/94

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**Alaska Department of Environmental Conservation  
Position Paper on Direct Action Insurance and Financial Responsibility**

January 24, 1994

**Purpose of the Legislation:** To give ADEC the continuing authority to grant waivers to those oil facilities which can get insurance, but whose insurance does not allow the insurer to be directly sued in Alaska.

**Background of the Legislation:** Under state law, owners of facilities that are oil spill threats are required to submit proof of financial responsibility in the case of a spill. Financial responsibility may be demonstrated by (1) self-insurance, (2) insurance, (3) surety, (4) guarantee, (5) letter of credit approved by the department, or (6) other proof of financial responsibility provided by a group of insureds who have agreed to cover pollutions risks of members of the group under terms the department may prescribe.

The law further provides that insurers or others providing financial responsibility coverage must agree to be sued in a state court (i.e., direct action.) Prior to the Exxon Valdez, this insurance was widely available. But when a similar "direct action" requirement was included in national law, under the Oil Pollution Act of 1990, many of the world's insurance providers stopped issuing coverage for this insurance.

Two years ago, the Alaska Legislature gave ADEC the authority to waive the direct action requirement if the person submitting insurance as a form of financial responsibility signed a quarterly affidavit that the direct action coverage was not available.

A House Bill pending now (HB 384) would extend ADEC's authority to grant a waiver to direct action permanently. The companion Senate version, SB 239, would extend the waiver authority just two years.

**DEC's Position:** The Department supports continuing this waiver provision, and making the waiver provision permanent. Without this provision, we may have to shut down facilities which provide fuel throughout Alaska. We are continuing to work with the insurance industry to make direct action coverage more readily available; there is a proposed product now under department review (with review also by the Department of Law) that would serve as a rider for insurance coverage that does not offer direct action. We believe the waiver provisions are strict enough (with a quarterly affidavit required and the Department's ability to deny waivers) that the provision may be made a permanent part of the law. Thus we support the House language as optimal.

SB 150

By: Senator Bert Sharp

State Comparisons of Financial Responsibility for Onshore  
Exploration:

CALIFORNIA

\$1 million dollar minimum requirement only within 30 miles of  
coastline. No requirement beyond 30 miles of coastline.

WASHINGTON

The state does not currently require onshore financial  
responsibility.

TEXAS

There is no financial responsibility required in Texas.

LOUISIANA

Louisiana is currently withholding oil spill regulations.

FLORIDA

No state drilling is allowed on state onshore lands in Florida.

WYOMING

There are no requirements beyond P & A (Plugging and Abandonment).

MONTANA

Montana has P & A (Plugging & Abandonment) requirements only.

# Alaska State Legislature

Legislative Research Agency




130 Seward Street, Suite 218  
Juneau, Alaska 99801-2196

Phone: (907) 465-3991  
Fax: (907) 463-3351

April 5, 1993

## MEMORANDUM

TO: Senator Bert Sharp

FROM: Lawrence C. Eppenbach   
Legislative Analyst

RE: **Financial Responsibility for Onshore Exploration**

You requested the financial responsibility requirements for onshore drilling in the states of Montana, Colorado, California, Louisiana and Texas. This agency recently prepared a report on this subject at the request of Senator Steve Frank (93.034). A copy of that report is attached.

Financial responsibility requirements of the state of Colorado were not specifically described in that report. We contacted Jim Kenney of the Colorado Oil and Gas Conservation Commission this morning and he provided us a current summary of Colorado's requirements.

Colorado Exploratory well drilling requirements:

1. \$75 dollar permit fee per well.
2. \$5,000. per well or \$30,000 (multiple well) plugging and abandonment bond. Either a surety bond or CD of this amount is required.

Additional Colorado Requirements:

In 1991, the Colorado Legislature created the "Oil and Gas Environmental Response Fund" to be used to mitigate environmental impacts statewide. Contributions into this fund were required to be made at the rate of one-tenth of one mil per barrel of oil produced until a balance of \$500,000 had been deposited in the fund. The fund is currently nearing that level of funding. I have attached a copy of the Colorado statute establishing this fund.

Senator Sharp  
April 5, 1993  
Page 2

Mr. Kenney knows of no other financial proofs or requirements imposed on drilling companies in Colorado.

I hope this information is of use to you. Please do not hesitate to contact us if you would like additional information on this, or any other topic.

Attachments

# Alaska State Legislature

Legislative Research Agency



130 Seward Street, Suite 218  
Juneau, Alaska 99801-2196

Phone: (907) 465-3991  
Fax: (907) 463-3351

December 14, 1992

## MEMORANDUM

TO: Senator Steve Frank

FROM: Lawrence C. Eppembach *LE*  
Legislative Analyst

RE: Financial Responsibility for Onshore Exploration Facilities  
Research Request 93.034

You asked how the \$5 million proof of financial responsibility that Alaska law imposes on onshore oil exploration facilities compares with requirements of other states, what forms of payment are needed to satisfy it, and in general, what comparative information is available to gauge the relative level of Alaska's financial responsibility for all types of exploration, production and transportation facilities.

We gathered information for this request from past reports of this agency, reference and law libraries, Alaska state agencies and from direct contact with administrators in other states. This report contains information received as of December 1, 1992, and should be viewed as a snapshot of the still expanding set of statutes, regulations and interpretations triggered in part by the *Exxon Valdez* oil spill.

## SUMMARY

Alaska's \$5 million requirement for onshore exploratory drilling is the highest financial responsibility requirement in the states we sampled, although two other coastal states have passed programs that are more comprehensive in scope, and one, Florida, has forbade onshore oil exploratory drilling altogether.

California requires proof of financial responsibility as a function of the volume of hazardous material that may be spilled, imposing a minimum of \$1 million and a maximum of \$100 million. Because exploratory drilling rigs are not connected to pipelines, the minimum \$1 million requirement would apply. In addition, only drilling within approximately 30 miles of the Pacific Ocean would be affected by these regulations.

Senator Frank  
December 14, 1992  
Page 2

Washington state has no exploratory drilling taking place nor are there any regulations relating to it. Furthermore, the state does not currently require onshore refineries and oil storage facilities to demonstrate financial responsibility. Regulations are pending to require amounts of \$5,000 per barrel for heavy crude and \$2,500 per barrel of light crude, but these are expected to be lowered before adoption.

Other coastal states, such as Texas and Louisiana, have recently passed oil spill legislation but are awaiting additional federal action prior to finalizing regulations. Federal action is now centered on U. S. Coast Guard regulations that do not directly effect onshore drilling.

In summary, Alaska's requirements have remained the most stringent in both dollar amount and effective scope of applicability. The laws and regulations advanced by many of the major producing states in the aftermath of the *Exxon Valdez* are being reconsidered.

It is beyond the scope of this report to analyze whether the higher financial requirements Alaska imposes are in direct proportion to the higher cleanup and recovery costs here. Clearly, spill recovery costs in Alaska are related to the sensitivity of the terrain, the equipment employed, and the often limited access to highways or other modes of transportation. The formulas contained in the regulations of some other states permit these factors to influence the size of the financial responsibility showing they require.

The first part of this report presents information on the current financial responsibility requirements for onshore drilling in several states, the second part describes the ways in which a drilling company can meet Alaska's \$5 million requirement.

#### COMPARISON of FINANCIAL RESPONSIBILITY LAWS

The Alaska Legislature passed HB 567 in 1990. This act amended AS 46.04.040 (Attachment A) and provided the following amount of financial responsibility on all onshore land, both public and private, in the state.

Onshore production facility	\$20 million
Onshore exploratory facility	\$ 5 million

Subsequent regulations enumerated various forms of acceptable payment, these are described in the second part of this report.

Prior to the passage of HB 567, Alaska did not require proof of financial responsibility for onshore drilling beyond that required by the Department of Natural Resources (DNR) as part of the well plugging and abandonment (P & A) program.<sup>1</sup>

The federal law enacted following the *Exxon Valdez* oil spill, The Offshore Pollution Act of 1990 (OPA 90) imposed on states the requirements for oil spill contingency plans and statements of financial responsibility for oil facilities posing a hazard to their coastal waters. Onshore drilling sites in coastal states are generally covered by the resulting state laws and regulations only if near the coast or near water flowing to the coast.

The following, in approximate descending order of requirements, is a summary of the financial responsibility requirements which key coastal states, including Alaska, impose on onshore exploratory drilling:

#### Alaska

Amount Required: \$5 million of financial responsibility for each onshore drilling facility (\$50 million for offshore drilling facilities.)

Jurisdiction: The onshore requirement covers all onshore land in Alaska regardless of location or ownership status (i.e., private, state or federal). While there are no provisions in the regulations to differentiate areas with high cleanup costs from lower cost areas, there are incentives in the required spill contingency plans that recognize the value of training, on-site cleanup, equipment and planning.

#### California

Amount Required: Estimated at \$1 million per facility from regulations released August 15, 1991. These regulations require all facilities to show financial responsibility of between \$1

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<sup>1</sup>Plugging and abandonment bonds typically range from \$5,000 to \$100,000 per well with multiple-well bonds at twice the single rate. Attachment B summarizes the financial proofs required in the P & A programs of key states, all aimed at guaranteeing safe and proper abandonment of wells at the end of their useful life. This program in Alaska is administered by the Alaska Oil and Gas Conservation Commission and should not be confused with the oil spill contingency, cleanup and responsibility laws and regulations administered in this state by the Alaska Department of Environmental Conservation, which are the primary subjects of this report.

Senator Frank  
December 14, 1992  
Page 4

million and \$100 million as a function of a calculated number of barrels at risk of spilling multiplied by \$12,500 per barrel. With little storage capacity and no pipelines attached, employees of the California Department of Fish and Game have stated that exploratory drilling facilities likely need only post the minimum \$1 million bond. However, no such wells have been permitted and the \$12,500 figure, established prior to the *Exxon Valdez* oil spill, may be adjusted as additional studies are completed.

The jurisdiction of these spill regulations has not been established and may require another year to determine. Presently, for example, Huntington Beach and Signal Hill would appear to be covered, Bakersfield not covered, and the San Fernando Valley the dividing line.

### Washington

Washington's spill prevention and financial responsibility requirements are aimed at offshore vessel operation and onshore refinery and oil terminal facilities. There are no regulations regarding financial responsibility for exploratory well drilling in Washington and no such drilling takes place. Draft regulations for other onshore facilities currently require a showing of \$5,000/barrel for heavy crude and \$2,500/barrel for light crude, but these amounts are expected to be lowered prior to implementation. Washington will permit a showing of financial responsibility, when required, to be by audited net worth, insurance or bond. As of today, however, there are no regulations in place requiring financial responsibility for any onshore oil facility.

### Texas

The General Land Office has responsibility for administering the oil spill plan, but substantial jurisdictional issues remain unresolved between it and the Texas Railroad Commission, the traditional regulator of oil and gas activity in Texas. Recently, the jurisdiction of the General Land Office to regulate oil spills was reduced to a coastal strip only 300 feet wide on the average and no specific showing of financial responsibility pursuant to OPA 90 is currently required in Texas for drilling inland of this strip.

As part of its on-going P & A program, the Railroad Commission requires all new drilling companies demonstrate financial responsibility by posting a \$25,000 bond prior to drilling. Both agencies are awaiting federal action on oil spill financial requirements before proceeding.

Senator Frank  
December 14, 1992  
Page 5

#### Louisiana

Louisiana has withheld new oil spill regulations and will await federal action on regulations pursuant to OPA 90, the exception being offshore state lands. The Department of Natural Resources administers the P & A requirements and they have added a contingency fund, assessed at the rate of \$0.02 per barrel of oil produced, that will eventually total \$30 million from all companies.

#### Florida

Wetlands in Florida require Dredge and Spill permits fees (not bonds) and no state drilling is allowed on state onshore lands in any case.

#### Wyoming

There are no additional requirements beyond P & A bonds which uniquely include a \$50,000 bond for seismic work.

#### Montana

Only P & A requirements are currently in effect. These are being updated to 154 levels (see Attachment B).

#### PROVISIONS of SATISFYING ALASKA'S FINANCIAL RESPONSE REQUIREMENTS

Payment provisions for satisfying Alaska's \$5 million exploratory drilling financial are set out in 18 AAC 75.2 (Attachment C). These regulations provide that, in the case of exploration or production facilities, the operator or one or more of the lease holders apply to DEC for a "Certificate of Proof of Financial Responsibility." Any one or combination of the following is sufficient to enable DEC to issue this certificate:

1. Self-Insurance--audited working capital and net worth in the U.S.;
2. Insurance--a policy from an authorized company containing a "direct action clause" permitting a judgement to be enforced or executed in Alaska state courts for all damaged parties up to the limits of policy coverage;

Senator Frank  
December 14, 1992  
Page 6

3. Surety Bond--a contract of surety from an authorized surety company licensed to do business in Alaska;
4. Guaranty--a contract of guaranty from a company otherwise meeting the self-insurance test (1) above;
5. Letter of Credit--from any regulated bank, an irrevocable letter of credit made out to the state, not otherwise used as collateral, and payable upon presentation; or
6. Other Proofs--approved group insurance or contract of indemnity by a group agreeing to cover pollution risks of its members or contract of indemnity from a Protection and Indemnity (P&I) club or syndicate even if such P&I club or syndicate does not agree to "direct action" in Alaska.

Attachments D through F contain sources used for this memorandum. Attachment D lists publication sources; Attachment E contains telephone contacts; and Attachment F are copies of past Legislative Research Agency memorandums on this topic.

We hope this information is useful. If you have any questions, or want additional information, please contact this agency.

Attachments