

HB

138

FISCAL NOTE

STATE OF ALASKA
1997 LEGISLATIVE SESSION

BILL NO. HB 138

Revision Date: _____
 Title: An Act relating to the Board of Storage Tank Assistance; and providing effective date
 Sponsor: Rules Committee
 Requestor: Resources

Department Affected: Environmental Conservation
 BRU: SPAR
 Component: Storage Tank Program

COMPONENT SERIAL NO. 2063

Expenditures/Revenues:

(Thousands of Dollars)

OPERATING EXPENDITURES	FY 98	FY 99	FY 00	FY 01	FY 02	FY 03
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	0.0	0.0	0.0	0.0	0.0	0.0
GRANTS,CLAIMS	0.0	0.0	0.0	0.0	0.0	0.0
MISCELLANEOUS	0.0	0.0	0.0	0.0	0.0	0.0
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0
CAPITAL EXPENDITURES	0.0	0.0	0.0	0.0	0.0	0.0
CHANGE IN REVENUES ()	0.0	0.0	0.0	0.0	0.0	0.0

FUND SOURCE

1002 Federal Receipts	0.0	0.0	0.0	0.0	0.0	0.0
1003 GF Match	0.0	0.0	0.0	0.0	0.0	0.0
1004 GF	0.0	0.0	0.0	0.0	0.0	0.0
1005 GF Program Receipt	0.0	0.0	0.0	0.0	0.0	0.0
1006 GF/MHTIA	0.0	0.0	0.0	0.0	0.0	0.0
Other	0.0	0.0	0.0	0.0	0.0	0.0
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

Estimate of any current year (FY 97) cost: \$ 0.0

POSITIONS:

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

ANALYSIS: (Attach a separate page if necessary.)

Funding for the Board of Storage Tank Assistance is included in the FY 98 budget request. Duties of the Board which include allocation of grants and settlement of disputes will be accomplished by the Department, if not the Board. Therefore, costs for those tasks have been continued in the FY 98 budget request irrespective of the Board's extension. The Department supports the conclusions and recommendations of the Legislative Audit Report 08-1432-92 which call for re-establishment of the board as modified by the addition of a public member. HB 138 seeks to authorize those recommendations.

Prepared by: James Hayden
 Division: SPAR

Phone: 907-465-5200
 Date: 3/7/97

Approved by Commissioner: [Signature]
 Agency: Department of Environmental Conservation

Date: 3/7/97

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TONY KNOWLES, GOVERNOR

DEPT. OF ENVIRONMENTAL CONSERVATION

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OFFICE OF THE COMMISSIONER

March 12, 1997

The Honorable Representative Scott Ogan
State Capitol Room 128
Juneau, AK 99801-1182

Dear Representative Ogan:

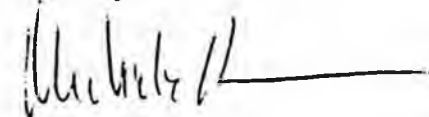
Thank you for the opportunity to provide the committee with additional information regarding HB 138, the reauthorization of the Board of Storage Tank Assistance.

With respect to annual tank registration fees, the department collects the registration fees which are annually appropriated to the Storage Tank Assistance Fund for subsequent allocation. The Department does not spend these fees directly.

The department submitted a zero fiscal note to the reauthorization bill because the costs associated with the Board's activities are already contained in our FY 98 budget request. To date, the Board has been responsible for hearing and adjudicating any financial assistance appeals from applicants. Given the possibility that the Board would no longer operate in FY 98, we included funding in our operating budget request to adjudicate future financial assistance appeals. Should HB 138 pass, the costs of the Board would be covered by the department's FY 98 budget request with no additional fiscal impact.

Please contact Kurt Fredriksson at 465-5255 if you have any additional questions.

Sincerely,



Michele Brown
Commissioner

MT/mh I:\SPARK\FBOARD.WPD

cc: John Barnett, Director, Board of Storage Tank Assistance

Board of Storage Tank Assistance

- √ The Board is a seven member board comprised of two Commissioners and five citizens from the private sector.
- √ Board members serve without compensation.
- √ The Board has a staff of one employee.
- √ **The Board is a judicial appeal board that resolves disputes between the regulated community and the Department of Environmental Conservation thereby saving the state thousands of dollars in potential legal costs.**
- √ The Board mediates disputes regarding eligibility for financial assistance, eligible costs, priority ranking positions and contaminated site cleanup plans.
- √ The Board provides technical and educational assistance to petroleum storage tank owners and operators throughout Alaska.

The 1990 Legislature established the seven-member Board of Storage Tank Assistance with two government members and five public members. 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 pertaining to underground storage tanks. A registered engineer familiar with tank cleanups, a general contractor familiar with tank installations and closures, a person from the insurance industry that is knowledgeable about pollution liability insurance for underground storage tanks, a owner of more than 10 tanks, and an owner of 10 or less tanks. **Former Governor Cowper appointed the original seven board members on September 5, 1990.** Members serve without compensation other than per diem and expenses when traveling. They have an Executive Director, who is their sole employee.

The Board of Storage Tank Assistance is an Appeal Board to mediate disputes between the Department of Environmental Conservation and regulated underground petroleum storage tank owners and operators. In regard to disputes arising over eligibility, priority rankings and eligible costs, the Board's decisions are binding upon the Department and the owner or operator. For corrective action plan disputes, or denials for payment under the retroactive reimbursement program (sec. 7, ch.96, SLA 1990), the board may only issue recommendations. In addition, the Board works directly with the legislature on funding issues and determines the program distribution of the annual legislative appropriations.

The first duty of the Board was to write regulations relating to financial assistance for UST owners and operators. The Board also jointly developed regulations with DEC pertaining to cleanup standards and allowable technologies to be used in the cleanup of contamination resulting from leaking tanks. The Department of Environmental Conservation is responsible for administering the Storage Tank Assistance Fund. The Department is tasked with advertising the application periods, receiving the applications, processing the requests, administering the grants and auditing project costs. The Division of Investments in the Department of Commerce and Economic Development works in partnership with the DEC to provide cleanup loans for eligible UST owners and operators. **Although the Board developed the financial assistance regulations, the Department of Environmental Conservation actually implements those regulations by physically processing each applicant's request for financial assistance. This enables the Board to remain objective and unbiased when a dispute arises.** The Board is then tasked with resolving the matter in a prompt and conscientious manner.

Board of Storage Tank Assistance

Board Members:

(All Public Members Serve Without Compensation)

Insurance Industry	<u>Judy Chadwick-Anderson</u> Brady & Company 1031 West Fourth St. Suite 400 Anchorage, AK 99501		276-5617 276-6292	Chairperson
		Fax		
Engineer	<u>Steve Johnson</u> Harding Lawson Associates 601 E. 57th Place Anchorage, AK 99518		563-8102 561-4574	
		Fax		
Large Tank Owner	<u>Jim Weymiller</u> P.O. Box 70647 Fairbanks, AK 99707		456-7600 452-4479	
		Fax		
Small Tank Owner	-- VACANT --			
Tank Contractor	<u>Robert Haines</u> B.C. Excavating 2251 Cinnabar Loop Anchorage, AK 99507		344-4490 344-4492	
		Fax		
DEC Representative	<u>Kurt Fredriksson</u> Director, Spill Prevention & Response 410 Willoughby Ave Juneau, AK 99801		465-5255 465-5262	
		Fax		
DOT Representative	<u>Nate Johnson</u> DOT & PF 3132 Channel Drive Juneau, AK 99801		465-6954 465-2460	
		Fax		

Staff to Board:

(1 employee)

John C. Barnett
Board of Storage Tank Assistance, Executive Director
410 Willoughby Avenue
Juneau, AK 99801

465-5219
465-5218 Fax

Sec. 44.66.010. Termination of state boards and commissions.

(a) Boards and commissions listed in this subsection expire on the date set out after each:

- (1) Alcoholic Beverage Control Board (AS 04.06.010) - June 30, 1998;
- (2) [Repealed, 1983 Initiative Proposal No. 2, sec. 6].
- (3) Board of Parole (AS 33.16.020) - June 30, 1997;
- (4) Alaska Public Utilities Commission (AS 42.05.010) - June 30, 1999;
- (5) [Repealed, sec. 20 ch 110 SLA 1981].
- (6) [Repealed, sec. 63 ch 21 SLA 1985].
- (7) [Repealed, sec. 16 ch 161 SLA 1984].
- (8) [Repealed, sec. 33 ch 23 SLA 1995].
- (9) [Repealed, sec. 2 ch 97 SLA 1986].
- (10) Alaska Commission on Aging (AS 44.21.200) - June 30, 2000;
- (11) Council on Domestic Violence and Sexual Assault (AS 18.66.010) - June 30, 1998;
- (12) [Repealed, sec. 33 ch 23 SLA 1995].
- (13) [Repealed, sec. 21 ch 6 SLA 1993].
- (14) Special Education Service Agency (AS 14.30.600) - June 30, 2004;
- (15) Alaska Tourism Marketing Council (AS 44.33.700) - December 30, 2000;
- (16) [Repealed, sec. 33 ch 23 SLA 1995].
- (17) Citizens' Review Panel for Permanency Planning under AS 47.14.200 - June 30, 1997;
- (18) Board of Storage Tank Assistance (AS 46.03.360) - June 30, 1996;
- (19) Hazardous Substance Spill Technology Review Council (AS 46.13.110) - June 30, 1995.

(b) Upon termination, a commission listed in (a) of this section shall continue in existence until June 30 of the next succeeding year for the purpose of concluding its affairs.

(c) A commission scheduled for termination under this chapter may be continued or reestablished by the legislature for a period not to exceed four years.

Sec. 46.03.360. Board of storage tank assistance.

(a) There is established the Board of Storage Tank Assistance. For administrative purposes, the board is located in the department. The board consists of the commissioners of environmental conservation and transportation and public facilities, or their designees, and the following persons who shall be appointed by the governor to serve at the pleasure of the governor for staggered four-year terms:

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

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

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

(4) a member of the insurance industry.

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

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

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

(e) Under AS 44.62 (Administrative Procedure Act), the board shall adopt regulations under which the department shall

(1) determine which costs of tightness testing and site assessment are eligible costs under AS 46.03.415 ;

(2) rank requests for assistance under AS 46.03.420 ;

(3) determine which costs of risk assessment, containment, corrective action, and cleanup are eligible costs under AS 46.03.420 ;

(4) determine which costs of upgrading and closure are eligible costs under AS 46.03.430 .

(f) If the department determines that an owner or operator is not eligible for assistance under AS 46.03.410 - 46.03.430 or that a cost is not eligible under AS 46.03.415 - 46.03.430 and the affected owner or operator disputes that determination, or if an owner or operator disputes the ranking assigned to a request for assistance under AS 46.03.420, the owner or operator may apply to the board for resolution of the dispute. The board may issue a decision in a dispute brought to it under this subsection. The decision is binding on the owner, operator, and department.

(g) The board may adopt regulations to limit the number of sites per calendar year for which an owner or operator may be awarded financial assistance under AS 46.03.420 - 46.03.430. The department shall implement the regulations.



Annual Update

January 1997

Underground Storage Tanks (UST)

Tanks Status (Chart 1)

Tanks In-Use	2362
Tanks Closed	4854
Total Tanks	7216

Total tanks = 7216

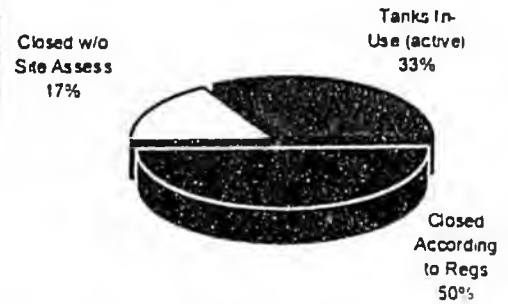
There are 2362 tanks still in use, and 4854 tanks which have closed (Chart 1)

Closed tanks include:

- ✓ Tanks closed with a site assessment according to State regulations.
- ✓ Tanks closed without a site assessment
- ✓ Tanks in the process of closing - but which have not submitted post closure notification that a site assessment has been completed
- ✓ Tanks closed prior to implementation of State regulations
- ✓ Tanks Temporarily Out of Service - (closed for 12 months or less according to State regulations).

CHART 1 - Tank Status

January 1997



UST Tank Protection

Tank Protection (Chart 2)

Tanks with Leak Detection Only	589
Tanks Meeting New Tank Standards	585
Unprotected Tanks	1183
Total	2362

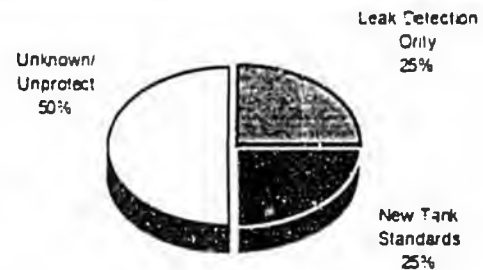
Active Tanks = 2362

Tanks with "leak detection only" are in compliance until 12/98 when all tanks must meet "new tank standards"

New tank standards = leak detection, corrosion protection and spill/overflow protection

CHART 2 - Tank Protection Status

January 1997



Cleanup of Leaking Tanks

Cleanup of LUST Sites (Chart 3)

Total Sites Cleaned	544
Sites in Progress	612
Sites Without Action	146
Total Leaking Tank Sites Identified*	1302

There are a total of 1302 leaking underground storage tank sites in Alaska. Of those, 544 sites have been cleaned.

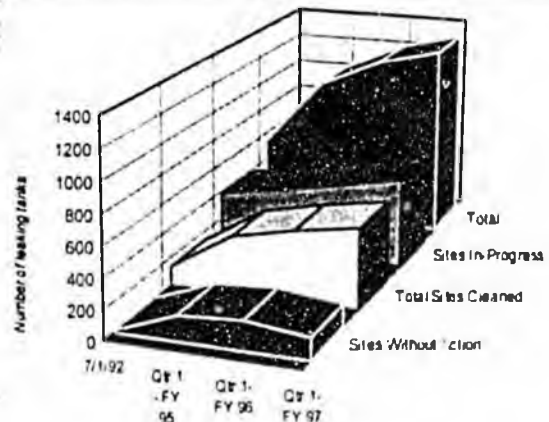
The number of leaking tanks identified in the past 4 years has increased by 691 and the total number of sites cleaned has increased by 384.

*As more tanks are closed and upgraded, additional leaking tanks sites will be identified

Note: All numbers are cumulative

CHART 3 - Status of Leaking Tank Sites

January 1997



UST Financial Assistance Program

TABLE 1
Financial Assistance Summary FY 91-FY 96*

Dollars are in Thousands	TTT/SA		Cleanup		Upgrade		Closure		Reimbursement		TOTAL	
	Number	Dollars	Number	Dollars	Number	Dollars	Number	Dollars	Number	Dollars	Number	Dollars
Applications Received	416	\$362.5	502	\$57,434.9	302	\$12,254.5	612	\$6,756.8	158	\$3,388.4	1990	\$80,137.1
Grants & Loans Issued	286	\$210.7	143	\$13,608.3	79	\$3,484.8	180	\$1,368.2	0	\$0	688	\$18,572.0
Anticipated FY 97 Grants	3	\$0	15	\$1,593.7	6	\$339.8	30	\$297.5	0	\$0	51	\$2,231.0
Waiting for Funds	0	\$0	234	\$29,111.7	184	\$7,425.9	331	\$4,183.7	158	\$3,388.4	907	\$44,109.7
New FY 98 Applications	0	\$0	19	\$2,386.7	0	\$0	0	\$0	0	\$0	19	\$2,386.7
Continuation Cleanup Funding	0	\$0	27	\$1,836.6	0	\$0	0	\$0	0	\$0	27	\$1,836.6
Ineligible or Withdrawn	130	\$151.9	64	\$8,295.9	33	\$1,004.0	71	\$907.4	0	\$0	298	\$10,503.2

*Numbers are cumulative

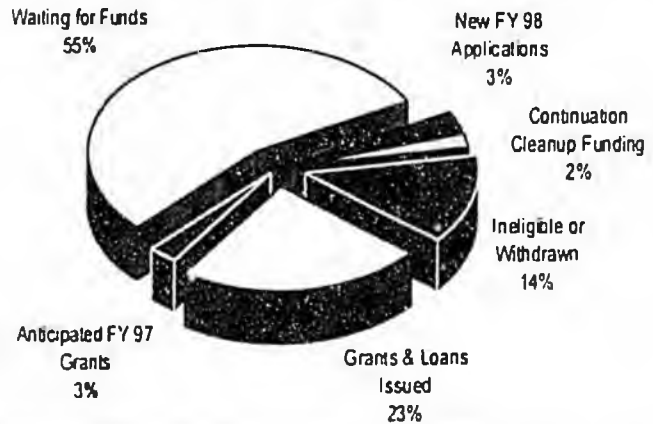
Approximately \$20.9 million has been appropriated for financial assistance grants and loans since program inception. Requests for financial assistance during that time have been over \$80 million. (Table 1 and Chart 6)

Approximately \$18.7 million in grants and loans have been awarded since 1991.

Grant and Loan Appropriations

1991-1997	\$20,900,000
Requests Received:	\$80,197,100
Unfunded Requests:	\$48,334,915
Ineligible/Withdrawn:	\$10,959,200

CHART 4
Financial Assistance Summary FY 91 - FY 96*



* Based on total dollars

Aboveground Storage Tanks (AST)

Estimated costs to upgrade and repair existing facilities exceeds \$200 million.

Most owners and operators do not have the financial means, knowledge or training to repair, upgrade, consolidate, operate and maintain their AST facilities in a safe manner.

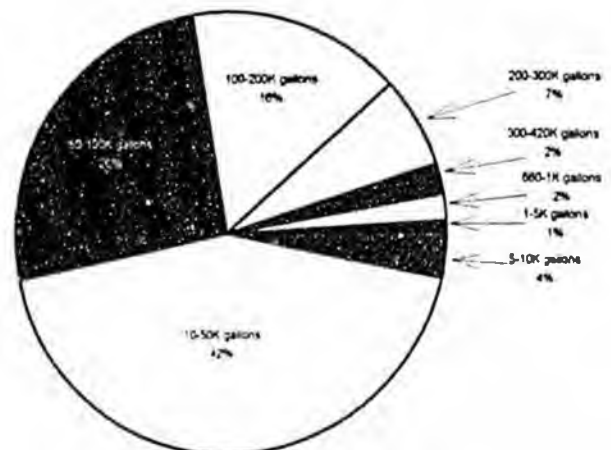
Many tanks are located in remote areas where fuel delivery is limited to once or twice a year.

Aboveground Tank Facilities

The Department is in the process of collecting data about aboveground tanks and developing an AST program to include notification, operator training, and financial assistance.

ASTs with a capacity of under 420,000 gallons are currently unregulated. The Department is working with tank owners and the public to determine whether these smaller tanks should be regulated, and to identify what size tanks, and what types of facilities would qualify for operator training and technical and financial assistance.

CHART 5 - Aboveground Tanks by Capacity
January 1997



Estimated number of facilities = 2000

UST Financial Assistance Program

TABLE 1
Financial Assistance Summary FY 91-FY 96*

Dollars are in Thousands	TTT/SA		Cleanup		Upgrade		Closure		Reimbursement		TOTAL	
	Number	Dollars	Number	Dollars	Number	Dollars	Number	Dollars	Number	Dollars	Number	Dollars
Applications Received	416	\$362.5	232	\$57,434.9	302	\$12,254.5	612	\$6,756.8	158	\$3,248.4	1309	\$61,754.6
Grants & Loans Issued	295	\$210.7	143	\$13,628.3	19	\$3,484.8	147	\$1,163.2	0	\$0	589	\$21,904.6
Anticipated FY 97 Grants	0	\$0	15	\$1,593.7	5	\$339.8	30	\$297.5	0	\$0	51	\$2,231.7
Waiting for Funds	0	\$0	234	\$29,111.7	184	\$7,425.9	331	\$4,193.7	156	\$3,388.4	807	\$44,119.7
New FY 98 Applications	0	\$0	19	\$2,386.7	2	\$0	2	\$0	0	\$0	19	\$2,386.7
Continuation Cleanup Funding	0	\$0	27	\$1,836.6	0	\$0	0	\$0	0	\$0	27	\$1,836.6
Ineligible Withdrawn	130	\$151.9	54	\$8,995.1	13	\$1,304.0	71	\$307.4	0	\$0	268	\$10,602.4

*Numbers are cumulative

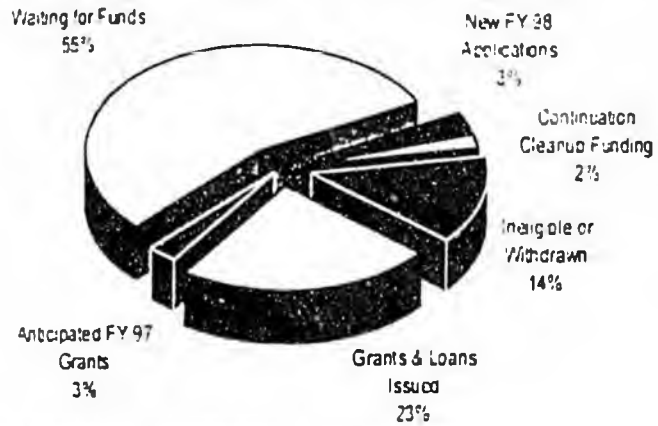
Approximately \$200 million has been appropriated for financial assistance grants and loans since program inception. Requests for financial assistance during that time have been over \$80 million (Table 1 and Chart 6)

Approximately \$187 million in grants and loans have been awarded since 1991

Grant and Loan Appropriations

1991-1997	\$23,900,000
Requests Received	\$80,197,100
Unfunded Requests	\$48,334,915
Ineligible Withdrawn	\$10,959,200

CHART 4
Financial Assistance Summary FY 91 - FY 96*



*Based on total dollars

Aboveground Storage Tanks (AST)

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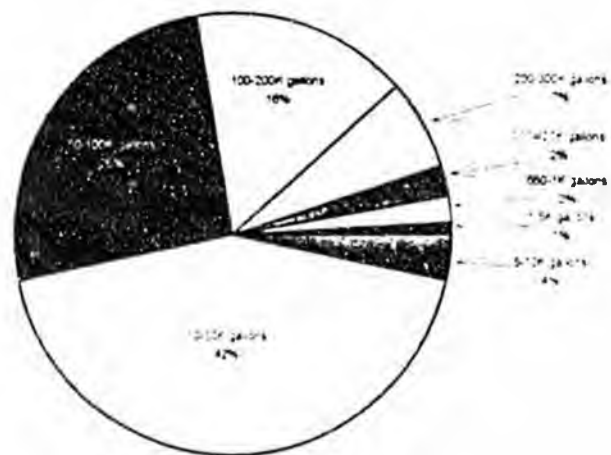
Many tanks are located in remote areas where fuel delivery is limited to once or twice a year.

Aboveground Tank Facilities

The Department is in the process of collecting data about aboveground tanks and developing an AST program to include notification, operator training, and financial assistance.

ASTs with a capacity of under 420 CCC gallons are currently unregulated. The Department is working with tank owners and the public to determine whether these smaller tanks should be regulated, and to identify what size tanks, and what types of facilities would qualify for operator training and technical and financial assistance.

CHART 5 - Aboveground Tanks by Capacity
January 1997



Estimated number of facilities = 2000

Audit Report

DEC

**DEPARTMENT OF ENVIRONMENTAL
CONSERVATION BOARD OF STORAGE
TANK ASSISTANCE**

September 19, 1995



Audit Control Number:

18-1432-96

Division of Legislative Aud't
P.O. Box 113300, Juneau, Alaska 99811-3300

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DIVISION OF LEGISLATIVE AUDIT

The Legislative Budget and Audit Committee is a permanent interim committee of the Alaska Legislature. The committee is made up of five senators and five representatives, with one alternate from each legislative chamber. The chairmanship of the committee alternates between the two chambers every legislature.

The committee is responsible for providing the legislature with audits of state government agencies. The programs and activities of state government now cost more than \$5 billion a year. As legislators and administrators try increasingly to allocate state revenues effectively and make government work more efficiently, they need information to evaluate the work of governmental agencies. The audit work performed by the Division of Legislative Audit helps provide that information.

As a guide to all their work, the Division of Legislative Audit complies with generally accepted auditing standards established by the American Institute of Certified Public Accountants and with government auditing standards established by the U.S. General Accounting Office.

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ALASKA STATE LEGISLATURE

LEGISLATIVE BUDGET AND AUDIT COMMITTEE

Division of Legislative Audit



P. O. Box 113300
Juneau, AK 99811-3300
(907) 465-3830
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September 19, 1995

Members of the Legislative Budget
and Audit Committee:

In accordance with the provisions of Title 24 of the Alaska Statutes, the attached report is submitted for your review.

DEPARTMENT OF ENVIRONMENTAL CONSERVATION BOARD OF STORAGE TANK ASSISTANCE

September 19, 1995

Audit Control Number

18-1432-96

This audit was conducted under the requirements of Alaska Statutes 44.66.050 and the authority of AS 24.20.271(1). In the report, we assess the operations and performance of the Board of Storage Tank Assistance utilizing the criteria set out in AS 44.66.050(c). This statutory criteria is intended to be used to assess whether the activities of a given board, commission, council, agency, or program is effectively meeting a demonstrated public need. Currently under AS 44.66.010(18), the board is scheduled for termination on June 30, 1996. The board would be allowed one year in which to conclude its affairs. We recommend that the legislature extend the board until June 30, 2000.

The audit was conducted in accordance with generally accepted government auditing standards and the criteria set out in AS 44.66.050(c). Fieldwork procedures utilized in the course of developing this report are discussed in the Objectives, Scope, and Methodology section of this report.

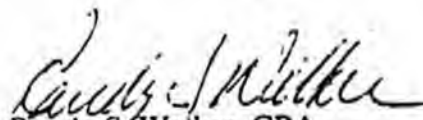

Randy S. Welker, CPA
Legislative Auditor

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OBJECTIVES, SCOPE, AND METHODOLOGY

In accordance with the intent of Titles 24 and 44 of the Alaska Statutes (sunset legislation), we have reviewed the activities of the Board of Storage Tank Assistance. As required by AS 44.66.050(a), the legislative committee of reference shall consider this report during the legislative oversight process to determine whether the board should be reestablished. Currently, AS 44.66.010(18) states that the board will terminate on June 30, 1996, and will have one year from that date to conclude its affairs.

Objectives

Our specific audit objectives were:

1. To determine if the termination date of the board should be extended.
2. To determine if the board is operating in the interest of the public. In assessing the operations and performance of the board, we utilized the criteria set out in AS 44.66.050(c). Criteria set out in this statute relates to the determination of a demonstrated public need for the board.

Scope and Methodology

The board was created in September 1990. Our scope included all activities of the board since its inception. We reviewed the board's activities to determine whether they have been in the interest of the public and whether they have been in compliance with Alaska statutes and regulations.

In order to address our audit objectives, we reviewed the following:

- Applicable sections of Alaska's statutes and regulations.
- Budget documents, session laws and other legislative information relating to the board's operations.
- Transcribed minutes and audio tapes of board meetings.
- Internal reports and documents prepared by the board and the Department of Environmental Conservation (DEC).
- Reading files of the board's executive director.
- Grant files of recipients of financial assistance.
- Financial information on the State's accounting system.

- Office of the Ombudsman closed case file.
- Office of the Governor, Boards & Commissions files.
- Prior year audit workpapers and audit reports related to various DEC operations.

Also, we conducted interviews with the following:

- Board members and the board's executive director.
- DEC staff.
- Owners and operators of underground petroleum storage tanks.

In addition, we attended the July 20, 1995 meeting of the board. We observed the proceedings and the interaction of the board with the public.

ORGANIZATION AND FUNCTION

In 1990, the legislature (Chapter 96, SLA 1990) established a process to provide both technical and financial assistance to owners and operators of underground storage tanks (USTs). It was determined that such assistance was necessary for UST owners to comply with both current and prospective federal and state requirements. The 1990 legislature also provided for the cleanup of existing leaks and prevention of future leaks associated with USTs in order to protect the public from contamination of drinking water and to protect the environment.

The comprehensive legislation established the Board of Storage Tank Assistance. The board works in conjunction with the State's Department of Environmental Conservation (DEC) to carry out the various requirements of the UST statutes. The board is involved in the making of regulations pertaining to USTs and DEC is responsible for administering the UST program. This includes the administration of the financial assistance program.

The program offers grants and loans to owners and operators to test, clean up, upgrade, or close their facilities. The Storage Tank Assistance Fund (STAF) was established to fund the program. Appropriations are made to STAF from the mitigation account fund and from tank registration receipts.

Board Responsibilities

The board's primary statutory functions are to:

1. Adopt regulations to be used by DEC in determining which costs are eligible for financial assistance.
2. Adopt regulations to be used by DEC to rank (prioritize) applications for financial assistance.
3. Resolve disputes that might arise when DEC determines that a UST owner or operator is not eligible for assistance, determines that costs are ineligible, or assigns a rank with which an owner or operator does not agree.
4. Approve regulations specifying allowable technologies for testing, containment and cleanup, or corrective action prior to being adopted by DEC.
5. Review regulations proposed by DEC that sets a standard for the level of a contaminant that is allowed to remain in soil or groundwater after cleanup of a release from, or associated with, an UST.

Additional responsibilities are assigned to the board under 18 AAC 78. The board allocates funds appropriated to the STAF for the financial assistance program. Also, the board is responsible for the establishment of a point system to rank eligible applicants.

Board Membership

Under the requirements of AS 46.03.360, the seven member board consists of the commissioners of DEC and the Department of Transportation and Public Facilities (DOTPF), or their designees, and the following persons appointed by the governor to serve staggered four-year terms:

- A registered engineer, who is knowledgeable about installing, upgrading, repairing, or closing USTs.
- A general contractor, who is knowledgeable about installing, upgrading, repairing, or closing USTs.
- Two owners or operators of an UST, at least one of whom does not own or operate more than 10 USTs.
- A member of the insurance industry.

Members serve without compensation, but are entitled to per diem and travel expenses. Since 1991, the board has employed a full-time executive director.

DEC's Responsibilities

DEC's Division of Spill Prevention and Response administers the financial assistance program. Statutes and regulations require DEC to:

1. Receive, review, and approve applications and other required documentation for financial assistance.
2. Priority rank applicants using a scoring system developed by the board.
3. Distribute and monitor grant awards.
4. Manage the Storage Tank Assistance Fund.

Board of Storage Tank Assistance (as of August 15, 1995)

Judy Chadwick-Anderson, Chair
(representative of the Insurance Industry)
Kurt Fredrikson
designee of the commissioner of DEC
Robert Haines
Tank Contractor
Nate Johnson
designee of the commissioner of DOTPF
Steve Johnson
Registered Engineer
Jim Weymiller
Tank Owner
Dale Young
Tank Owner
John Barnett
Executive Director

BACKGROUND INFORMATION

In 1990, the legislature created a program to provide both financial and technical advisory assistance to the owner and operators of underground petroleum storage tanks (UST). The assistance was to help UST owners and operators comply with current and prospective state and federal regulations (see inset at right). These regulatory requirements address numerous design and operational aspects of USTs.

Underground tanks are typically used to store petroleum and other potentially hazardous substances. These tanks invariably develop leaks which allow the substances stored in them to leak into the surrounding soil, contaminating the groundwater, which in turn could contaminate a drinking water source.

The U.S. Congress directed the Environmental Protection Agency to develop regulations for the design, construction, and installation of new tanks. Additionally, new, stricter standards were established for the retrofitting of existing tanks. Such tanks will be required to be upgraded to provide for leak detection, corrosion prevention, and spill and overflow protection.

In addition, UST owners are required to demonstrate they are capable of assuming financial responsibility for the costs involved in taking corrective action and cleaning up releases from their tanks.

Such financial responsibility extends to covering third party loss and bodily injury. Most UST owners are required to demonstrate \$1 million of financial responsibility per occurrence and \$2 million aggregate. Failure to meet the requirements may result in fines of up to \$10,000 per day.

Federal Law Imposes Strict Requirements on USTs

Congress passed the Hazardous and Solid Waste Amendments of 1984 to the Resource Conservation and Recovery Act. These amendments, in part, require the U.S. Environmental Protection Agency (EPA) to regulate USTs containing petroleum and hazardous substances. According to EPA estimates, nationwide there are several million USTs that contain petroleum or hazardous substances—tens of thousands of which, together with their associated piping, are leaking and contaminating groundwater, a major source of drinking water for a large portion of the country.

Congress directed the EPA to develop regulations for the 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. The EPA regulations went into effect on December 22, 1988 and USTs installed on or before that date are considered "existing tanks," while those tanks installed after that date are considered "new installations." New installations are to meet the performance standards set in the regulations at the time of tank installation. Existing tanks are allowed to phase in these standards over a period of 10 years.

Congress also mandated that all UST owners, except state and federally owned or operated tanks, be able to demonstrate specific levels of financial responsibility for corrective action and cleanup associated with releases from their USTs including third party loss and bodily injury. The financial responsibility requirements were phased in according to the type of owner and the number of tanks owned. The final date for all tank owners to meet this requirement was December 31, 1993. Most tank owners are required to demonstrate \$1 million of financial responsibility per occurrence and \$2 million aggregate. Failure to meet the requirements may result in fines of up to \$10,000 per day.

Source: DEC's FY 94 STAP Report

Because most Alaska businesses using USTs were unable to meet the financial responsibility requirements and unable to pay the possible fines, state legislation was introduced to provide assistance to assume "financial responsibility." The prime sponsor of the original 1990 legislation stated that it is "the responsibility of the legislature to assist the small tank owners to comply with the new federal regulations."

The enacted legislation addressed educational, technical, and financial assistance for UST owners and operators. It required owners and operators to register their tanks and pay a registration fee based on the size of their tank. In addition, the storage tank assistance fund (STAF) was established to provide financial assistance to owners and operators.

Financial Assistance Programs

Appropriations are made to STAF to fund the financial assistance programs. The programs provide grants and loans to owners and operators of regulated USTs. Assistance is provided under four different programs. As shown below, each program has different eligibility requirements, application dates, and grant reimbursement percentages.

Summary of UST Financial Assistance Programs				
PROGRAM	STATUTE (AS) REGULATION (AAC) SESSION LAW (SLA)	APPLICATION DUE DATE	ELIGIBLE COSTS	TYPE OF ASSISTANCE
Tank Tightness Testing & Site Assessment Incentive Program	AS 46.03.415 18AAC78.510 (Subsequently repealed)	March 5, 1992	Tank tightness tests or site assessments to determine if there had been a release of petroleum.	50% of actual costs. Not to exceed (a) \$300 per tank for tank tightness tests up to a maximum of \$1,200 per facility; and, (b) \$800 per tank for site assessments up to \$3,200 per facility.
Tank Cleanup Grant & Loan Program	AS 46.03.420 18 AAC 78.515	June 30, 1994	Risk assessment, containment, corrective action, and cleanup.	Up to \$1 million per occurrence, owner/operator is responsible for 10% of total cleanup costs (not to exceed \$25,000). Loans are available for owner's share.
Tank Upgrade & Closure Grant Program	AS 46.03.430 18 AAC 78.520	December 31, 1994	Removal, upgrade or replacement of UST that was installed before December 22, 1988.	60% of actual cost. Not to exceed \$60,000.
Reimbursement Program	SLA 1990, Ch 96, Sec 7 18 AAC 78.525	March 5, 1991	Risk assessment, containment, cleanup, corrective action, upgrading or closure activities on or after December 22, 1988 and before September 5, 1990.	90% of containment, cleanup, corrective action and risk assessment. 60% of upgrade or closure. Not to exceed \$200,000 per owner/operator.

Financial assistance is no longer provided under the tank tightness testing and site assessment incentive program. Eligible applicants that applied before the due date for the other three programs are still on the active list awaiting funds. Applications for the tank cleanup grant and loan program are still accepted from applicants who applied before the due date for the tank upgrade and closure grant program if they discover and report contamination before July 1, 1996. Eligible applicants that applied before the due date for the other three programs are still on the active list awaiting funds.

Funding Issues

Like all state operations, funding for the STAF must be appropriated by the legislature. Since the beginning of the financial assistance program, demand for assistance has been much more than the annual appropriations. Eligible applicants that are not funded in one year remain active until funds are available.

At the inception of the program, \$6 million was appropriated for the grant and loan program. That amount has decreased each year with \$1.9 million appropriated to fund FY 96 grants. DEC has estimated that over \$54 million is needed to fund all eligible applicants. It will take approximately 19 years to fund existing projects at that level of funding.

Reimbursement Program

Original legislation assigned a low priority to this program. Payment is to be made if there is sufficient funding. Since inception, no projects have been funded. DEC has 158 applications for reimbursement. They estimate that it will require over \$3 million to fund all projects.

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REPORT CONCLUSIONS

In our opinion, the Board of Storage Tank Assistance should be reestablished. The board plays an integral role in the State's underground storage tank (UST) program. The board acts as a mediator, sets regulations, and acts as a sounding board to owners and operators of USTs.

The board acts as an independent body in settling disputes between DEC and owners and operators of USTs. Since the board's inception, they have mediated over eleven formal appeal cases. The board has been involved in numerous cases on an informal basis. Owners and operators call the board to informally discuss the applicability of state statutes and regulations to their specific situation; thereby averting the need for formal appeals.

The board actively participates in the making of statutes and regulations pertaining to USTs. The board is statutorily required to adopt regulations to be used by DEC to administer the UST program. Regulations originally adopted have been amended and are currently in the process of being revised. The board also reviews all regulations pertaining to USTs that are proposed by DEC.

We believe the board should continue until June 30, 2000. The intent of legislation establishing the board was to assist owners and operators of USTs to comply with federal and state laws and regulations. U.S. Environmental Protection Agency (EPA) regulations require USTs to meet new, stricter federal standards by December 22, 1998. The "need" or demand for funding to bring operating USTs into compliance have far outstripped the appropriations made to date. Prospectively, it is unlikely that the amount of the appropriations will substantially increase over the next few fiscal years.¹

Currently, it is unclear what enforcement actions EPA will take in Alaska against UST owners that are not in compliance with the new regulations. Given these circumstances, we foresee there may be an ongoing public policy role for the board beyond the EPA implementation deadline. By extending the board to June 30, 2000, a reevaluation of its activities can be made in the summer of 1999. Evaluation at this time would be made in the context of EPA's enforcement action regarding UST requirements.

Many owners and operators need assistance from the financial assistance program before undertaking the necessary action to comply with federal and state laws and regulations. With the existing level of funding (See Background Information) for the program, some eligible applicants will not receive funding until after the federal deadline.

¹ As discussed in the Background Information section, it is estimated that it will cost more than \$54 million to bring operating USTs into compliance with the prospective federal requirements. This estimate is based only on the funding that has been applied for to date under the State's assistance program. Representatives of the Alaska Underground Tank Owners and Operators organization reported to us that they felt there were many owners and operators, who face being in non-compliance, that have not come forward and even applied for any of the available funding.

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FINDINGS AND RECOMMENDATIONS

Recommendation No. 1

The legislature should consider changing the statute to require the appointment of one public member to the Board of Storage Tank Assistance with no commercial or financial interest in the replacement and retrofitting of underground storage tanks.

Alaska Statute (AS 46.03.360) requires seven members to be appointed to the Board of Storage Tank Assistance. Membership includes two government members — the commissioners of the Department of Environmental Conservation and the Department of Transportation and Public Facilities — and five “public members.” Four of the public members must have specific knowledge of underground storage tanks. The fifth public member must be a member of the insurance industry. While not required by statute, this position has been filled by individuals involved in UST pollution liability insurance.

Typically, the legislature has provided for the appointment of what is termed “a public member” to the State’s various professional licensing boards. The intent behind such a requirement is to give the general public access to the decision-making and actions that such a board might take. The public member acts as a disinterested representative on these boards, that unlike other board members, has no professional nor financial interest in board proceedings. While the five public members on the Board of Storage Tank Assistance are from the private sector, they are involved, to varying degrees, with the commercial aspects surrounding USTs.

Because environmental concerns are shared equally by the general public as well as those with a specialized knowledge of UST issues and concerns, we suggest that the board and the public may benefit from the appointment of a board member with no ties to USTs. Such an appointee should have no commercial or financial interest in the replacement and retrofitting of USTs. Appointment of such a member would serve to “open up” the board proceedings in this admittedly very esoteric subject area. Since the board is instrumental in developing priorities and criteria by which funding decisions are made, such a perspective may provide a viewpoint that is independent from any operational, regulatory, or commercial interest. The presence of such a member would increase, albeit perhaps very incrementally, awareness of the objectives and goals of the board, to the public at large while providing a “reality check” on the actions and goals of the board.

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ANALYSIS OF PUBLIC NEED

Limited Analysis

The following analysis of board activities relates to the public need factors defined in the "sunset" law, Alaska Statute 44.66.050. These analyses are not intended to be comprehensive, but address those areas we were able to cover within the scope of our review.

The extent to which the board, commission, or program has operated in the public interest.

Projects with the greatest health and environmental threats receive priority

In accordance with its statutory responsibility, the board has adopted regulations to be used by the Department of Environmental Conservation (DEC) to rank requests for assistance. Regulations specify the criteria to be used for ranking applications for cleanup, upgrade, and closure. Although not in regulation, the board has established a point system to prioritize each type of project. The point system is designed to give the highest points to leaking underground petroleum storage tanks (USTs) that pose the greatest threat to public health and the environment, thus ensuring projects requiring prompt corrective action are funded first.

Projects with imminent public health threats receive emergency funds

An owner or operator of a UST is eligible for emergency financial assistance if a leak or overfill of their tank poses an imminent public health threat and the owner or operator does not have the funds to begin clean up action. This type of release is usually evidenced by groundwater that has a high potential for contamination with a distinct probability that drinking water is or will be threatened.

After determining eligibility for an emergency grant, DEC must consult the board. At a public meeting the board reviews the severity of the situation, the need for financial assistance, and the applicant's compliance with federal and state laws. Also, the board reviews the preliminary scope of work. The board determines whether the amount of requested funds is appropriate for the proposed scope of work.

Since the board's inception, they have approved seven projects in which almost \$700,000 has been expended on emergency projects.

Board resolves disputes

DEC receives and processes applications for financial assistance. If determined eligible, an applicant's project receives a score (or rank). Once the project receives funding, documentation of expenses is submitted to DEC for reimbursement.

One of the board's statutory duties is to hear appeals from owners and operators who disagree with DEC's determinations. The board has adopted regulations on the appeal process. Once an appeal is requested, regulations require a hearing to be held at the next scheduled board meeting and the board is required to issue a decision within 10 days. According to the board, the hearing date and time is scheduled at the convenience of the appellant. If the location of the next board meeting is inconvenient, a teleconference is held.

Our testing revealed that the board is in compliance with regulations. The files we reviewed showed that appeal hearings were heard within 30 days after a written request was made. Decisions were issued at the end of each hearing.

Since 1991, the board has heard eleven appeals. The majority were related to rank and the remainder related to the eligibility of costs. Appeals over eligibility for the financial assistance program have never been brought before the board. The board has ruled in favor of the appellant in 6 of the eleven appeals (55%), with the remainder in favor of DEC.

According to the board, they have worked with numerous UST owners and operators who have disagreed with DEC's actions but, due to the board's intervention, did not request an appeal. Often, an explanation or clarification of procedures by the board's executive director has eliminated the need for a formal appeal.

Information provided to interested parties

The board utilizes several mediums to ensure that owners and operators are kept abreast of federal and state regulations. After the new storage tank statutes and regulations were adopted, the board, in conjunction with DEC, conducted workshops in seven different areas of the State to introduce individuals to the UST program. The workshops were attended by owners and operators of USTs and individuals from private companies; city, borough, and state agencies.

Currently, the board contributes one or two articles to DEC's newsletter, "Alaska Underground," which is published approximately three times a year. Articles are about board activities or changes in regulations or policies. In addition to owners and operators, the newsletter is distributed to consultants, certified workers, legislators, state agencies and interested persons.

In between publication dates, the board prepares information bulletins that are distributed to tank owners and operators. The bulletins are one to two page reports on issues of interest.

The board has prepared a booklet of "Questions and Answers" about the UST program. It is designed to introduce people to the program and provide answers to questions most frequently asked of the board. It is updated annually and distributed to tank owners and operators, legislators, DEC staff, and federal Environmental Protection Agency staff.

The extent to which the operation of the board, commission, or agency program has been impeded or enhanced by existing statutes, procedures, and practices which it has adopted, and any other matter, including budgetary, resource, and personnel matters.

The board's establishing legislation also provided financial assistance programs to assist the owners and operators of USTs to comply with federal and state requirements. Appropriations are made to the storage tank assistance fund to provide assistance to owners and operators of UST. Although DEC manages the fund, the board is responsible for allocating funds to the financial assistance programs.

Each year, at its July meeting, the board discusses funding. DEC informs the board of the number of applications received and the amount requested. They also suggest various methods to allocate the funds. The board then decides which projects to fund.

When the fund was first established in 1991 more than \$6 million was allocated to storage tank grants. Since then, funding has decreased. While funds have decreased, requests for financial assistance have increased. DEC estimates that over \$54 million is needed to fund all projects on file.

The FY 96 appropriation to financial assistance grants and loans was \$1.9 million. If funding continues at the this level it will take approximately 19 years to fund all projects.

Due to insufficient funding, no funds have been paid to eligible applicants of the reimbursement program. Original legislation allowed tank owners and operators to apply for reimbursement for a part of their eligible costs for UST upgrade activities if such activities took place prior to the law's effective date. Applicants had to apply by March 5, 1991 to be considered for funding. Legislation required that payments under this program would only be made after other requests for financial assistance had been satisfied. Since there remains outstanding funding requests under the various other programs, the board has not allocated any funding for this purpose.

DEC's records indicate that approximately \$3 million is needed to reimburse the 158 eligible applicants on file.

The extent to which the board, commission, or agency has recommended statutory changes that are generally of benefit to the public interest.

The board has actively participated in statutory changes regarding USTs. In 1994, three changes were made to the statutes:

1. Original legislation required the board to hear appeals when disputes arose on eligibility of costs and priority ranking. Statutes were amended to allow the board to also hear appeals on program eligibility.

2. The due date for applications for financial assistance for the tank closure and upgrade and closure program was set for December 31, 1994.
3. The application due date for the tank cleanup grant and loan program (cleanup program) was June 30, 1994. Statutes were amended to extend the due date for two years for eligible applicants of the upgrade and closure program if they discover and report contamination before July 1, 1996.

The extent to which the board, commission, or agency has encouraged interested persons to report to it concerning the effect of its regulations and decisions on the effectiveness of service, economy of service, and availability of service that it has provided.

Activities of the board are discussed at meetings that are open to the public. All meetings are announced in newspapers in the three largest cities in the State. The announcement includes a brief summary of the major issues that will be discussed.

The meeting agenda provides for public comment at the beginning and end of each meeting. Also, the board chair solicits public comments throughout the meeting.

The extent to which the board, commission, or agency has encouraged public participation in the making of its regulations and decisions.

The board has encouraged public participation in the making of its regulations. Prior to adoption, regulations are discussed at board meetings which are advertised and open to the public.

The efficiency with which public inquiries or complaints regarding the activities of the board, commission, or agency filed with it, with the department to which a board or commission is administratively assigned, or with the Office of the Ombudsman have been processed and resolved.

From a review of the ombudsman closed case files we determined that no complaints have been filed against any activities of the board.

The extent to which the board or commission which regulates entry into an occupation or profession has presented qualified applicants to serve the public.

Since the board does not regulate any occupation or profession, this criterion is not applicable to the activities of the board.

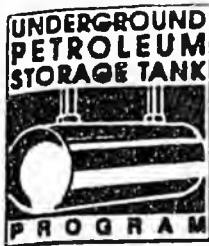
The extent to which state personnel practices, including affirmative action requirements have been complied with by the board, commission, or agency to its own activities and the area of activity or interest.

Nothing has come to our attention to indicate that the board has not complied with state personnel practices.

The extent to which statutory, regulatory, budgeting, or other changes are necessary to enable the agency, board or commission to better serve the interests of the public and to comply with the factors enumerated in this subsection.

See Recommendation No. 1.

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Board of Storage Tank Assistance

410 WILLOUGHBY AVENUE
JUNEAU, ALASKA 99801
(907) 465-5219
FAX (907) 465-5218

Tony Knowles, Governor

December 22, 1995

Division of Legislative Audit
P.O. Box 113300
Juneau, AK 99811-3300

RECEIVED
DEC 27 1995

LEGISLATIVE AUDIT

Attention: Jim Griffin

RE: Preliminary Report, Sunset Review of the Board of Storage Tank Assistance
Audit Control Number: 18-1432-95

Dear Mr. Griffin,

This letter is in response to the Preliminary Report pertaining to the Sunset Review of the Board of Storage Tank Assistance.

Several errors were noted as follows:

Page 7, paragraph 3. Actual number is \$1.9 million, not \$2.9 million.

Page 15, paragraph 5. Actual number is \$1.9 million, not \$2.9 million.

Page 16, Items 2 & 3. References to "closure program" should read "upgrade and closure program"

The Board of Storage Tank Assistance discussed at length the findings and recommendation outlined in the Preliminary Report, specifically Recommendation No 1, "*The legislature should consider amending Board statutes to provide for the appointment of a public member with no specialized knowledge of, or commercial interest in, underground storage tanks.*"

The Board fully supports modifying existing statutes to allow for additional appointments. With nearly 50 million dollars in financial assistance requests currently on file, the Board welcomes any additional input and insight that might be brought forward by citizens concerned with protecting Alaska's public health and environment. The Board of Storage Tank Assistance has been extremely successful in protecting and restoring Alaska's fragile environment from petroleum contamination resulting from leaking underground storage tanks and has done so without jeopardizing Alaskan jobs or Alaska's transportation dependant economy. The program is under funded at this time and needs to develop an alternative funding source to address current and future needs. The appointment of a concerned representative from outside the tank industry will help the Board evaluate future needs, scope and funding alternatives to insure the continued future success of the Storage Tank Assistance program.

The Board is committed to constantly refining and improving the Storage Tank Assistance Fund consistent with the program's original assistance-oriented intent. Tank owners and operators are a hard working and indispensable segment of Alaska's economy and deserve a hard working, conscientious and diversified Board of Storage Tank Assistance.

As you are aware, funds appropriated by the Alaska State Legislature to the Storage Tank Assistance Fund are allocated annually by the Board of Storage Tank Assistance to different financial assistance programs, the tank cleanup program, the tank upgrading program and the tank closure program.

The Board of Storage Tank Assistance makes the annual allocations after taking into consideration the amount of money in the Fund, the money required to meet the needs for each program, as supported by approved applications and the requirement that the greatest priority be given to funding projects that present the greatest threat or potential threat to public health. Although all regulated tank owners and operators are eligible, all applicants are priority ranked for funding according to regulations and criteria established by the Board of Storage Tank Assistance. The ranking system emphasizes public health threat foremost followed by numerous other considerations such as size of business, number of tanks owned, whether the company is too small to be self-insurable, nearest alternative fuel source and whether the facility is in a rural location. Several other criteria are used to rank applications with an emphasis on small rural tank owners that pose an imminent public health threat and have acted in good faith to undertake as much of the work as possible on their own.

Although the Board has addressed public health threats associated with leaking underground petroleum storage tanks to a considerable extent, the problem is not yet resolved and will take many years to resolve statewide. Again, the Board fully supports the recommendation outlined in the Preliminary Report.

Please feel free to contact me at 465-5219 at your convenience if you have any questions or wish to discuss this matter further.

Sincerely Yours,



John C. Barnett
Executive Director, Board of Storage Tank Assistance

cc: Judy Chadwick-Anderson, Board Chairperson

ALASKA STATE LEGISLATURE
LEGISLATIVE BUDGET AND AUDIT COMMITTEE
Division of Legislative Audit




P. O. Box 113300
Juneau, AK 99811-3300
(907) 465-3830
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December 29, 1995

Members of the Legislative
Budget and Audit Committee:

We have reviewed the response of the Board of Storage Tank Assistance to our audit report. We have made the suggested editing changes noted in the letter regarding a dollar amount used in the report and the description of one of the State's underground storage tank programs.


Randy S. Welker
Legislative Auditor

ALASKA Winter 1997 UNDERGROUND



A Newsletter for Alaska Storage Tank Owners, Operators and Contractors

ALASKA UNDERGROUND Volume 6- Number 1

Editor - Karen Paulick
Regular Columns - John Barnett, Bonnie Bladow,
Cathy Gilkov, Cynthia Pring-Ham, Ben Thomas
James Hayden - Storage Tank Manager
Kurt Fredriksson - Director, Spill Prevention & Response

To access the newsletter on the Internet, go to:
http://www.state.ak.us/local/akpages/ENVCONSERV/dec_pub.htm.

ALASKA UNDERGROUND is published quarterly, free-of-charge, for interested individuals and organizations. It is specifically for education and information and is not intended to replace the standards and guidelines in the state and federal UST regulations. This newsletter is one of several methods the Department of Environmental Conservation has implemented to meet the Educational Assistance requirements in AS 46.03.370.

The State of Alaska, Department of Environmental Conservation, complies with Title II of the Americans with Disabilities Act of 1990. This publication is available in alternative communication formats upon request. Please contact Karen Paulick at 465-5200, or FAX to 465-5218, to make any necessary arrangements.

IN THIS ISSUE

- 1 New Cleanup Standards
- 2 Financial Assistance
- 3 Questions & Answers
- 4 Risk Assessment Plan
- 5 Facility Inspections
- 6 Aboveground Tank News
- 7 News Briefs

Cleanup Standards Revised

Cleanup Levels

The Department of Environmental Conservation (DEC) is proposing changes to the cleanup levels for petroleum contamination. The proposal calls for replacement of the current underground storage tank (UST) matrix and cleanup levels. The Department anticipates releasing a draft of contaminated sites cleanup standards (Article 3 of the Oil and Hazardous Substance regulations, 18 AAC 75), by early 1997. To be consistent with these regulations, the UST Regulations, 18 AAC 78, will be changed to reference these cleanup standards.

3 Types of Cleanup Standards

Three types of cleanup standards have been proposed and are listed below. These standards will increase flexibility to cleanup property. The standards are all risk based but vary depending on the complexity of the site.

■ Generic

The generic numerical standards are intended to protect human health and the environment at any site within three climate zones, without further consideration of site specific conditions. They are based on:

- human health risks associated with the possible ingestion of hazardous substances in the soil/groundwater;
- inhalation of volatile hazardous substances in the soil; and,
- migration of hazardous substance to groundwater.

The generic standards are in a table format and have been calculated for:

- indicator compounds (i.e. benzene, toluene, ethylbenzene, xylene and specific polynuclear aromatic hydrocarbons and metals); and,
- aliphatics and aromatics in the petroleum hydrocarbon ranges, C_6-C_{10} , $C_{10}-C_{25}$, and $C_{26}-C_{36}$.

Maximum concentration levels for different petroleum ranges, based on aesthetic and nuisance considerations, are also addressed.

■ Site Specific

Site specific numerical standards are derived for certain exposure risks using the same models and equations for the generic cleanup standards, but with the inclusion of site specific data. This standards are protective of the groundwater ingestion pathway at the contaminated site.

■ Full Risk Assessment

Full risk assessment based standards are the most sophisticated type of standards and are developed when the owner and operator wants to consider extensive site specific data for multiple exposure risks, for property use that is not expected to be residential, or when unusual characteristics or features are found at the site. These can be determined by following a Risk Assessment Procedures Manual being proposed by DEC.





DOLLARS AND SENSE

STATUS OF THE FINANCIAL ASSISTANCE PROGRAM FOR UNDERGROUND STORAGE TANKS

Since September 5, 1990, the underground storage tank Financial Assistance Program issued over \$18 million (400 grants to 282 facilities) throughout Alaska. The grants were used to cleanup contamination from leaking underground storage tanks (UST), to upgrade underground storage tank facilities for leak detection, spill prevention, and corrosion protection requirements mandated by federal law, and to remove or permanently close USTs.

Grants for FY 1997

Based on allocations by the Board of Storage Tank Assistance, the Financial Assistance Program anticipates continuing cleanup

efforts at the 36 ongoing cleanup projects funded with prior fiscal year funds and beginning cleanup efforts at six new facilities. In addition, funds should be sufficient to award grants for six new upgrade projects and 30 closure or removal projects.

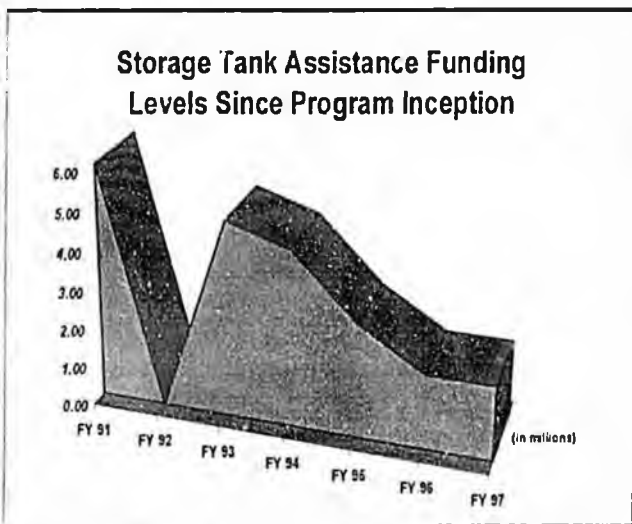
Pending Applications

You can no longer apply to the Financial Assistance Program for grants and loans as the application deadlines ended on June 30, 1994 for the Tank Cleanup Program and on December 30, 1994 for the Tank Upgrade and Closure Program. There are many applicants who applied before the application deadlines, and who are still waiting for financial assistance.

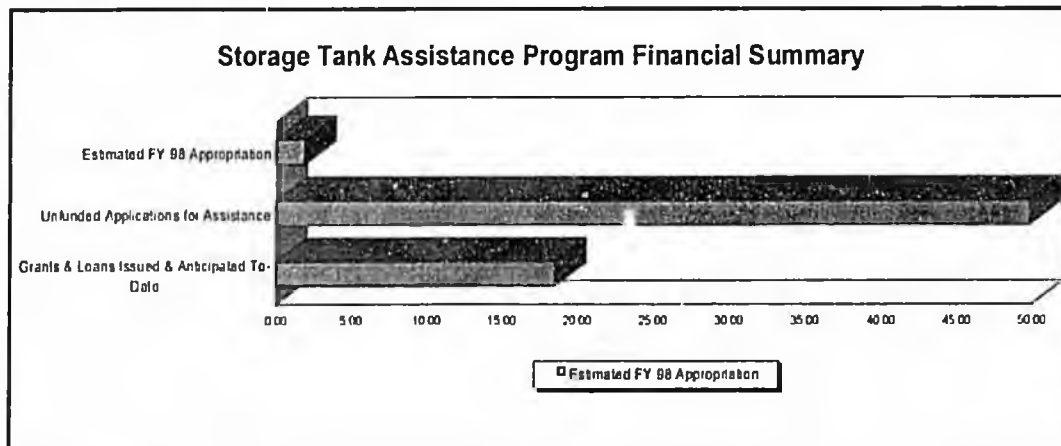
Applications that are pending include: 295 requests for cleanup grants; 190 for upgrade; and 361 for closure. This does not include the 158 applications pending under the Reimbursement Program for work completed prior to September 5, 1990 (the effective date of the Underground Storage Tank Statutes). These applicants, by statute, receive the lowest priority for funding and will not be funded until all applicants under the Tank Cleanup Grant and Loan Program and the Tank Upgrade and Closure Program receive funds.

Additional Funding Needed

The Department is in the process of submitting a request under the capital improvement budget to provide close to \$2.0 million for grants in Fiscal Year 1998 and \$2.0 for Fiscal Year 1999.



Since the inception of the Storage Tank Assistance Fund in 1990, Legislative appropriations have steadily declined. In the FY 91 budget the Fund received \$6.0 million. For FY 97 the Fund received \$1.9.



The Storage Tank Assistance Fund has 1,004 financial assistance applications on file requesting a total of \$49.8 million in aid. The amount anticipated to be received from the next legislative session is expected to be less than \$2.0 million.

QUESTIONS & ANSWERS

DID YOU KNOW?



- **A new UST system must be installed at least 75 feet away from a Class C drinking water well.** This requirement applies to the many facilities that have their own water supply wells.
- **If you have a steel tank and piping with cathodic protection, you are required to have your cathodic protection system tested every three years.** Testing must be performed by a person currently certified by the State of Alaska in cathodic protection testing.
- **The owner/operator of a UST system is responsible for hiring an Alaska certified tank worker to perform UST work.** If an unauthorized worker is used, the owner/operator may need to have the work redone, and may be subject to violations. This includes work for installation, repair, reconfiguration, closure, tank tightness testing, and cathodic protection testing. Not sure? Call your tank worker!
- **A newly installed spill prevention device (catchment basin) must be of sufficient capacity to hold the amount of fuel in a typical delivery hose.** A hose usually holds about 14 gallons. Some catchment basins are only 5 gallons. Make sure yours is large enough!
- **A newly installed UST system must have corrosion protection for both tanks and piping.** There is no piping exemption for the corrosion protection requirements.
- **Deadbeat parents can not be certified tank workers.** A new rule went into effect October 1, 1996, that allows the State to deny renewal of an occupational license to people who are delinquent in paying child support. This includes people who are certified to perform UST work. A new certification will not be reissued or renewed without a release from the Child Support Enforcement Division. The next renewal date for UST workers is December 31, 1997.
- **Owners/operators of USTs must notify the Storage Tank Program when they install, upgrade, repair, or significantly reconfigure a UST, including piping.** Notification must be filled-out and signed by owner/operator AND the certified worker who performed the work.
- **Inventory control with tank tightness testing is only a temporary method of leak detection.** Inventory control will not be an acceptable method of leak detection after December 22, 1998 for tanks without spill/overflow devices and corrosion protection. Inventory control, started before December 22, 1998, may be used for ten years following the installation of a new tank or the upgrading of an existing tank to meet the corrosion protection and spill/overflow requirements.
- **Inventory control can never be used alone.** Inventory control (as a means of leak detection) must always be used in combination with tank tightness testing or statistical inventory reconciliation.

COMMONLY ASKED QUESTIONS ABOUT UNDERGROUND STORAGE TANKS

"Don't Wait Till '98": Last Chance for Free Tank Workshops

The Storage Tank Program will be hosting free, one-day workshops for tank owners and operators in March of 1997. Workshop locations will include Ketchikan, Juneau, Kenai, Anchorage and Fairbanks. Exact times and locations will be announced soon. The workshops will focus on options and technical requirements for upgrade and closure of tanks. We will also have a large collection of free publications. If there is a topic you would like us to cover, or if you think there is sufficient interest in your community to add another workshop near you, please contact Ben Thomas at 907-465-5206. E-mail: bthomas@envircon.state.ak.us



CORRECTIVE ACTION

WORK PLANS: THE KEY TO PREPARING A GOOD RISK ASSESSMENT

If the procedure outlined here is followed, the risk assessment procedure should flow quite smoothly saving a great deal of time and money.

The Underground Storage Tank regulations (18 AAC 78), contain provisions, within Article 3 (Cleanup Standards), for the approval of alternative soil cleanup levels, as well as alternative surface and groundwater cleanup levels. This is done through the submittal of a site specific work plan and risk assessment report by the responsible party (RP). The key to preparing a credible risk assessment document, is the **prior** submittal of a work plan for the proposed risk assessment.

Scoping Meeting

The first item of "preliminary work" is the scoping meeting. This typically involves the RP and/or the RP's consultant, and members of the DEC staff. This is a good opportunity for DEC staff and the RP to discuss the general approach, and identify any problems (data gaps, etc.) that may need to be addressed.

The Work Plan

When the conceptual site model is approved by DEC, the RP can begin to prepare the work plan.

The risk assessment work plan must address the magnitude and probability of threats to both human health and ecological conditions at a site.

The risk assessment work plan should include:

- Submittal of a **conceptual site model (CSM)**. The CSM is used to evaluate exposure pathways. Pathways can be classified as ingestion (through food or drink), dermal (touch), and inhalation (through breathing). Sources of contamination are most often thought of as soil, water, or air.

- An **introduction** sufficient to acquaint the reader with the background of the site (vicinity maps, geologic, and hydrogeologic setting, historical investigations);
- A section to address the selection of **compounds of potential concern**, and a proposed point of compliance; and,
- A discussion of the **fate and transport modeling** of the compounds of concern.

Other sections of the risk assessment work plan should address **exposure assessment** (including land uses, ground water uses, and soil exposure areas), **toxicity assessment**, and **risk characterization**. Ecological receptors need to be adequately addressed.

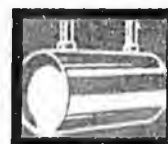
After looking at the data, it may be decided that additional information is required to complete the risk assessment. In this case, it would be important to include in the risk assessment work plan a section on: field activities, to describe such things as the installation of additional monitoring wells; collection of additional soil and ground water samples; and, data collection to support an argument for natural attenuation.

The Department looks forward to working with tank owners and operators in the development of alternative cleanup levels at those sites where the source of contamination has been removed, and the remaining soil and/or groundwater contamination poses no significant threat to human health.

For More Information

For additional information contact Steve Bainbridge, in Fairbanks, at 907-471-2182.

TECHNICAL REVIEW



This past summer, the Environmental Protection Agency (EPA) and Department of Environmental Conservation (DEC) together conducted a second season of (underground storage tank) UST facility inspections throughout the state.

28 Facilities Inspected

The two agencies inspected 76 UST tanks at 28 facilities located on the Kenai Peninsula, Fairbanks, Anchorage, and Fort Greely. The main focus of the inspections was to ensure that owners/operators were performing leak detection and had obtained financial responsibility for their tanks. Inspectors also provided owners with information regarding the upcoming 1998 UST standards and improvements their UST systems would need to meet the 1998 standards.

Who Was Inspected?

This year's inspections covered a wide variety of facilities including: mom & pop businesses; major gas station chains; state facilities; and a military facility. Owners were contacted by DEC approximately two weeks in advance of the inspection date and were requested to have specific documentation readily available for review. Inspections generally took anywhere from a half-an-hour to two hours depending on the number of tanks at the facility, the type of systems being operated, and the age of the tanks.

More Compliance Noted

Compared to last year's inspections, inspectors found more tank owners had upgraded or replaced their systems in an effort to meet the 1998 standards.

Upgrading Worth The Cost

Most owners with upgraded or new systems said it was a stretch financially to upgrade or replace their old systems. However, most were glad they had the work done. Benefits of upgrading included: reduced annual tank registration fees; avoidance of possible business shutdowns due to delays in finding qualified individuals to do the work as the 1998 deadline approaches; and having confidence in their systems, knowing there was less likelihood a release would occur and if one did they would be alerted to the problem before it became a huge financial liability.

Out-of-Compliance Tanks

An owner whose system was found to be out-of-compliance with federal and state regulations was issued a Notice of Non-Compliance (NoNC) and was given a time period to correct violations without monetary fines being assessed. The majority of the NoNC issued were for improper leak detection, specifically improper or incomplete inventory control record keeping and failure to conduct annual tank tightness test. Other violations included: improper leak detection for pressurized lines; failure to have financial responsibility; and failure to do cathodic protection testing.

In general, inspectors found owners and operators cooperative and more aware of the regulatory requirements.

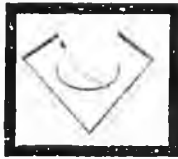
For Information

For information about the inspection program, or for UST facility requirements, contact Tim Stevens at 907-269-7538 or you may call the DEC hotline at 800-478-4974.

EPA AND DEC CONDUCT UST FACILITY INSPECTIONS

Problems Found During Inspections:

- improper leak detection, specifically improper or incomplete inventory control record keeping;
- failure to conduct annual tank tightness test;
- improper leak detection for pressurized lines;
- failure to have financial responsibility;
- failure to do cathodic protection testing.



COAST GUARD INSPECTIONS AND REQUIREMENTS FOR ASTS

ABOVE AND BEYOND

Coast Guard Inspections

The United States Coast Guard (USCG) conducted 187 aboveground storage tank (AST) facility inspections in rural Alaska during the spring and summer of 1996. The major problems discovered were related to lack of, or deterioration of safety equipment. Examples of these discrepancies are:

- no operation manuals;
- inadequate or lack of secondary containment;
- failure to perform pressure testing on transfer piping;
- failure to post "no smoking signs";
- lack of facility security.

In several areas, there was evidence of spills, leaky connections and unstable tanks.

USCG staff noted that they have seen some improvement to AST facilities in rural Alaska and that the awareness level for USCG requirements is improving.

Next year the Coast Guard is hoping to conduct approximately the same number of inspections in rural Alaska. They intend to focus on facilities where problems were found in addition to facilities that they were unable to inspect during this season.

USCG Requirements

The Clean Water Act and the Oil Pollution Act give the USCG authority to regulate "Marine Transportation Related" (MTR) facilities. This includes bulk facilities that are capable of transferring oil to or from vessels with a capacity of 10,500 gallons or more and facilities that pose a significant and substantial threat of discharge.

These requirements, were recently updated, and can be found in 33 CFR 154 and 156. They are briefly summarized below:

- Owner/operator must submit a "Letter of Intent to Operate," to the Captain of the Port. The letter must contain the names, addresses, and telephone numbers of the facility owner and operator;
- Owner/operator must submit two copies of an "Operations Manual" describing how the operating rules and equipment requirements will be met and responsibilities of personnel who conduct transfers;
- Owner/operator must submit two copies of a Facility Response Plan for approval;
- Owners/operators are liable for oil spill removal costs and damages of up to \$350 million including civilian and criminal penalties;
- The Coast Guard will inspect MTR's, focusing on immediate dangers to life and health, pollution prevention, and danger to property;
- The Coast Guard is responsible for testing and maintaining transfer hoses and piping.

For Information

For additional information on USCG requirements for ASTs contact your local Marine Safety Office:

Juneau 907-463-2464
Anchorage 907-271-6700
Valdez 907-835-7215

NEWS BRIEFS



Attention Local Governments

The Storage Tank Program recently mailed local governments in Alaska a UST information packet that is designed to be used by small towns and municipalities to better prepare for the 1998 upgrade or closure deadline. If you did not get the packet, or would like another, please call Ben Thomas at 907-465-5206; or e-mail: bthomas@envircon.state.ak.us

Go Ask "Alice"

Alaska Storage Tank Program staff recently attended a meeting in Washington D.C. to assist in the development of a national standard for UST facility inspections. The meeting, sponsored by the American Society of Testing and Materials (ASTM), explored the possibility of a third-party inspection procedure that could be used by tank owners, state regulators, loan officers, insurance brokers, or licensed tank workers. The standard would look like a comprehensive checklist and would include all the federal tank requirements. (Alaska's UST requirements are very similar, so a checklist for Alaskans would be almost identical.) Alaska is considering moving towards the concept of requiring third-party inspectors to perform a facility inspection every few years.

Liners May Be Used For Corrosion Protection

The last issue of the newsletter had a headline article concerning the upgrading of tanks to meet the 1998 requirements. One method of upgrade for corrosion protection that was not mentioned, but that is an acceptable method of corrosion protection is the use of a liner. See 18 AAC 78.030 (d) for further details.

1997 Registration Fees Due

UST Registration for 1996 expires on December 31, 1996. An annual registration renewal fee is required by AS 46.03.385(a), and must be paid to the Department at least 30 days before the registration expires each year.

A courtesy 1997 Registration Invoice was mailed around November 1, 1996. Registration fees are due **December 1, 1996!** Late fees of \$10 per tank, per day, for non-payment begin January 1, 1997! (The "day of payment" means the day the fee is received by the Department of Environmental Conservation or, if mailed, the day of the postmark.)

Questions about registration or fees? Contact David Allen at (907) 269-2537, or outside Anchorage: (800) 478-4974.

State Tanks

Seven State of Alaska agencies, that manage USTs, are developing a capital budget to upgrade, or close and replace, 200 state-owned USTs throughout Alaska.

Publications Available

The Storage Tank Program has a large stock of publications, such as "Don't Wait Till '98," "Doing Inventory Control Right," "Controlling Cleanup Costs," "Musts for USTs," and "Dollars and Sense." We also have a number of other publications dealing with things such as closure, statistical inventory reconciliation, manual tank gauging, financing options for state and local agencies, and general information about underground storage tanks. Copies of these documents are free to the public.

We also have copies of industry standards related to USTs which may be reviewed in our DEC offices.

For further information about available publications please call or visit your local office of DEC (see listing on back of this newsletter).

Look for this Logo

This logo is a reminder that tank owners/operators should not wait until 1998 to upgrade or close their tanks.



We recently learned that the official Michie version of the UST regulations has a typographical error. The Cleanup Levels, as published in the October 1996, Supplement, Page 264, Part B, Table E, are incorrect. **Do not use these values.** Please refer to the regulations published by the Department and dated November 3, 1995, for the correct values. If you are unsure which version to use or if you have questions, please contact Cynthia Pring-Ham at 907-465-5301.

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ALASKA UNDERGROUND

IMPORTANT DATES

December

1 1997 UST Registration Fees Due
 31 1996 UST Registration Expires

January

February

March Alaska Workshops: Don't Wait Till '98 (Ketchikan, Juneau, Kenai, Anchorage
 Fairbanks)

(Every Saturday - Tank Worker Exam - Anchorage)
 (Fourth Saturday of every month - Tank Worker Exam - Fairbanks)

TANK.NET

The Storage Tank Program has a web page on the Internet to help answer many questions about tanks in Alaska. Currently we get about 20 visits per week. Visitors can: download UST regulations, forms, lists of tank workers, and lists of all tanks; provide links to other tank pages; provide answers to frequently asked questions; and, even download this newsletter. Is there a service that you need that we don't yet provide? Go check it out at: www.state.ak.us/dec/dspar/stp_home.htm, and tell us what you think.

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 907-262-5210

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 & REGISTRATION INFORMATION
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 907-269-7504

WASILLA OFFICE
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 907-376-5038



The Alaska Underground Storage Tank Program has a
 Toll-Free Hotline. For assistance call:
800-478-4974