

HB

419

ALASKA STATE HOUSE OF REPRESENTATIVES

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REPRESENTATIVE JOHN COGHILL

HB 419 "Board of Storage Tank Assistance"

SPONSOR STATEMENT

In 1990 the Alaska Legislature passed HB 220 to credit a state ULT Program and a Storage Tank Assistance Fund in order to assist tank owners that were required to meet the deadlines set in the US Environmental Protection Agency (EPA) Underground Storage Tank Program.

In 1999, the year after EPA's deadline, the program began to phase out and was formally ended by the Legislature on June 30, 2004.

A loan program to assist owners with completing cleanup was established by SB 128, passed in 1999. The Storage Tank Assistance Fund was converted to the Underground Storage Tank Revolving Loan Fund in 2002.

The original legislation HB 220 also created the Board of Storage Tank Assistance to oversee state grants and loans. The Board is no longer needed since the grant program has been terminated and no loan applications have been received.

SB 128 established a June 30, 1999 sunset date for the board. Subsequent bills extended that date to June 30, 2007.

HB 419 will modify the end date for the board in order to be consistent with the end date for formal termination of the loan program. Additionally the bill lists out the statutes that relate to the board, the reporting, regulations, fees, revolving loan fund, loan program, definitions, uses of the fund, the respective administrative codes, the orderly completion of the boards obligations, and renumbering instructions related to those statutes repealed.

FISCAL NOTE

STATE OF ALASKA
2006 LEGISLATIVE SESSION

Fiscal Note Number: _____
 Bill Version: HB 419
 () Publish Date: _____

Revision Date/Time (Note if correction): _____ Dept. Affected: Environmental Conservation
 Title Repeal Underground Storage Tank Laws RDU Spill Prevention and Response
 Component Contaminated Sites
 Sponsor Representative John Coghill
 Requester House Resources Committee Component No. 2386

Expenditures/Revenues (Thousands of Dollars)

Note: Amounts do not include inflation unless otherwise noted below.

OPERATING EXPENDITURES	FY 2007	FY 2008	FY 2009	FY 2010	FY 2011	FY 2012
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
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CHANGE IN REVENUES ()	0.0	0.0	0.0	0.0	0.0	0.0
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FUND SOURCE (Thousands of Dollars)

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 Receipts	0.0	0.0	0.0	0.0	0.0	0.0
1037 GF/Mental Health	0.0	0.0	0.0	0.0	0.0	0.0
Other (Specify Type—Do not abbreviate)	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 (FY2005) cost: 0.0

Mark this box (X) if funding for this bill is included in the Governor's FY 2007 budget proposal:

POSITIONS

Full-time	0	0	0	0	0	0
Part-time	0	0	0	0	0	0
Temporary	0	0	0	0	0	0

ANALYSIS: (Attach a separate page if necessary)

The storage tank financial assistance program was established by the legislature to provide technical and financial assistance to underground tank owners and operators in an effort to prevent new spills and cleanup old spills from underground storage tanks (UST). The Storage Tank Assistance Fund began in 1990 as a grant program to assist UST owners with the cost of tank tightness testing, site assessment, clean up of contamination caused by leaking USTs, and removal, upgrade, or replacement of UST systems. The Board of Storage Tank Assistance was established to rank requests for grants and loans, and determine which costs were eligible under the financial assistance program. In 2002, SB 153 renamed the fund the Underground Storage Tank Revolving Loan Fund (USTRLF), and mandated that DEC could not pay money for grants after June 30, 2004. The grant program was successfully closed by the required date, and no loan requests have been received. Since no more grants can be issued, and no loan requests have been or are expected to be received, repealing the Board and the Fund should not have an impact. UST permit fees, which are directed to the USTRLF and amount to approximately \$35,000 per year will be deposited in the General Fund.

Prepared by: Larry Dietrick
 Division: Spill Prevention and Response
 Approved by: Dan Easton, Deputy Commissioner
 Agency: Department of Environmental Conservation

Phone 907-465-5250
 Date/Time March 17, 2006 3:40 p.m.
 Date 3/21/2006

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REPRESENTATIVE JOHN COGHILL

HB419 – Repeal Board of Storage Tank Assistance

SECTIONAL

Section 1. AS 46.03.440(a) reworded to *former board of storage tank assistance* because this Board is being dissolved.

Section 2. This section lists the statutes that are being repealed, beginning with the Board of Storage Tank Assistance and Chapter 66 – Review of the activities of agencies, boards, and commissions AS 44.66.010(a)(7) – Expiration of Board of Storage Tank Assistance – June 30, 2007

Article 6 – Underground Storage Tank Systems

AS 46.03.360 – Board of storage tank assistance. *Board is being repealed.*

AS 46.03.363 – Reports. *Reports will no longer be required.*

AS 46.03.365 – Regulation of underground petroleum storage tank systems:

(d) Before adopting a regulation 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 underground petroleum storage tank, the department shall consult with the board. Before the department may adopt a regulation specifying allowable technologies for testing, containment and cleanup, or corrective action, the regulation must be approved by the board. *There is no longer a board to consult with or approve a regulation.*

AS 46.03.385 – Registration fee:

(c) The department shall deposit fees collected under this section into the underground storage tank revolving loan fund established under AS 46.03.410. *There will no longer be a revolving loan fund for registration fee deposits.*

AS 46.03.410 – Underground storage tank revolving loan fund. *Repealed in its entirety.*

AS 46.03.422 – Tank cleanup loan program. *Repealed in its entirety.*

AS 46.03.450 – Definitions:

- (1) "board"
- (3) "containment and cleanup"
- (5) "facility"
- (9) "risk assessment"
- (11) "tangible net worth"

AS 46.08.040 – Uses of the fund:

(a)(2)(G) (a) In addition to money in the response account of the fund that is transferred to the commissioner of commerce, community, and economic development to make grants under as 29.60/510 and to pay for impact assessments under AS 29.60.560, the commissioner of environmental conservation may use money (2) from the prevention account in the fund to (G) pay or reimburse the underground storage tank revolving loan fund established in AS 46.03.410 for expenditures from that fund authorized by AS 46.03.410(b).

Section 3. The Alaska Administrative Codes that relate to the repealed statutes in Sec. 2 above, are annulled.

Section 4. This section allows for an orderly completion of obligations, rights, liabilities, and contracts that were entered into prior to the Board of Storage Tank Assistance being repealed.

Section 5. This instruction is given because AS 46.03.360 and 46.03.363 are repealed in Sec. 2 above. There is no reason for statutes that have been repealed to be referenced.

Article 1. RELEASE PREVENTION AND RESPONSE FUND; REIMBURSEMENT; LIENS

Sec. 46.08.025. Financing of the oil and hazardous substance release response account; release mitigation account.

Statute text

(a) The legislature may appropriate from the following sources to the oil and hazardous substance release response account in the fund:

(1) the annual estimated balance of the account maintained under AS 37.05.142 for deposit into the general fund of the proceeds of the oil conservation surcharge levied by AS 43.55.201;

(2) money received from other state sources, from federal or other sources, or from a private donor; and

(3) money recovered or otherwise received from parties responsible for the containment and cleanup of oil or a hazardous substance at a specific site for which the state expended money from the former oil and hazardous substance release response fund before October 2, 1994 or for which the state expended money from the response account, but excluding

(A) money from performance bonds and other forms of financial responsibility held in escrow pending satisfactory performance of a privately financed response action;

(B) fines, penalties, and damages described in AS 46.08.020(a)(4).

(b) Money received by the state under (a)(2) and (3) of this section shall be deposited in the general fund and credited to a special account called the "oil and hazardous substance release response mitigation account." The legislature may annually appropriate to the response account in the fund from the response mitigation account a sum equal to the amount received under (a)(2) and (3) of this section during the calendar year preceding the legislative session in which the appropriations are to be made.

History

(§ 26 ch 128 SLA 1994)

Sec. 46.08.030. Intent concerning the abatement of oil or hazardous substance releases.

Statute text

It is the intent of the legislature and declared to be the public policy of the state that funds for the abatement of a release of oil or a hazardous substance will always be available.

History

(§ 1 ch 59 SLA 1986)

Sec. 46.08.040. Uses of the fund.

Statute text

(a) In addition to money in the response account of the fund that is transferred to the commissioner of commerce, community, and economic development to make grants under AS 29.60.510 and to pay for impact assessments under AS 29.60.560, the commissioner of environmental conservation may use money

(1) from the response account in the fund

(A) when authorized by AS 46.08.045, to investigate and evaluate the release or threatened release of oil or a hazardous substance, and contain, clean up, and take other necessary action, such as monitoring and assessing, to address a release or threatened release of oil or a hazardous

substance that poses an imminent and substantial threat to the public health or welfare, or to the environment;

(B) to provide matching funds in the event of a release of oil or a hazardous substance for which use of the response account is authorized by AS 46.08.045 for participation

(i) in federal oil discharge cleanup activities; and

(ii) under 42 U.S.C. 9601 - 9657 (Comprehensive Environmental Response, Compensation, and Liability Act of 1980); and

(C) to recover the costs to the state, a municipality, a village, or a school district of a containment and cleanup resulting from the release or the threatened release of oil or a hazardous substance for which money was expended from the response account;

(2) from the prevention account in the fund to

(A) investigate and evaluate the release or threatened release of oil or a hazardous substance, except a release described in AS 46.08.045(a) and contain, clean up, and take other necessary action, such as monitoring and assessing, to address a release or threatened release of oil or a hazardous substance, except a release described in AS 46.08.045(a);

(B) pay all costs incurred

(i) to establish and maintain the oil and hazardous substance response office;

(ii) under agreements entered into under AS 46.04.090 or AS 46.09.040;

(iii) to review oil discharge prevention and contingency plans submitted under AS 46.04.030;

(iv) to conduct training, response exercises, inspections, and tests, in order to verify equipment inventories and ability to prevent and respond to oil and hazardous substance release

emergencies, and to undertake other activities intended to verify or establish the preparedness of the state, a municipality, or a party required by AS 46.04.030 to have an approved contingency plan to act in accordance with that plan; and

(v) to verify or establish proof of financial responsibility required by AS 46.04.040;

(C) pay, when presented with appropriate documentation by the Department of Military and Veterans' Affairs, the expenses incurred by the Department of Military and Veterans' Affairs for Alaska State Emergency Response Commission activities, including staff support, when the activities and staff support relate to oil or hazardous substances, and for the costs of being prepared for responding to a request by the department for support in response and restoration, but not including the costs of maintaining the response corps and the emergency response depots under AS 26.23.045;

(D) pay all costs incurred to acquire, repair, or improve an asset having an anticipated life of more than one year and that is acquired, repaired, or improved as a preparedness measure by which the state may respond to, recover from, reduce, or eliminate the effects of a release or threatened release of oil or a hazardous substance;

(E) pay the costs, if approved by the commissioner, that were incurred by local emergency planning committees to carry out the duties assigned them by AS 26.23.073(g);

(F) provide matching funds in the event of the release of oil or a hazardous substance, except a release of oil for the containment and cleanup of which use of the response account is authorized by AS 46.08.045, for participation

(i) in federal oil discharge cleanup activities; and

(ii) under 42 U.S.C. 9601 - 9657 (Comprehensive Environmental Response, Compensation, and Liability Act of 1980);

(G) pay or reimburse the underground storage tank revolving loan fund established in AS 46.03.410 for expenditures from that fund authorized by AS 46.03.410(b);

- (H) transfer to the Department of Commerce, Community, and Economic Development for payment by the commissioner of commerce, community, and economic development of
- (i) municipal impact grants when authorized under AS 29.60.510(b)(2);
 - (ii) assessments of the social and economic effects of the release of oil or hazardous substances as required by AS 29.60.560 when, in the judgment of the commissioner, the release of oil or a hazardous substance is not one that is described in AS 46.08.045; and
 - (iii) grants to repair, improve, or replace fuel storage facilities under the bulk fuel system emergency repair and upgrade program;
- (I) recover the costs to the state, a municipality, a village, or a school district of a containment and cleanup resulting from the release or threatened release of oil or a hazardous substance for which money was expended from the prevention account;
- (J) prepare, review, and revise
- (i) the state's master oil and hazardous substance discharge prevention and contingency plan required by AS 46.04.200, and
 - (ii) a regional master oil and hazardous substance discharge prevention and contingency plan required by AS 46.04.210; and
- (K) restore the environment by addressing the effects of an oil or hazardous substance release.
- (b) [Repealed, § 43 ch 128 SLA 1994.]
- (c) Notwithstanding other provisions of this section, money from the fund may not be used for a purpose specified in (a)(1)(B) or (C) or (a)(2) of this section unless money is available from an appropriation made specifically for that purpose. The legislature may use not more than three percent of the estimated annual balance of the prevention account to make appropriations for the purposes described in (a)(2)(E) of this section.
- (d) [Repealed, § 43 ch 128 SLA 1994.]

History

(§ 1 ch 59 SLA 1986, am § 3 ch 90 SLA 1989; am § 2 ch 113 SLA 1989; am §§ 14, 15 ch 190 SLA 1990; am § 28 ch 191 SLA 1990; am § 3 ch 199 SLA 1990; am §§ 4, 5 ch 48 SLA 1991; am § 15 ch 83 SLA 1991; am § 23 ch 32 SLA 1994; am §§ 27 - 29, 43 ch 128 SLA 1994; am § 98 ch 21 SLA 2000; am § 19 ch 41 SLA 2002)

Annotations

Revisor's notes. In 1999, in (a) of this section, "commissioner of community and regional affairs" was changed to read "commissioner of community and economic development" and "Community and Regional Affairs" was changed to "Community and Economic Development" in accordance with § 91(a)(13), ch. 58, SLA 1999.

In 2004, in (a) of this section, "commissioner of community and economic development" was changed to "commissioner of commerce, community, and economic development" and "Department of Community and Economic Development" was changed to "Department of Commerce, Community, and Economic Development", in accordance with § 3, ch. 47, SLA 2004.

Effect of amendments. The first 1991 amendment, effective September 13, 1991, in subsection (c), inserted "and (d)(2)" and substituted "money is available" for "funds are available"; and in former subsection (d) (now repealed), added the paragraph designations, added paragraph (2), and made a related stylistic change.

The second 1991 amendment, effective June 28, 1991, in subsection (a), substituted the present introductory language for the former language which read "The commissioner may use money

from the fund to" and, in paragraph (5), substituted "recover the costs to the state, a municipality, or a village" for "recover the cost to the state or to a municipality."

The first 1994 amendment, effective August 6, 1994, in subsection (a), added ", including costs incurred under an agreement entered into under AS 46.04.090 or AS 46.09.040" in subparagraph (2)(A), and rewrote paragraph (3).

The second 1994 amendment, effective October 2, 1994, rewrote subsection (a); in subsection (c), made an internal reference substitution in the first sentence and added the second sentence; and repealed subsections (b) and (d), relating to the governor's use of money from the fund to respond to disaster emergencies and to reimbursement of the Alaska Legislative Council and construction of marine highway system vessels capable of responding to oil spills, respectively. The 2000 amendment, effective April 28, 2000, made a section reference substitution in subparagraph (a)(2)(E).

The 2002 amendment, effective July 1, 2002, substituted "underground storage tank revolving loan fund" for "storage tank assistance fund" in subparagraph (a)(2)(G).

Editor's notes. Section 5, ch. 90, SLA 1989 provides that the amendments to this section by that chapter do "not relieve a person responsible for an oil terminal facility, offshore exploration or production facility, or a vessel that transports crude oil, or a person who has control of a hazardous substance, from the responsibility for containing and cleaning up a discharge of oil or the hazardous substance as required by law."

For essentially similar language in connection with the amendments to this section by ch. 113, SLA 1989, see § 4, ch. 113, SLA 1989 in the Temporary and Special Acts.

Section 23, ch. 83, SLA 1991 provides that the amendment to subsection (a) made by § 15, ch. 83, SLA 1991 does "not apply to a release of oil or a hazardous substance and resultant cleanup activities or to efforts to respond to or abate that release if the release occurred before June 28, 1991."

AS 46.13.080, referred to in subparagraph (a)(2)(E) of this section, was repealed by § 28, ch. 32, SLA 1994.

Opinions of attorney general. Air releases of hazardous substances are covered by the Release Response Fund (AS 46.08.050 - 46.08.900). October 9, 1991, Op. Att'y Gen.

Article 6. UNDERGROUND STORAGE TANK SYSTEMS

Sec. 46.03.360. Board of storage tank assistance.

Statute text

(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 commissioner of environmental conservation, or the commissioner's designee, 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;

(4) a member of the insurance industry; and

(5) a person who is a member of the general public who does not have a financial interest in replacing, upgrading, closing, testing, or cleaning up releases from the type of underground storage tank that is governed by AS 46.03.360 - 46.03.450.

(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 regulation under which the department shall

(1) rank requests for assistance under AS 46.03.422;

(2) determine which costs of risk assessment, containment, corrective action, and cleanup are eligible costs under AS 46.03.422;

(3) [Repealed, § 20 ch 41 SLA 2002.]

(f) If the department determines that an owner or operator is not eligible for assistance under AS 46.03.410 - 46.03.422 or that a cost is not eligible and the affected owner or operator disputes that determination, or if an owner or operator disputes the ranking assigned to the request for assistance, 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 46.03.410 - 46.03.422. The department shall implement the regulations.

History

(§ 2 ch 96 SLA 1990; am § 1 ch 107 SLA 1994; am § 2 ch 24 SLA 1997; am §§ 2, 3 ch 70 SLA 1999; am §§ 1 - 3, 20 ch 41 SLA 2002)

Annotations

Administrative Code. - For storage tank assistance fund, see 18 AAC 78, art. 5.

Effect of amendments. The 1994 amendment, effective July 1, 1994, inserted "an owner or operator is not eligible for assistance under AS 46.03.410 - 46.03.430 or that" in the first sentence in subsection (f).

The 1997 amendment, effective June 30, 1997, in subsection (a), substituted "the commissioner of environmental conservation" for "the commissioners of environmental conservation and transportation and public facilities," and "the commissioner's designee" for "their designees" in the third sentence, added paragraph (5), and made related stylistic changes.

The 1999 amendment, effective July 1, 1999, in subsection (e) deleted former paragraph (1), which read "determine which costs of tightness testing and site assessment are eligible costs under AS 46.03.415" and redesignated the subsequent paragraphs accordingly, and inserted a section reference in present paragraphs (1) and (2) and in one place in subsection (f).

The 2002 amendment, effective July 1, 2002, deleted subsection (e)(3); in subsection (f) updated a section reference, deleted section references in two places, and made a stylistic change; and in subsection (g) updated a section reference.

The 2002 amendment by § 1, ch. 41, SLA 2002, effective July 1, 2004, substituted "AS 46.03.422" for "AS 46.03.420 and 46.03.422" in paragraphs (1) and (2) of subsection (e).

Sec. 46.03.363. Reports.

Statute text

The board and the department shall each make available a report to the legislature not later than the 10th day following the convening of each regular session of the legislature. Each shall notify the legislature that its report is available. Each report may include information considered significant by the reporting entity but must include, as applicable

- (1) information about the extent to which releases associated with underground petroleum storage tank systems have caused bodily injury or property damages to persons other than the owner or operator of the system in the preceding fiscal year, and the extent to which insurance is available to cover that type of injury and damage;
- (2) recommendations about whether there are specific areas where state regulations should be more stringent than the federal regulations for underground petroleum storage tank systems;
- (3) information on the availability of private commercial loans and federal loans, loan guarantees, or grants for upgrading underground petroleum storage tank systems;
- (4) information on the availability of insurance that would cover the costs of corrective actions made necessary by a release or threatened release from an underground petroleum storage tank system;
- (5) a brief summary of disputes involving the board under AS 46.03.360(f) and other laws authorizing the board to review disputes; and
- (6) recommendations for amendments or additions to AS 46.03.360 - 46.03.450.

History

(§ 2 ch 96 SLA 1990; am § 104 ch 21 SLA 1995)

Annotations

Effect of amendments. The 1995 amendment, effective August 8, 1995, in the introductory language, substituted "make available" for "submit" and added the present second sentence.

Sec. 46.03.365. Regulation of underground petroleum storage tank systems.

Statute text

(a) The department shall develop a program to abate and prevent pollution from underground petroleum storage tank systems through the adoption of regulations under AS 44.62 (Administrative Procedure Act). Consistent with other provisions in AS 46.03.360 - 46.03.450, the regulations may govern

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

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

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

(c) When the regulations adopted under this section address areas governed by federal laws or regulations, the state regulations must be consistent with federal laws and regulations and may not be more stringent than the federal laws and regulations.

(d) Before adopting a regulation 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 underground petroleum storage tank, the department shall consult with the board. Before the department may adopt a regulation specifying allowable technologies for testing, containment and cleanup, or corrective action, the regulation must be approved by the board.

History

(§ 2 ch 96 SLA 1990; am § 4 ch 41 SLA 2002)

Annotations

Administrative Code. - For underground storage tanks, see 18 AAC 78, art. 1.

For corrective action for leaking underground storage tanks, see 18 AAC 78, art. 2.

For certification of underground storage tank workers, see 18 AAC 78, art. 4.

For storage tank assistance fund, see 18 AAC 78, art. 5.

For cleanup levels, see 18 AAC 78, art. 6.

For underground storage tank laboratory approval, see 18 AAC 78, art. 8.

Effect of amendments. The 2002 amendment, effective July 1, 2004, added the exception at the beginning of subsection (c).

Sec. 46.03.370. Educational assistance.

Statute text

The department shall provide

(1) educational assistance to owners and operators of underground petroleum storage tank systems to help them comply with federal and state laws and regulations applicable to the tank systems, including the registration and notification requirements under AS 46.03.380 - 46.03.400;

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

History

(§ 2 ch 96 SLA 1990)

Sec. 46.03.375. Certification of storage tank workers.

Statute text

(a) The department shall adopt regulations governing the certification of persons who install, test, close, repair, or significantly change the configuration of underground petroleum storage tanks and tank systems. The certification program shall be administered by the Department of Commerce, Community, and Economic Development. In consultation with the Department of Environmental Conservation, the Department of Commerce, Community, and Economic Development shall make every reasonable attempt to ensure that opportunities for obtaining certification under this section are available throughout the state. The Department of Commerce, Community, and Economic Development shall organize presentation of national training courses that are available in the state and assist residents of isolated communities who request assistance in becoming certified. The Department of Commerce, Community, and Economic Development may contract with the University of Alaska, a vocational technical school, or a regional nonprofit organization to provide the education and testing necessary for certification.

(b) The Department of Commerce, Community, and Economic Development shall establish fees applicable to certification under this section in an amount necessary to cover the costs of the certification program. The fees shall be collected by the Department of Commerce, Community, and Economic Development.

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

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

- (1) the person performs the work under the direct supervision of another who is certified for that work under this section;

- (2) the supervisor inspects the work performed; and

- (3) after inspection, the supervisor approves the work in writing.

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

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

(g) In this section,

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

(2) [Repealed, § 25 ch 14 SLA 2005.]

History

(§ 2 ch 96 SLA 1990; am § 24 ch 90 SLA 1991; am §§ 23 - 25 ch 14 SLA 2005)

Annotations

Applicability to specific activities. Section 10(a), ch. 96, SLA 1990 provides that (c) and (d) of this section do not apply to an activity for which certification is required until one year after the effective date of regulations adopted under this section governing certification for the specific activity.

In 1999, in (a) and (g) of this section, "Department of Commerce and Economic Development" was changed to "Department of Community and Economic Development" in accordance with § 88, ch. 58, SLA 1999.

In 2004, in (a) and (g) of this section, "Department of Community and Economic Development" was changed to "Department of Commerce, Community, and Economic Development", in accordance with § 3, ch. 47, SLA 2004.

Cross references. For required notice by the commissioner upon adoption of regulations under (a) of this section, see § 8, ch. 96, SLA 1990 in the Temporary and Special Acts.

Administrative Code. - For underground storage tanks, see 18 AAC 78, art. 1.

For corrective action for leaking underground storage tanks, see 18 AAC 78, art. 2.

For certification of underground storage tank workers, see 18 AAC 78, art. 4.

For storage tank assistance fund, see 18 AAC 78, art. 5.

Effect of amendments. The 1991 amendment, effective July 3, 1991, in subsection (b), deleted the former last two sentences.

The 2005 amendment, effective May 6, 2005, substituted "Department of Commerce, Community, and Economic Development" for "division" throughout subsections (a) and (b); in subsection (a) deleted "division of occupational licensing," preceding "Department" in the second sentence; and repealed paragraph (g)(2).

Legislative history reports. For governor's transmittal letter for ch. 14, SLA 2005 (SB 52), amending (a) and (b) and repealing former (g)(2) of this section, see 2005 Senate Journal 42 - 43.

Sec. 46.03.380. Registration of tanks and tank systems.

Statute text

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

(b) The owner or operator of an underground petroleum storage tank or tank system that was installed before and is still in use on September 5, 1990 shall register the tank or tank system with the department on a form provided by the department and pay the tank registration fee required under AS 46.03.385. For each tank or tank system registered under this subsection that was installed before December 22, 1988, the owner or operator shall provide to the department at the time of registration

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

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

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

(B) if the tank or tank system did not perform satisfactorily during the test, or the site assessment showed evidence of contamination, a summary of the upgrading, repair, containment, or cleanup efforts that have been or will be used for the tank, tank system, or site.

History

(§ 2 ch 96 SLA 1990; am § 14 ch 70 SLA 1999)

Annotations

Revisor's notes. Paragraph (b)(2) was enacted as (b)(3), and (b)(2)(B) was enacted as (b)(3)(B)(i). Renumbered in 1999 to reflect the 1999 repeal of former (b)(2) and former (b)(3)(B)(ii).

Administrative Code. - For underground storage tanks, see 18 AAC 78, art. 1.
For storage tank assistance fund, see 18 AAC 78, art. 5.

Effect of amendments. The 1999 amendment, effective July 1, 1999, repealed paragraph (b)(2) and item (b)(3)(B)(ii).

Sec. 46.03.385. Registration fee.

Statute text

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

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

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

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

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

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

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

(e) The department shall deposit fees collected under this section into the underground storage tank revolving loan fund established under AS 46.03.410.

History

(§ 2 ch 96 SLA 1990; am § 25 ch 90 SLA 1991; am § 5 ch 41 SLA 2002)

Annotations

Administrative Code. - For underground storage tanks, see 18 AAC 78, art. 1.
For storage tank assistance fund, see 18 AAC 78, art. 5.

Effect of amendments. The 1991 amendment, effective July 3, 1991, in subsection (e), deleted the former first sentence and inserted "maintained by the commissioner of administration under AS 37.05.142."

The 2002 amendment, effective July 1, 2002, rewrote subsection (e).

Sec. 46.03.390. Notification of changes in tank systems.

Statute text

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

History

(§ 2 ch 96 SLA 1990)

Annotations

Administrative Code. - For underground storage tanks, see 18 AAC 78, art. 1.

Sec. 46.03.395. Notification of tank system closure.

Statute text

If an underground petroleum tank or storage tank system is taken out of operation, the owner or operator of the tank or tank system, or an agent on the owner's or operator's behalf, shall provide on forms obtained from the department

- (1) notification of that fact to the department at least 15 days, but not more than 60 days, before the date the tank or tank system will be taken out of operation unless the tank or tank system is taken out of operation because of an emergency; in emergency situations, the owner or operator shall provide notification as promptly as possible under the circumstances; and
- (2) evidence satisfactory to the department within 30 days after the tank or tank system is taken out of operation that the owner or operator has complied with applicable state and federal laws and regulations governing temporary or permanent tank closure.

History

(§ 2 ch 96 SLA 1990)

Annotations

Cross references. For notification required by March 6, 1991, by owners or operators of tanks or tank systems installed after January 1, 1974, but taken out of use before September 5, 1990, see § 5, ch. 96, SLA 1990 in the Temporary and Special Acts.

Administrative Code. - For underground storage tanks, see 18 AAC 78, art. 1.
For certification of underground storage tank workers, see 18 AAC 78, art. 4.

Sec. 46.03.400. Registration forms.

Statute text

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

History

(§ 2 ch 96 SLA 1990)

Annotations

Administrative Code. - For underground storage tanks, see 18 AAC 78, art. 1.

For storage tank assistance fund, see 18 AAC 78, art. 5.

Sec. 46.03.405. Prohibitions.

Statute text

A person, including a governmental entity or institution or a public corporation, may not operate an underground petroleum storage tank or tank system unless

(1) the tank and tank system are registered with the department as provided in AS 46.03.360 - 46.03.450 or other law; and

(2) the person has provided to the department proof of financial responsibility to the extent required under regulations adopted under AS 46.03.365 or proof of application for arrangements that would satisfy state financial responsibility requirements.

History

(§ 2 ch 96 SLA 1990; am § 6 ch 41 SLA 2002)

Annotations

Administrative Code. - For underground storage tanks, see 18 AAC 78, art. 1.

Effect of amendments. The 2002 amendment, effective July 1, 2004, deleted "except as provided in AS 46.03.420(c)(1)(D)" at the beginning of paragraph (2), and made minor stylistic changes in the introductory language and paragraph (1).

Editor's notes. Section 10(b), ch. 96, SLA 1990 provides that this section "does not apply until March 6, 1991."

Sec. 46.03.410. Underground storage tank revolving loan fund.

Statute text

(a) There is established the underground storage tank revolving loan fund. It consists of money appropriated to it by law, repayments of principal and interest on loans made or fees collected under AS 46.03.385 - 46.03.450, and income earned on money in the fund. The legislature may appropriate unencumbered money from the fund for the cost of risk assessment, containment, corrective action, and cleanup relating to an underground petroleum storage tank system owned or operated by the state, the University of Alaska, a public corporation, a school district, or another political subdivision or instrumentality of the state. The legislature may also appropriate unencumbered money from the fund for state legal and regulatory expenses associated with underground petroleum storage tanks. An application for funds under AS 46.03.422 is not considered an encumbrance for purposes of this subsection.

(b) The commissioner may use money in the underground storage tank revolving loan fund to pay for

(1) loans under AS 46.03.422 for risk assessment, containment, corrective action, and cleanup costs;

(2) costs of administering the fund and the tank cleanup loan program under AS 46.03.422; and

(3) costs of the Board of Storage Tank Assistance (AS 46.03.360).

(c) The commissioner shall prepare a report on the status of the underground storage tank revolving loan fund and notify the legislature not later than the 10th day following the convening

of each regular session of the legislature that the report is available. The report may include information considered significant by the commissioner but must include

- (1) the amount and source of money received by the fund during the preceding fiscal year;
- (2) the amount of money expended during the preceding fiscal year for each type of expense authorized under (b) of this section;
- (3) a detailed summary of department activities paid for from the fund during the preceding fiscal year, including how many requests have been made to the department to use the fund for loans for testing, site assessment, risk assessment, upgrading, closure, containment, corrective action, and cleanup costs, and the number of requests funded in each activity area;
- (4) the projected cost for the next fiscal year of monitoring, operating, and maintaining sites where department activities have been completed or are expected to start or be continued during the fiscal year;
- (5) the priority list of tank system sites for which the department expects to provide loans in the next fiscal year.

History

(§ 2 ch 96 SLA 1990; am § 26 ch 90 SLA 1991; am § 105 ch 21 SLA 1995; am §§ 4, 5 ch 70 SLA 1999; am §§ 7, 8 ch 41 SLA 2002)

Annotations

Cross references. For transitional provisions applicable to grants made under this section as affected by the 2002 amendment of this section, see § 22(a), ch. 41, SLA 2002, in the 2002 Temporary and Special Acts.

Administrative Code. - For underground storage tanks, see 18 AAC 78, art. 1.
For storage tank assistance fund, see 18 AAC 78, art. 5.

Effect of amendments. The 1991 amendment, effective July 3, 1991, in subsection (a), substituted the present second sentence for the the former sentence which read "The commissioner of administration shall separately account for earnings on money in the fund that are deposited in the general fund by the department" and, in the third sentence, inserted "maintained by the commissioner of administration under AS 37.05.142."

The 1995 amendment, effective August 8, 1995, in the first sentence of the introductory language of subsection (c), substituted "prepare" for "submit" and "and notify" for "to" and added "that the report is available" at the end.

The 1999 amendment, effective July 1, 1999, in subsection (a) added the last three sentences and in subsection (b) deleted former paragraph (1), which read "tank tightness tests or site assessments under AS 46.03.415", redesignated the subsequent paragraphs accordingly, and inserted a section reference in paragraph (1).

The 2002 amendment, effective July 1, 2002, in subsection (a) rewrote the first and second sentences, deleted the former third and fourth sentences, and deleted a section reference in the last sentence; rewrote subsection (b); and in the introductory language of subsection (c) substituted "underground storage tank revolving loan fund" for "storage tank assistance fund."

The 2002 amendment by § 8, ch. 41, SLA 2002, effective July 1, 2004, substituted "AS 46.03.422" for "AS 46.03.420 and 46.03.422" in the fourth sentence of subsection (a) and in paragraph (b)(1), and, in subsection (c), deleted "for assistance" following "requests" and "grants or" preceding "loans" in paragraph (3), and substituted "loans" for "financial assistance" in paragraph (5).

Sec. 46.03.415. Tank tightness and site assessment incentive program. [Repealed, § 14 ch 70 SLA 1999.].

Sec. 46.03.420. Tank cleanup program. [Repealed, § 21 ch 41 SLA 2002.].

Sec. 46.03.422. Tank cleanup loan program.

Statute text

(a) The commissioner may make a loan from the underground storage tank revolving loan fund to an owner or operator of an underground petroleum storage tank system for the costs of risk assessment, containment, corrective action, and cleanup resulting from a release of petroleum from or associated with an underground petroleum storage tank system if the owner or operator submitted a timely application for a grant under former AS 46.03.420 and agrees

- (1) to accept a loan in the same or lesser amount instead of a grant for the same project;
- (2) to provide additional security or collateral for the loan if requested by the department;
- (3) to

(A) upgrade all underground petroleum storage tanks located at the facility from which the release occurred to the standards set by state and federal regulations according to a time line established by the department; or

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

(4) to submit a plan for risk assessment, containment, corrective action, and cleanup to the department for its review and approval; if the department and the owner or operator cannot reach agreement on a plan, on later changes in the plan, or on a cleanup decision, the owner or operator may apply to the board to review the dispute; the board may issue a recommendation to the department in a dispute brought to it under this paragraph; the recommendation may include a suggested time limit for completing appropriate cleanup activities or reaching a cleanup decision.

(b) The department may require more security or collateral for a loan made under this section than was required under a previously approved grant application for the same project.

(c) Under regulations of the board, the department shall rank requests under this section in order of priority, giving greatest priority to those tank systems that present the greatest threat or potential threat to human health.

(d) The department may deny a request for a loan under this section if

- (1) other risk assessment, containment, corrective action, tank upgrading or closure, and cleanup activities for which money may be used under AS 46.03.410 constitute a higher priority for fund expenditures;
- (2) the work that would have been covered by the loan has already been completed; or
- (3) the loan is for reimbursement of expenses previously incurred.

(e) This section does not affect

(1) the liability under state or federal law of a person or entity that receives a loan under this section for the costs of risk management, containment, corrective action, and cleanup resulting from a release of petroleum; or

(2) the authority of the department to seek recovery from the owner or operator of costs other than loans actually made to an owner or operator under this section.

(f) The rate of interest on a loan under this section is equal to the 12th Federal Reserve District discount rate in effect on January 1 of the year in which the loan is approved plus one-half

percentage point. The department shall disburse a loan in partial payments according to a schedule that allows reasonable oversight and assessment during implementation of the plan approved under (a) of this section. The interest rate applicable to a loan remains the same throughout the project for which the loan was approved but begins accruing on each partial payment only after disbursement of that payment.

(g) A loan payment under this section, when combined with loans and grants to the same owner or operator under former AS 46.03.420 and former AS 46.03.430, may not exceed \$500,000.

(h) The department shall deposit loan repayments and other money collected under this section into the underground storage tank revolving loan fund established under AS 46.03.410.

(i) To be eligible for a loan under this section, an owner or operator shall provide the department with a written sworn statement on a form provided by the department that the owner or operator has not been eligible for self-insurance under 40 CFR 280.95 at any time on or after July 1, 2002. This subsection does not apply to an owner or operator that is a municipality. For purposes of this subsection, "sworn statement" has the meaning given in AS 11.56.240.

History

(§ 10 ch 70 SLA 1999; am § 3 ch 125 SLA 2000; am §§ 12 - 18 ch 41 SLA 2002)

Annotations

Administrative Code. - For storage tank assistance fund, see 18 AAC 78, art. 5.

Effect of amendments. The 2000 amendment, effective June 7, 2000, in paragraph (a)(4) inserted "or on a cleanup decision" and added the language beginning "; the recommendation may include" to the end of the paragraph.

The 2002 amendment, effective July 1, 2002, substituted "underground storage tank revolving loan fund" for "storage tank assistance fund" near the beginning of the introductory language of subsection (a); in subsection (g) inserted "former"; rewrote subsection (h); and added subsection (i).

The 2002 amendment by §§ 13, 14 and 16, ch. 41, SLA 2002, effective July 1, 2004, inserted "former" preceding "AS 46.03.420" in the introductory language of subsection (a) and in subsection (g), and, in subsection (e), substituted "a loan" for "assistance" in paragraph (1) and deleted "grants or" preceding "loans" in paragraph (2).

Effective dates. Section 18, ch. 70, SLA 1999 makes this section effective July 1, 1999.

Editor's notes. Section 15, ch. 70, SLA 1999 provides that subsection (g) applies "to financial assistance received on or after July 1, 1999."

Sec. 46.03.430. Tank upgrading and closure program. [Repealed, § 20 ch 41 SLA 2002.].

Sec. 46.03.440. Confidentiality of financial records.

Statute text

(a) Financial records submitted to the department or the board by the owner or operator of an underground petroleum storage tank system are confidential and not subject to inspection or copying under AS 40.25.110 - 40.25.120. The department, in consultation with the affected owner or operator, shall determine which information is confidential under this subsection.

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

History

(§ 2 ch 96 SLA 1990)

Annotations

Revisor's notes. In 2000, "AS 40.25.110 - 40.25.120" was substituted for "AS 09.25.110 - 09.25.120" to reflect the 2000 renumbering of AS 09.25.110 - 09.25.120.

Administrative Code. - For storage tank assistance fund, see 18 AAC 78, art. 5.
S.c. 46.03.450. Definitions.

Statute text

AS 46.03.360 - 46.03.450

- (1) "board" means the Board of Storage Tank Assistance established under AS 46.03.360;
- (2) "chemical" means any substance defined in 42 U.S.C. 9601(14) (sec. 101(14) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980), as amended, and any substance having the characteristics identified or listed under 42 U.S.C. 6921 (sec. 3001 of the Solid Waste Disposal Act), regardless of whether the substance is a solid waste;
- (3) "containment and cleanup" has the meaning given in AS 46.08.900 except that it does not include incidental administrative costs;
- (4) "corrective action" means action necessary to stop the migration, determine the extent, and undertake recovery of petroleum after its unpermitted release; clean up affected soil and groundwater; and stabilize the site of the release to prevent or remove hazards to public health or the environment;
- (5) "facility" means contiguous land and structures on or in the land containing underground petroleum storage tanks owned by the same person or entity;
- (6) "farm" means a tract of land devoted to the production of crops or raising animals, including fish, and associated residences and improvements; "farm" includes fish hatcheries, rangelands, and nurseries with growing operations;
- (7) "petroleum" means crude oil or any fraction of crude oil that is liquid at 60 degrees Fahrenheit and pressure of 14.7 pounds per square inch absolute; "petroleum" includes petroleum-based substances comprised of a complex blend of hydrocarbons derived from crude oil through processes of separation, conversion, upgrading, and finishing, such as motor fuels, jet fuels, distillate fuel oils, residual fuel oils, lubricants, petroleum solvents, and used oils;
- (8) "release" has the meaning given in AS 46.08.900;
- (9) "risk assessment" means a determination of potential health effects including effects of containment exposure through inhalation, ingestion, dermal absorption, and other means, and the assessment of risk to human health and the environment from contaminants remaining in the land, air, or water as a result of a release;
- (10) "site assessment" means investigation of suspected underground petroleum storage tank system leaks and source identification;
- (11) "tangible net worth" means the total value of tangible assets, including existing assets and probable future economic benefits that will be obtained or controlled by the entity as a result of past transactions, minus liabilities associated with bringing underground petroleum storage tank systems into compliance with state and federal laws and liabilities associated with releases of petroleum from underground petroleum storage tank systems; notwithstanding other provisions of this paragraph, "tangible net worth" does not include the value of goodwill.
- (12) "tank system" means an underground petroleum storage tank system;
- (13) "underground storage tank" means one or a combination of stationary devices, including underground pipes connected to the devices, that is designed to contain an accumulation of

petroleum, the volume of which, including the volume of underground pipes, is 10 percent or more beneath the surface of the ground, except that the term does not include a

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

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

(C) septic tank;

(D) pipeline facility, including gathering lines,

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

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

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

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

(F) storm water or waste water collection system;

(G) flow-through process tank;

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

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

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

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

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

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

History

(§ 2 ch 96 SLA 1990; am § 12 ch 70 SLA 1999)

Annotations

Revisor's notes. Paragraph (11) was enacted as (14). Renumbered in 1999, at which time former (11)-(13) were renumbered as (12)-(14), respectively.

Administrative Code. - For storage tank assistance fund, see 18 AAC 78, art. 5.

Effect of amendments. The 1999 amendment, effective July 1, 1999, added paragraph (11).

CHAPTER 65. INTERDEPARTMENT AND INTERAGENCY SERVICES

[Repealed, § 69 ch 106 SLA 1986, as amended by § 27 ch 65 SLA 1987.]

CHAPTER 66. REVIEW OF THE ACTIVITIES OF AGENCIES, BOARDS, AND COMMISSIONS

Sec. 44.66.010. Expiration of state boards and commissions.

Statute text

(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, 2007;
- (2) Board of Parole (AS 33.16.020) - June 30, 2008;
- (3) Regulatory Commission of Alaska (AS 42.04.010) - June 30, 2007;
- (4) Alaska Commission on Aging (AS 47.45.200) - June 30, 2008;
- (5) Council on Domestic Violence and Sexual Assault (AS 18.66.010) - June 30, 2006;
- (6) special education service agency (AS 14.30.600) - June 30, 2013;
- (7) Board of Storage Tank Assistance (AS 46.03.360) - June 30, 2007;
- (8) Statewide Suicide Prevention Council (AS 44.29.300) - June 30, 2009;
- (9) Alaska Seismic Hazards Safety Commission (AS 44.37.065) - June 30, 2005.

(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 eight years.

(d) Notwithstanding (b) of this section, the powers and duties of the Regulatory Commission of Alaska in the year following expiration are not reduced or otherwise limited, and the commission shall continue in existence after expiration for one year. The commission shall continue to exercise all its powers and perform its duties and responsibilities under AS 42 during the year following its expiration.

History

(§ 3 ch 149 SLA 1977; am § 3 ch 101 SLA 1978; am § 10 ch 179 SLA 1978; am § 3 ch 44 SLA 1980; am § 1 ch 115 SLA 1980; am § 11 ch 131 SLA 1980; am § 11 ch 136 SLA 1980; am § 3 ch 172 SLA 1980; am § 1 ch 32 SLA 1981; am § 1 ch 64 SLA 1981; am § 4 ch 79 SLA 1981; am § 3 ch 101 SLA 1981; am § 20 ch 110 SLA 1981; am E.O. No. 48, § 5 (1981); am § 1 ch 65 SLA 1982; am § 31 ch 142 SLA 1982; am § 3 ch 52 SLA 1983; am § 1 ch 20 SLA 1983; am § 1 ch 74 SLA 1983; am § 1 ch 76 SLA 1983; am 1983 Initiative Proposal No. 2, § 6; am § 16 ch 161 SLA 1984; am § 1 ch 163 SLA 1984; am § 63 ch 21 SLA 1985; am § 1 ch 29 SLA 1985; am § 1 ch 36 SLA 1985; am § 1 ch 38 SLA 1985; am § 6 ch 88 SLA 1985; am § 3 ch 84 SLA 1986; am § 1 ch 95 SLA 1986; am § 2 ch 97 SLA 1986; am § 6 ch 104 SLA 1986; am § 5 ch 112 SLA 1986; am § 1 ch 121 SLA 1986; am § 1 ch 71 SLA 1987; am § 10 ch 78 SLA 1988; am § 1 ch 2 SLA 1989; am § 1 ch 5 SLA 1989; am § 6 ch 15 SLA 1989; am § 1 ch 16 SLA 1989; am § 1 ch 46 SLA 1989; am § 1 ch 74 SLA 1989; am § 1 ch 79 SLA 1989; am § 1 ch 23 SLA 1990; am § 3 ch 96 SLA 1990; am § 3 ch 117 SLA 1990; am § 7 ch 190 SLA 1990; am § 1 ch 40 SLA 1992; am § 21 ch 6 SLA 1993; am § 1 ch 14 SLA 1993; am § 3 ch 15 SLA 1993; am § 1 ch 62 SLA 1993; am § 1 ch 24 SLA 1994; am § 5 ch 44 SLA 1994; am § 3 ch 109 SLA 1994; am § 10 ch

131 SLA 1994; am § 12 ch 1 SLA 1995; am § 1 ch 5 SLA 1995; am § 33 ch 23 SLA 1995; am §§ 8, 9 ch 93 SLA 1995; am § 16 ch 59 SLA 1996; am § 6 ch 77 SLA 1996; am § 1 ch 115 SLA 1996; am § 1 ch 17 SLA 1997; am § 1 ch 24 SLA 1997; am § 1 ch 94 SLA 1997; am § 1 ch 87 SLA 1998; am § 5 ch 125 SLA 1998; am § 21 ch 25 SLA 1999; am § 10 ch 29 SLA 1999; am § 1 ch 70 SLA 1999; am § 18 ch 74 SLA 1999; am § 102 ch 21 SLA 2000; am § 1 ch 80 SLA 2000; am § 1 ch 125 SLA 2000; am § 1 ch 45 SLA 2001; am § 3 ch 84 SLA 2001; am § 3 ch 91 SLA 2002; am § 1 ch 106 SLA 2002; am § 3 ch 109 SLA 2002; am §§ 5, 9 ch 2 TSSLA 2002; am § 1 ch 33 SLA 2003; am § 74 ch 35 SLA 2003; am § 1 ch 93 SLA 2003; am § 3 ch 127 SLA 2003; am E.O. No. 105, § 3 (2003); am § 1 ch 24 SLA 2004; am § 1 ch 27 SLA 2004; am § 27 ch 99 SLA 2004; am § 1 ch 8 SLA 2005; am § 5 ch 58 SLA 2005)

Annotations

Revisor's notes. Subsection (d) was enacted in 2002 as uncodified and codified in 2002, at which time "(b) of this section" was substituted for "AS 44.66.010(b)" in subsection (d). In 2004, the paragraphs in subsection (a) were renumbered to reflect the earlier repeals of paragraphs.

Cross references. For termination of boards regulating occupations and professions, see AS 08.03.

For provision declaring the limitation of (c) of this section inapplicable to the 2004 amendment of (a)(6) of this section extending the termination date of the special education service agency, see § 2, ch. 27, SLA 2004, in the 2004 Temporary and Special Acts.

Administrative Code. - For certification of underground storage tank workers, see 18 AAC 78, art. 4.

Effect of amendments. The first 2000 amendment, effective April 28, 2000, repealed former paragraph (a)(19).

The second 2000 amendment, effective May 25, 2000, substituted "June 30, 2004" for "June 30, 2000" in paragraph (a)(4) [formerly (a)(10)].

The third 2000 amendment, effective June 7, 2000, substituted "June 30, 2001" for "June 30, 1999" in paragraph (a)(7) [formerly (a)(18)].

The first 2001 amendment, effective June 26, 2001, in paragraph (a)(2) [formerly (a)(3)], extended the expiration date of the Board of Parole from June 30, 2001 to June 30, 2008.

The second 2001 amendment, effective July 4, 2001, added paragraph (a)(8) [formerly (a)(20)].

The first 2002 amendment, effective June 28, 2002, extended the termination date of the Council on Domestic Violence and Sexual Assault from June 30, 2002 to June 30, 2006.

The second 2002 amendment, effective September 26, 2002, extended the termination date of the Board of Storage Tank Assistance from June 30, 2001 to June 30, 2003.

The third 2002 amendment, effective September 29, 2002, added paragraph (a)(9) [formerly (a)(21)].

The fourth 2002 amendment, effective August 10, 2002, extended the termination date of the Regulatory Commission of Alaska from June 30, 2002 to June 30, 2003.

The first 2003 amendment, effective May 30, 2003, extended the termination date for the Board of Storage Tank Assistance from June 30, 2003 to June 30, 2007.

The second 2003 amendment, effective June 3, 2003, repealed former paragraph (a)(17).

The third 2003 amendment, effective June 14, 2003, extended the termination date of the Regulatory Commission of Alaska from June 30, 2003 to June 30, 2007.

The fourth 2003 amendment, effective July 1, 2003, extended the termination date of the Alcoholic Beverage Control Board from June 30, 2003 to June 30, 2007.

The fifth 2003 amendment, effective March 23, 2003, updated a section reference in paragraph (a)(9) [formerly (a)(21)].

The first 2004 amendment, effective July 22, 2004, in paragraph (a)(4), substituted "(AS 47.45.200)" for "(AS 44.21.200)" and "2003" for "2004."

The second 2004 amendment, effective May 5, 2004, substituted "special education service agency" for "Special Education Service Agency" and "2013" for "2004" in paragraph (a)(6).

The third 2004 amendment, effective June 26, 2004, substituted "(AS 47.44.200)" for "(AS 44.21.200)" in paragraph (a)(4).

The first 2005 amendment, effective April 10, 2005, extended the termination date of the Statewide Suicide Prevention Council from June 30, 2005 to June 30, 2009.

The second 2005 amendment, effective June 25, 2005, substituted "eight years" for "four years" in subsection (c).

Opinions of attorney general. The commission's authority to make decisions and issue orders in accordance with the statutory powers and duties granted and conferred in AS 42.05, AS 42.06 and AS 42.45.100 et seq. is not withdrawn or diminished during the sunset (or wind-down) year. The commission should comply with the Sunset Law by preparing for the exigency of closing shop; this does not mean, however, that the commission cannot carry on its usual business of regulating utilities and pipelines. Since many of the commission's statutory duties are mandatory, the commission must reconcile performance of those duties with the provisions of the Sunset Law. The commission should continue to perform its statutory duties to the extent possible while developing a plan to phase out its work by the close of the sunset year. In deciding how to do this, the commission has a considerable amount of discretion. June 21, 1994 Op. Att'y Gen.

Sec. 44.66.020. Agency programs.

Statute text

(a) Agency programs and activities listed in this subsection that are specifically designated as provided in AS 44.66.030 are subject to termination during the regular legislative session convening in the month and year set out after each:

(1) programs in the budget categories of general government, public protection, and administration of justice - January, 1980;

(2) programs in the budget categories of education and the University of Alaska - January, 1981;

(3) programs in the budget categories of health and social services - January, 1982;

(4) programs in the budget categories of natural resources management, development, and transportation - January, 1983;

(5) the Alaska coastal management program (AS 46.40) - January, 2011.

(b) An agency program or activity designated in (a) of this section shall be subject to termination during the regular legislative session convening four years after the preceding review and may be subject to termination at any time upon the recommendation of the Legislative Budget and Audit Committee and the concurrence of the legislature as if under AS 44.66.030.

History

(§ 3 ch 149 SLA 1977; am § 14 ch 31 SLA 2005)

Annotations

Effect of amendments. The 2005 amendment, effective May 27, 2005, added paragraph (a)(5) and made a related stylistic change.

Sec. 44.66.030. Program identification.

Statute text

During the legislative session preceding each of the years set out in AS 44.66.020, the Legislative Budget and Audit Committee shall designate, not later than March 1 of those years, the programs and activities within each program category that shall be subject to termination in the next fiscal year. The recommendations of the Legislative Budget and Audit Committee shall be submitted to the respective houses of the legislature in the form of a bill that, if enacted into law, would terminate those designated programs and activities on or before July 1 of the following year.

History

(§ 3 ch 149 SLA 1977)

Sec. 44.64.090. Administrative hearing records.

Statute text

- (a) The office shall acquire and organize statistical and other information relating to administrative hearings of the office and of other agencies. The office shall acquire and organize copies of proposed and final agency decisions in administrative hearings and copies of court decisions resulting from those administrative hearings. The information and decisions shall be made available to the public, agencies, and the legislature. The office shall make final agency decisions reached after administrative hearings available online through an electronic data base.
- (b) This section does not apply to records that are confidential or privileged.

History

(§ 3 ch 163 SLA 2004)

Sec. 44.64.095. Federal requirements.

Statute text

Federal requirements applicable to an administrative hearing prevail to the extent they conflict with any provision of AS 44.64.010 - 44.64.200.

History

(§ 3 ch 163 SLA 2004)

Sec. 44.64.200. Definitions.

Statute text

In this chapter,

- (1) "administrative hearing" means a quasi-judicial hearing before an agency; it does not include an informal conference or review held by an agency before a final decision is issued or a rate-making proceeding or other nonadjudicative public hearing;
- (2) "administrative law judge" means a hearing officer who is retained or employed by the office;
- (3) "agency" means an agency of the executive branch of state government, including an officer, a division, or another subunit of an agency, a board or commission, a public corporation, and the University of Alaska;
- (4) "hearing officer" means an individual who presides over the conduct of an administrative hearing and who is retained or employed by an agency for that purpose;
- (5) "office" means the office of administrative hearings established in AS 44.64.010.

History

(§ 3 ch 163 SLA 2004)