

HB

158

<TARGET><BILL>HB 158</BILL><SUBJECT>HB
158</SUBJECT><COMM>HFIN29</COMM></TARGET>

HOUSE COMMITTEE REPORT

(11)

Date Referred to Committee: March 20, 2015

FURTHER REFERRALS:

Date of Committee Action: 4/1/15

The FINANCE Committee considered:

HB 158

HOUSE BILL NO. 158

"An Act relating to a refined fuel surcharge; relating to the motor fuel tax; relating to a qualified dealer license; and providing for an effective date."

HB 158-MOTOR FUEL TAX; OIL SURCHARGE

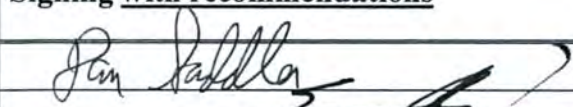
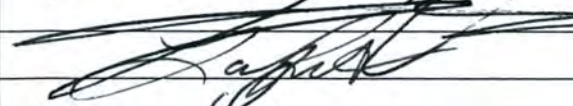
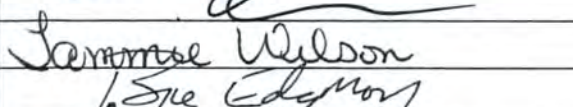
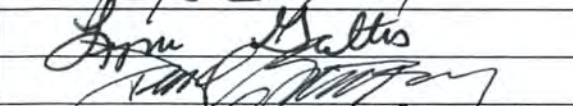
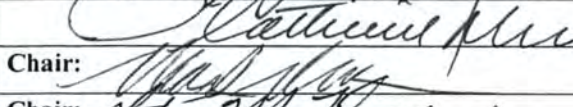


Recommends it be replaced with [] HCS or [] CS for HB 158 (FIN)
 For Senate Bills with new title: [] Technical Title [] New Title: HCR _____ [] Same Title [] New Title

- [] attach amendments
- [] add new referral to _____ Committee
- [] Letter of Intent _____ Committee

- List of Abbrev for Depts.:
- ADM
 - AJS
 - CED
 - COR
 - EED
 - DEC
 - DFG
 - GOV
 - DHS
 - LWF
 - LAW
 - LEG
 - MVA
 - DNR
 - DPS
 - REV
 - DOT
 - UA

<u>NEW FISCAL NOTES</u>				
*FN# is assigned by Chief Clerk's Office				
*FN#	List by Dept(s):	Fiscal	Indet.	Zero
	HFIN/Fund Transfer	✓		
	REV	✓		
	DEC			✓

<u>PREVIOUS FISCAL NOTES</u>				
FN#	List by Dept(s):	Fiscal	Indet.	Zero

<u>Signing with recommendations</u>	Printed Last Name	DP	DNP	NR	AM
	SADDLER			X	X
	Keweenaw			X	X
	Peritt				✓
	Gava				
	Wilson		X		
	Edgman	X			
	Gattis		X		
	Gutierrez				X
Chair:	Munoz	X			
Chair:	NEUMAN				X
	THOMPSON	✓			

Fiscal Note

State of Alaska
2015 Legislative Session

Bill Version: HB 158
Fiscal Note Number: _____
() Publish Date: _____

Identifier: HB158-DOR-TAX-04-01-15
Title: REFINED FUEL SURCHARGE;MOTOR FUEL TAX
Sponsor: MUNOZ
Requester: House Finance Committee

Department: Department of Revenue
Appropriation: Taxation and Treasury
Allocation: Tax Division
OMB Component Number: 2476

Expenditures/Revenues

Note: Amounts do not include inflation unless otherwise noted below. (Thousands of Dollars)

	FY2016 Appropriation Requested	Included in Governor's FY2016 Request	Out-Year Cost Estimates				
			FY 2017	FY 2018	FY 2019	FY 2020	FY 2021
OPERATING EXPENDITURES	FY 2016	FY 2016	FY 2017	FY 2018	FY 2019	FY 2020	FY 2021
Personal Services							
Travel							
Services							
Commodities							
Capital Outlay							
Grants & Benefits							
Miscellaneous							
Total Operating	0.0	0.0	0.0	0.0	0.0	0.0	0.0

Fund Source (Operating Only)

None							
Total	0.0	0.0	0.0	0.0	0.0	0.0	0.0

Positions

Full-time							
Part-time							
Temporary							

Change in Revenues	8,000.0		8,150.0	8,300.0	8,500.0	650.0	8,800.0
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Estimated SUPPLEMENTAL (FY2015) cost: 50.0 *(separate supplemental appropriation required)*
(discuss reasons and fund source(s) in analysis section)

Estimated CAPITAL (FY2016) cost: 0.0 *(separate capital appropriation required)*
(discuss reasons and fund source(s) in analysis section)

ASSOCIATED REGULATIONS

Does the bill direct, or will the bill result in, regulation changes adopted by your agency? **Yes**
If yes, by what date are the regulations to be adopted, amended or repealed? **07/01/15**

Why this fiscal note differs from previous version:

This is the third version. Changes from prior version added exemptions for all aviation fuels.

Prepared By: Ken Alper, Director
Division: Tax
Approved By: Jerry Burnett, Deputy Commissioner
Agency: Revenue

Phone: (907)465-8221
Date: 04/01/2015 06:00 PM
Date: 04/02/15

FISCAL NOTE ANALYSIS

STATE OF ALASKA
2015 LEGISLATIVE SESSION

BILL NO. CS HB 158(FIN)

Analysis

Bill Analysis

The legislation creates a new surcharge of 1 cent per gallon on certain refined fuels sold in Alaska. The funds are intended, subject to appropriation, to provide an additional source of revenue for the Oil and Hazardous Substance Release Prevention Account. This account, which has historically been funded by the Oil and Gas Conservation Surcharge (also known as the "nickel a barrel tax,") funds the operations of the Spill Prevention and Response (SPAR) division at the Department of Environmental Conservation.

The surcharge will be collected from qualified fuel dealers, who are generally importers and wholesalers of fuel as well as some in-state refiners. This is the same group of companies who currently file Alaska's motor fuel excise tax. That tax, which varies from 3.2 to 8 cents per gallon, is only paid on certain types of fuel with a broad list of exemptions defined in statute. The intent of this bill is to apply the surcharge to a wider range of refined fuel, including some products exempted from the motor fuel tax.

Revenue Impact

In Fiscal Years 2012 through 2014, the motor fuel tax was paid on an average of 620 million gallons of various fuels. In those years, the taxpayers reported total fuel sales of nearly 1,600 million gallons, with the difference being either tax-off sales or tax-on sales later refunded because the fuel was used for an exempt purpose.

Due largely to constitutional concerns (e.g. commerce clause) as well as concern over federal grant restrictions, several categories of fuel sales are also exempt from the new surcharge in this legislation. These include sales to the federal and state government, fuel exported out of the country, fuel used in aviation, and transfers among qualified dealers. With these adjustments, it is estimated that the surcharge will apply to about 800 million gallons of refined fuel in the first year. At 1 cent per gallon, this represents annual revenue of approximately \$8.0 million in FY16, with an estimated 2% increase per year afterwards.

Implementation Cost

This legislation creates a new fuel type within the motor fuel tax system, which will require the Department of Revenue to update its Tax Revenue Management System and Revenue Online System which allows a taxpayer to file a return online. The update would consist of redesigning, developing, and testing the system to add the new fuel type with its exemptions. We would also need to redesign the current tax return to add the surcharge.

The supplemental fiscal note figure of \$50.0 in FY15 is to cover the costs of updating the systems and form as well as to draft regulations for this new surcharge on a relatively fast track in advance of the sponsor's desired effective date of July 1, 2015. This may require the department to hire temporary or contract staff to assist in drafting regulations and making adjustments to our system and tax forms. We do not anticipate any continuing costs or additional staff needs the tax administration and audit functions will be absorbed within our existing Excise Tax group. Should the number and complexity of tax filings exceed our initial expectations, we may need to revisit this in a future budget year.

Fiscal Note

State of Alaska
2015 Legislative Session

Bill Version: HB 158
Fiscal Note Number: _____
() Publish Date: _____

Identifier: HB 158 HFIN 4-1-2015
Title: REFINED FUEL SURCHARGE; MOTOR FUEL TAX
Sponsor: MUNOZ
Requester: House Finance

Department: Fund Transfers
Appropriation: OpSys DGF Transfers (non-add)
Allocation: Oil and Hazardous Substance Release Prevention
Account
OMB Component Number: 2499

Expenditures/Revenues

Note: Amounts do not include inflation unless otherwise noted below. (Thousands of Dollars)

	FY2016 Appropriation Requested	Included in Governor's FY2016 Request	Out-Year Cost Estimates				
			FY 2017	FY 2018	FY 2019	FY 2020	FY 2021
OPERATING EXPENDITURES	FY 2016	FY 2016	FY 2017	FY 2018	FY 2019	FY 2020	FY 2021
Personal Services							
Travel							
Services							
Commodities							
Capital Outlay							
Grants & Benefits							
Miscellaneous	1,000.0		7,500.0	7,500.0	7,500.0	7,500.0	7,500.0
Total Operating	1,000.0	0.0	7,500.0	7,500.0	7,500.0	7,500.0	7,500.0

Fund Source (Operating Only)

1004 Gen Fund	1,000.0		7,500.0	7,500.0	7,500.0	7,500.0	7,500.0
Total	1,000.0	0.0	7,500.0	7,500.0	7,500.0	7,500.0	7,500.0

Positions

Full-time							
Part-time							
Temporary							

Change in Revenues	9,500.0		9,700.0	9,900.0	10,100.0	10,300.0	10,500.0
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Estimated SUPPLEMENTAL (FY2015) cost: 8,000.0 *(separate supplemental appropriation required)*
(discuss reasons and fund source(s) in analysis section)

Estimated CAPITAL (FY2016) cost: 0.0 *(separate capital appropriation required)*
(discuss reasons and fund source(s) in analysis section)

ASSOCIATED REGULATIONS

Does the bill direct, or will the bill result in, regulation changes adopted by your agency? N
If yes, by what date are the regulations to be adopted, amended or repealed?

Why this fiscal note differs from previous version:

Initial Version - this Fund Transfer note correlates to the Department of Revenue's fiscal note which includes revenue projections associated with this legislation.

Prepared By: Representative Neuman
House Finance Committee
Representative Thompson
House Finance Committee

Phone: (907)465-2679
Date: 04/01/2015

FISCAL NOTE ANALYSIS

STATE OF ALASKA
2015 LEGISLATIVE SESSION

BILL NO. HB 158

Analysis

This bill addresses a recognized funding shortfall in the Spill Prevention and Response (SPAR) division of the Department of Environmental Conservation. SPAR is funded through the Prevention Account of the Oil and Hazardous Substance Release Prevention and Response Fund (O&H fund). The amount deposited in the prevention account depends on the amount of oil produced--there is a 4 cent per barrel tax on oil produced in Alaska. As oil production has declined, SPAR expenditures have exceeded revenue and reduced the balance of the fund. This long process has depleted the balance of the prevention account.

This bill implements a surcharge on sales of refined fuel and identifies the resultant UGF revenue as available for appropriation to the O&H Fund.

Annual appropriations will be required to deposit UGF into the O&H Fund--the \$7.5 million annual costs shown on this fiscal note are estimates that are subject to annual legislative action.

Because the Constitution generally prevents dedication of revenue, there is no firm link between the amount of revenue generated by the surcharge and the amount the legislature decides to appropriate to the O&H Fund. Revenue in excess of deposits may remain in the general fund, and deposits may exceed the amount of revenue generated.

In short, the numbers in this fiscal note are arbitrary. They were chosen because they quickly rebuild the O&H Fund balance to a level that eliminates potential cash-flow problems caused by delayed recovery of costs from parties responsible for spills.

As legislators deliberate the timing and amount of appropriations to the O&H Fund, they should be aware that the amount of annual appropriation determines the stability of the fund balance (by balancing annual cash flow) and the sum of FY15 and FY16 appropriations determine the level at which the fund balance stabilizes after FY16.

A FY15 supplemental appropriation of at least \$800.0 is required to maintain operations at the current level (and a positive fund balance). A larger deposit--such as the \$8 million shown in this fiscal note--could reduce the FY16 deposit. If FY17 (and later) deposits are sufficient to balance cash flow, the fund balance will stabilize at about \$1.5 million below the sum of the amounts deposited in FY15 and FY16.

The table below shows projected cash flows and fund balances under the assumption that \$8 million and \$1 million are deposited in the O&H Fund in FY15 and FY16, respectively. As noted above, the timing and amount of the deposits are somewhat arbitrary--they could be reversed or reduced if desired.

	FY15	FY16	FY17	FY18	FY19
Beginning Balance	\$6,913.20	\$7,202.40	\$1,314.20	\$6,780.00	\$7,405.80
Crude Oil Revenue plus Cost Recovery	\$7,949.90	\$8,526.00	\$8,380.00	\$8,540.00	\$8,060.00
Aniak Settlement	\$0.00	\$0.00	\$5,000.00	\$0.00	\$0.00
Deposit from Refined Product Tax	\$8,000.00	\$1,000.00	\$7,500.00	\$7,500.00	\$7,500.00
Total Annual Expenses	\$15,660.70	\$15,414.20	\$15,414.20	\$15,414.20	\$15,414.20
Ending Balance	\$7,202.40	\$1,314.20	\$6,780.00	\$7,405.80	\$7,551.60

Fiscal Note

State of Alaska
2015 Legislative Session

Bill Version: HB 158
Fiscal Note Number: _____
() Publish Date: _____

Identifier: HB158-DEC-SPAR-03-20-15
Title: REFINED FUEL SURCHARGE;MOTOR FUEL TAX
Sponsor: MUNOZ
Requester: Finance Committee

Department: Department of Environmental Conservation
Appropriation: Spill Prevention and Response
Allocation: Spill Prevention and Response
OMB Component Number: 3094

Expenditures/Revenues

Note: Amounts do not include inflation unless otherwise noted below. (Thousands of Dollars)

	FY2016 Appropriation Requested	Included in Governor's FY2016 Request	Out-Year Cost Estimates				
			FY 2017	FY 2018	FY 2019	FY 2020	FY 2021
OPERATING EXPENDITURES	FY 2016	FY 2016					
Personal Services							
Travel							
Services							
Commodities							
Capital Outlay							
Grants & Benefits							
Miscellaneous							
Total Operating	0.0	0.0	0.0	0.0	0.0	0.0	0.0

Fund Source (Operating Only)

None							
Total	0.0	0.0	0.0	0.0	0.0	0.0	0.0

Positions

Full-time							
Part-time							
Temporary							

Change in Revenues							
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Estimated SUPPLEMENTAL (FY2015) cost: 0.0 *(separate supplemental appropriation required)*
(discuss reasons and fund source(s) in analysis section)

Estimated CAPITAL (FY2016) cost: 0.0 *(separate capital appropriation required)*
(discuss reasons and fund source(s) in analysis section)

ASSOCIATED REGULATIONS

Does the bill direct, or will the bill result in, regulation changes adopted by your agency? **No**
If yes, by what date are the regulations to be adopted, amended or repealed?

Why this fiscal note differs from previous version:

Not applicable; initial version

Prepared By: <u>Kristin Ryan, Director</u>	Phone: <u>(907)269-7604</u>
Division: <u>Spill Prevention and Response</u>	Date: <u>03/20/2015 08:30 AM</u>
Approved By: <u>Alice Edwards, Deputy Commissioner</u>	Date: <u>03/20/2015</u>
Agency: <u>Department of Environmental Conservation</u>	

Analysis

This bill addresses a recognized funding shortfall in the Prevention Account of the Oil and Hazardous Substance Release Prevention and Response Fund. The Division anticipates that the new revenue generated through this bill, if appropriate, would alleviate a projected revenue shortfall for FY16 operations that is estimated to be around \$7 million.

There will be no fiscal impact to the Division Spill Prevention and Response for implementation of the legislation.

CS FOR HOUSE BILL NO. 158(FIN)

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-NINTH LEGISLATURE - FIRST SESSION

BY THE HOUSE FINANCE COMMITTEE

Offered:
Referred:

Sponsor(s): REPRESENTATIVE MUÑOZ

A BILL

FOR AN ACT ENTITLED

1 **"An Act relating to a refined fuel surcharge; relating to the motor fuel tax; relating to a**
2 **qualified dealer license; and providing for an effective date."**

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

4 * **Section 1.** AS 43.05.230(g) is amended to read:

5 (g) The information contained in a license issued by the commissioner of
6 revenue or the commissioner of commerce, community, and economic development
7 under AS 43.40, AS 43.50, AS 43.60, AS 43.65, AS 43.70, and AS 43.75 is public
8 information.

9 * **Sec. 2.** AS 43.40 is amended by adding new sections to read:

10 **Sec. 43.40.005. Refined fuel surcharge levied.** (a) Every dealer or user of
11 refined fuels shall pay a surcharge of \$.01 a gallon on refined fuel sold, transferred, or
12 used in the state.

13 (b) The following refined fuels are exempt from the surcharge imposed under
14 this section:

- 1 (1) fuel sold to a federal or state government agency for official use;
- 2 (2) fuel refined and used outside the United States;
- 3 (3) bonded fuel;
- 4 (4) liquefied petroleum gas;
- 5 (5) fuel sold or transferred between qualified dealers;
- 6 (6) aviation fuel.

7 **Sec. 43.40.007. Use of revenue derived from the refined fuel surcharge.**

8 The legislature may appropriate the annual estimated balance of the surcharge levied
9 under AS 43.40.005 to the oil and hazardous substance release prevention account of
10 the oil and hazardous substance release prevention and response fund established in
11 AS 46.08.010. Nothing in this section creates a dedicated fund.

12 * **Sec. 3.** AS 43.40.010(a) is amended to read:

13 (a) In addition to the surcharge levied under AS 43.40.005, there [THERE]
14 is levied a tax of eight cents a gallon on all motor fuel sold or otherwise transferred
15 within the state, except that

- 16 (1) the tax on aviation gasoline is four and seven-tenths cents a gallon;
- 17 (2) the tax on motor fuel used in and on watercraft of all descriptions is
18 five cents a gallon;
- 19 (3) the tax on all aviation fuel other than gasoline is three and two-
20 tenths cents a gallon; and
- 21 (4) the tax rate on motor fuel that is blended with alcohol is the same
22 tax rate a gallon as other motor fuel; however,

23 [(A)] in an area and during the months in which fuel containing
24 alcohol is required to be sold, transferred, or used in an effort to attain air
25 quality standards for carbon monoxide as required by federal or state law or
26 regulation, the tax rate on motor fuel that is blended with alcohol is six cents a
27 gallon less than the tax on other motor fuel not described in (1) - (3) of this
28 subsection [;

29 (B) NOTWITHSTANDING (A) OF THIS PARAGRAPH,
30 THROUGH JUNE 30, 2004, THE TAX ON MOTOR FUEL SOLD OR
31 OTHERWISE TRANSFERRED WITHIN THE STATE IS EIGHT CENTS A

1 GALLON LESS THAN THE TAX ON OTHER MOTOR FUEL NOT
2 DESCRIBED IN (1) - (3) OF THIS SUBSECTION IF THE MOTOR FUEL

3 (i) IS AT LEAST 10 PERCENT ALCOHOL BY
4 VOLUME, HAS BEEN PRODUCED FROM THE PROCESSING OF
5 LIGNOCELLULOSE DERIVED FROM WOOD, AND WAS
6 PRODUCED IN A FACILITY THAT PROCESSES
7 LIGNOCELLULOSE FROM WOOD, BUT THIS REDUCTION IN
8 THE RATE OF TAX APPLIES TO MOTOR FUEL SOLD OR
9 TRANSFERRED THAT CONTAINS ALCOHOL THAT WAS
10 PRODUCED ONLY DURING THE FIRST FIVE YEARS OF THE
11 FACILITY'S PROCESSING OF LIGNOCELLULOSE FROM
12 WOOD; OR

13 (ii) IS AT LEAST 10 PERCENT ALCOHOL BY
14 VOLUME, HAS BEEN PRODUCED FROM THE PROCESSING OF
15 WASTE SEAFOOD, AND WAS PRODUCED IN A FACILITY
16 THAT PROCESSES ALCOHOL FROM WASTE SEAFOOD, BUT
17 THIS REDUCTION IN THE RATE OF TAX APPLIES TO MOTOR
18 FUEL SOLD OR TRANSFERRED THAT CONTAINS ALCOHOL
19 THAT WAS PRODUCED ONLY DURING THE FIRST FIVE
20 YEARS OF THE FACILITY'S PROCESSING OF ALCOHOL FROM
21 WASTE SEAFOOD].

22 * Sec. 4. AS 43.40.010(b) is amended to read:

23 (b) In addition to the surcharge levied under AS 43.40.005, there
24 [THERE] is levied a tax of eight cents a gallon on all motor fuel consumed by a user,
25 except that

26 (1) the tax on aviation gasoline consumed is four and seven-tenths
27 cents a gallon;

28 (2) the tax on motor fuel used in and on watercraft of all descriptions is
29 five cents a gallon;

30 (3) the tax on all aviation fuel other than gasoline is three and two-
31 tenths cents a gallon; and

1 (4) the tax rate on motor fuel that is blended with alcohol is the same
2 tax rate a gallon as other motor fuel; however,

3 [(A)] in an area and during the months in which fuel containing
4 alcohol is required to be sold, transferred, or used in an effort to attain air
5 quality standards for carbon monoxide as required by federal or state law or
6 regulation, the tax rate on motor fuel that is blended with alcohol is six cents a
7 gallon less than the tax on other motor fuel not described in (1) - (3) of this
8 subsection [;

9 (B) NOTWITHSTANDING (A) OF THIS PARAGRAPH,
10 THROUGH JUNE 30, 2004, THE TAX ON MOTOR FUEL CONSUMED
11 BY A USER WITHIN THE STATE IS EIGHT CENTS A GALLON LESS
12 THAN THE TAX ON OTHER MOTOR FUEL NOT DESCRIBED IN (1) -
13 (3) OF THIS SUBSECTION IF THE MOTOR FUEL

14 (i) IS AT LEAST 10 PERCENT ALCOHOL BY
15 VOLUME, HAS BEEN PRODUCED FROM THE PROCESSING OF
16 LIGNOCELLULOSE DERIVED FROM WOOD, AND WAS
17 PRODUCED IN A FACILITY THAT PROCESSES
18 LIGNOCELLULOSE FROM WOOD, BUT THIS REDUCTION IN
19 THE RATE OF TAX APPLIES TO MOTOR FUEL CONSUMED BY
20 A USER THAT CONTAINS ALCOHOL THAT WAS PRODUCED
21 ONLY DURING THE FIRST FIVE YEARS OF THE FACILITY'S
22 PROCESSING OF LIGNOCELLULOSE FROM WOOD; OR

23 (ii) IS AT LEAST 10 PERCENT ALCOHOL BY
24 VOLUME, HAS BEEN PRODUCED FROM THE PROCESSING OF
25 WASTE SEAFOOD, AND WAS PRODUCED IN A FACILITY
26 THAT PROCESSES ALCOHOL FROM WASTE SEAFOOD, BUT
27 THIS REDUCTION IN THE RATE OF TAX APPLIES TO MOTOR
28 FUEL CONSUMED BY A USER THAT CONTAINS ALCOHOL
29 THAT WAS PRODUCED ONLY DURING THE FIRST FIVE
30 YEARS OF THE FACILITY'S PROCESSING OF ALCOHOL FROM
31 WASTE SEAFOOD].

1 * **Sec. 5.** AS 43.40.010(e) is amended to read:

2 (e) Sixty percent of the proceeds of the revenue from the **motor fuel** taxes on
3 aviation fuel, excluding the amount determined to have been spent by the state in its
4 collection, shall be refunded to a municipality owning and operating or leasing and
5 operating an airport in the proportion that the revenue was collected at the municipal
6 airport. All other proceeds of the **motor fuel** taxes on aviation fuel shall be paid into a
7 special aviation fuel tax account in the state general fund. The legislature may
8 appropriate funds from this account for **capital or operating costs of airports**
9 [AVIATION FACILITIES].

10 * **Sec. 6.** AS 43.40 is amended by adding a new section to read:

11 **Sec. 43.40.013. Collection of the refined fuel surcharge and the motor fuel**
12 **tax.** Every dealer who sells or otherwise transfers refined or motor fuel in the state
13 shall collect the surcharge and tax required in this chapter at the time of sale, and remit
14 the total surcharge and tax collected during each calendar month of each year to the
15 department by the last day of each succeeding month. Every user shall likewise remit
16 the surcharge and tax required in this chapter and accrued on fuel actually used by the
17 user during each month. If the monthly return is timely filed, one percent of the total
18 monthly surcharge and tax due, limited to a maximum of \$100, may be deducted and
19 retained to cover the expense of accounting and filing the monthly return. At the time
20 the remittance is made, each dealer or user shall submit a statement to the department
21 showing all fuel that the dealer or user has distributed or used during the month.

22 * **Sec. 7.** AS 43.40.015(c) is amended to read:

23 (c) A certificate of use **obtained under this section** must be renewed annually
24 for exemptions listed under AS 43.40.100(2).

25 * **Sec. 8.** AS 43.40.015(d) is amended to read:

26 (d) A certificate of use is not required **under this section**

27 (1) for fuel exempted under AS 43.40.100(2)(C) or (J); and

28 (2) for fuel exempted under AS 43.40.100(2)(I) other than fuel sold or
29 transferred under this exemption to a person who is engaged in construction or mining
30 activity.

31 * **Sec. 9.** AS 43.40.030 is amended to read:

1 **Sec. 43.40.030. Refund of the motor fuel tax for nonhighway use.** (a)

2 Except as specified in AS 43.40.010(j), a person who uses motor fuel to operate an
3 internal combustion engine is entitled to a **motor fuel tax** refund of six cents a gallon
4 if

5 (1) the tax on the motor fuel has been paid;

6 (2) the motor fuel is not aviation fuel, or motor fuel used in or on
7 watercraft; and

8 (3) the internal combustion engine is not used in or in conjunction with
9 a motor vehicle licensed to be operated on public ways.

10 (b) The entire **amount of the motor fuel** tax levied by this chapter shall be
11 refunded to the purchaser on that part of the motor fuel used in a foreign country on
12 which the tax has been paid when the fuel is sold and delivered in the state for non-
13 highway use in a foreign country.

14 (c) The department shall establish the necessary regulations and prescribe the
15 appropriate forms to prove that, **for purposes of the motor fuel tax**, the motor fuel is
16 taken to and used in foreign countries.

17 (d) If a person obtains motor fuel on which the **motor fuel** tax levied by this
18 chapter has been paid and the motor fuel is exempt from the **motor fuel** tax, the
19 person is entitled to a refund of the **motor fuel** tax paid.

20 * **Sec. 10.** AS 43.40.035(a) is amended to read:

21 (a) A person who resells fuel on which **a surcharge under AS 43.40.005 or**
22 **the tax under AS 43.40.010(a) or (b) was previously paid** is entitled to a credit or
23 refund of the **(1) motor fuel** tax if [(1)] the resold fuel is not motor fuel and the
24 requirements of AS 43.40.015 have been fulfilled; or (2) the amount of **surcharge or**
25 **tax previously paid exceeds the surcharge or** tax due on the resale. The amount of the
26 credit or refund under this section is equal to the amount of **the surcharge or** tax
27 previously paid on the resold fuel less the amount of **the surcharge or** tax prescribed
28 by **AS 43.40.005 or 43.40.010(a) or (b), respectively** [AS 43.40.010(a) OR (b)].

29 * **Sec. 11.** AS 43.40.035(c) is amended to read:

30 (c) For **motor** fuel sold to federal, state, and local government agencies for
31 official use and purchased with a government credit card, the credit card issuer may

1 apply for a refund of any motor fuel tax assessed on the purchase if the tax is not
2 billed by the credit card issuer to the government agency making the purchase. **For**
3 **refined fuel sold to federal agencies for official use and purchased with a**
4 **government credit card, the credit card issuer may apply for a refund of any**
5 **refined fuel surcharge assessed on the purchase if the surcharge is not billed by**
6 **the credit card issuer to the government agency making the purchase.**

7 * **Sec. 12.** AS 43.40.050(b) is amended to read:

8 (b) A claim for refund under AS 43.40.030 or 43.40.035 shall be filed within
9 one year **after** [FROM] the date of the purchase of the **refined or** motor fuel as
10 indicated on the invoice, and failure to file within the one-year period is a waiver of
11 the right to the refund. A claim is considered to be filed when the claim is mailed or
12 personally presented to an office of the department.

13 * **Sec. 13.** AS 43.40.060 is amended to read:

14 **Sec. 43.40.060. Separate invoices.** The department may require the issuance
15 of separate invoices for **refined or motor** fuel sold, distributed, or transferred when
16 the invoices will be the basis for a refund claim.

17 * **Sec. 14.** AS 43.40.070 is amended to read:

18 **Sec. 43.40.070. Refund warrants.** Upon approval of a refund claim **of the**
19 **motor fuel tax** by the department, a disbursement shall be made from the highway
20 fuel tax account in the general fund in favor of the applicant in the amount of the
21 claim.

22 * **Sec. 15.** AS 43.40.070 is amended by adding a new subsection to read:

23 (b) Upon approval of a refund claim of the refined fuel surcharge by the
24 department, a disbursement shall be made from the oil and hazardous substance
25 release prevention account of the oil and hazardous substance release prevention and
26 response fund established in AS 46.08.010 in favor of the applicant in the amount of
27 the claim.

28 * **Sec. 16.** AS 43.40.080(a) is amended to read:

29 (a) To determine the validity of a claim for refund, the department may
30 examine the books and records of the claimant and the books and records of a
31 distributor of **the refined or** motor fuel. The department may cancel the refund

1 [PERMIT] of a [THE] claimant relying on [UPON] a fraudulent invoice [FOR A
2 PERIOD OF NOT MORE THAN ONE YEAR].

3 * **Sec. 17.** AS 43.40.085 is amended to read:

4 **Sec. 43.40.085. Preservation of books and records.** Dealers and users shall
5 preserve for three years all books and records pertaining to sales, transfers, and uses of
6 refined or motor fuel that are subject to a surcharge or tax [TAXED] under this
7 chapter.

8 * **Sec. 18.** AS 43.40.092(a) is amended to read:

9 (a) The provisions of this section apply to disallow the exemption from the
10 motor fuel tax for motor fuel sold for use by a dealer or used by a user in jet
11 propulsion aircraft operating in flights that continue from foreign countries if, for
12 motor fuel produced by a refiner,

13 (1) the refiner determines, on or after July 1, 1997, that the refiner will
14 expand capacity or expand the refinery to produce more residual fuel oil used in
15 watercraft;

16 (2) on or after the July 1, 1997, the refiner has voluntarily committed
17 by agreement entered into with the commissioner that, if the refiner expands its oil
18 refining capacity in order to produce additional supplies of fuel for use in jet
19 propulsion aircraft that qualify for the tax exemption, when the refiner expands
20 capacity, the refiner will

21 (A) use the refiner's best efforts to advertise for, recruit, and
22 employ in the construction activities associated with expanding refinery
23 capacity resident workers who have experience in the specific fields in which
24 they are hired to work;

25 (B) contract with licensed Alaska firms to prepare materials
26 that are used in construction activities and to provide services in conjunction
27 with activities associated with expanded refinery capacity and, in contracting
28 with those firms, to encourage the refiner's contractors to employ and, when
29 necessary, train state residents; and

30 (C) enter into contracts with Alaska-licensed vendors,
31 contractors, and suppliers for the provision of supplies and services used in

1 conjunction with activities associated with expanding refinery capacity; and

2 (3) the commissioner determines that a dealer or user claiming the
3 exemption for motor fuel acquired from a refiner who has entered into an agreement
4 described in (2) of this subsection acquired the motor fuel for which the exemption is
5 claimed from a refiner who has not complied with the requirements of the agreement
6 in completing expansion of its oil refining capacity under the agreement described in
7 (1) of this subsection.

8 * **Sec. 19.** AS 43.40 is amended by adding a new section to read:

9 **Sec. 43.40.094. Qualified dealer license.** (a) A dealer is eligible for a qualified
10 dealer license if the dealer sells at least 50 percent of fuel acquired to unrelated
11 persons for any combination of the following purposes:

- 12 (1) resale;
13 (2) use in heating private or commercial buildings or facilities;
14 (3) use in jet propulsion aircraft;
15 (4) motor fuel.

16 (b) A person applying for a qualified dealer license must use a form or format
17 prescribed by the department. At the time of application, the applicant must provide an
18 estimate of the average number of gallons of fuel subject to surcharge or tax each
19 month during a calendar year, and state the estimated amount of surcharge and tax on
20 those gallons. A license issued under this section is not transferable.

21 (c) The department may not issue or renew a qualified dealer license if

- 22 (1) the department finds that the applicant or qualified dealer has
23 withheld information required in the application or that the information submitted in
24 the application is false or misleading;
25 (2) the applicant, or a responsible person of a business organization
26 that is applying for the license, has been convicted within the last 10 years, in this state
27 or in any other taxing jurisdiction, of crimes involving a fuel surcharge or tax;
28 (3) the qualified dealer fails to comply with a requirement of this
29 chapter;
30 (4) the qualified dealer has failed to pay in full the surcharge, taxes,
31 interest, and penalties levied under AS 43.05 or this chapter.

1 (d) The department may

2 (1) issue only one qualified dealer license to each person;

3 (2) put additional limitations on the applicant or holder of a qualified
4 dealer license.

5 (e) A license issued under this section expires on June 30 following the date of
6 issue. Before a license issued under this section expires, the licensee may apply to
7 renew the license, on a form or in a format prescribed by the department, for one year
8 after the expiration date of the license.

9 (f) If the department determines a qualified dealer license may not be issued or
10 renewed under this section, the department shall mail or electronically deliver a notice
11 of license denial or nonrenewal to the person whose license was denied or not
12 renewed. The person may appeal a notice of license denial or nonrenewal not later
13 than 10 days after the date the notice was mailed or electronically delivered.

14 (g) The department may, at the time an applicant applies for a qualified dealer
15 license, require the applicant to file a bond or other security with the department in an
16 amount equal to twice the estimated surcharge and tax due to the department in one
17 month, or \$5,000, whichever is greater.

18 (h) The department may adopt regulations to implement this section, including
19 regulations relating to the revocation of a license.

20 * **Sec. 20.** AS 43.40.100(1) is amended to read:

21 (1) "dealer" means a person who sells or otherwise transfers in this
22 state refined or motor fuel upon which the surcharge or tax [TAXES] imposed by
23 this chapter has [HAVE] not been paid;

24 * **Sec. 21.** AS 43.40.100(3) is amended to read:

25 (3) "qualified dealer" means a person who (A) refines, (B) imports, (C)
26 manufactures, (D) produces, (E) compounds, or (F) wholesales refined or motor fuel
27 [, WHO SATISFIES CRITERIA FOR QUALIFIED DEALERS ESTABLISHED BY
28 THE DEPARTMENT BY REGULATION, AND WHO OBTAINS A QUALIFIED
29 DEALER'S LICENSE FROM THE DEPARTMENT];

30 * **Sec. 22.** AS 43.40.100(4) is amended to read:

31 (4) "user" means a person consuming or using refined or motor fuel,

1 who

2 (A) purchases the fuel out of the state and ships it into the state
3 for personal use in the state;

4 (B) manufactures the fuel in the state; or

5 (C) purchases or receives fuel in the state that is not subject to
6 the surcharge or tax under this chapter [TAXED] at the time of purchase or
7 receipt or is subject to a surcharge or tax [TAXED AT A RATE] that is less
8 than the rate prescribed by AS 43.40.005 or 43.40.010 [AS 43.40.010].

9 * **Sec. 23.** AS 43.40.100 is amended by adding a new paragraph to read:

10 (5) "refined fuel" means fuel produced from oil that is used in an
11 engine, machine, or contrivance that creates heat, energy, or power.

12 * **Sec. 24.** AS 43.40.010(c) is repealed.

13 * **Sec. 25.** The uncodified law of the State of Alaska is amended by adding a new section to
14 read:

15 **QUALIFIED DEALER LICENSE; REGULATIONS.** To the extent current
16 regulations are consistent with this Act, the regulations previously adopted by the Department
17 of Revenue relating to qualified dealers and qualified dealer licenses under AS 43.40.100
18 shall apply to qualified dealers and qualified dealer licenses until the regulations are amended
19 to be consistent with this Act.

20 * **Sec. 26.** This Act takes effect July 1, 2015.



THE STATE
of **ALASKA**
GOVERNOR BILL WALKER

Department of Environmental
Conservation

OFFICE OF THE COMMISSIONER

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April 2, 2015

The Honorable Steve Thompson & Mark Neuman
Co-Chairs, House Finance Committee
State Capitol
Juneau, AK 99801

Dear Representatives Thompson & Neuman:

Thank you for hearing House Bill 158 – Refined Fuel Surcharge; Motor Fuel Taxes – on April 1st. During the hearing some questions arose that required additional information. The Department (DEC) has responded to those questions below. If you would like additional information, or have additional questions, we are happy to assist.

Can we see an audit report of the Spill Prevention and Response (SPAR) Division? (Rep. Wilson)

The last audit of SPAR was in 2008. You can find the report at the following link:
<http://legaudit.akleg.gov/docs/audits/special/dec/30047rpt-2008.pdf>.

Are there limits on the use of the response fund once money is appropriated to it?

AS 46.08.040 describes uses of the fund. Subsection (2) specifically says the prevention account may be used to:

- (A) investigate and evaluate the release or threatened release of oil or a hazardous substance, except for [natural disasters] 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.
- (B) pay all costs incurred (i) to establish and maintain the oil and hazardous substance response office; (ii) under agreements entered into under 46.04.090 or 46.09.040; (iii) to review Contingency plans; (iv) to conduct training, response exercises, inspections and tests, in order to verify equipment inventories and ability to prevent and respond to spills...(v) to verify or establish proof of financial responsibility.

Wal-Mart inherited contamination at the Muldoon/DeBarr intersection in Anchorage when it bought the property. Who's responsible for paying for that cleanup? (Rep. Pruitt)

In December 2005, prior to the property being sold, Walmart entered into a Prospective Purchaser Agreement (PPA or Agreement) with the state to conduct the environmental cleanup of the property and pay cost recovery totaling \$900,000. We subsequently had a

dispute about some of the money spent under the PPA and settled under an 'Accord and Satisfaction' (Accord) in September 2013 to satisfy the requirements of the PPA.

Cost recovery against the prior owner was not possible as the prior owner corporation was dissolved. Miller, the principal of the company, died and his estate was distributed so there is no recourse for future cost recovery. The existence of prior insurance is not known since the corporation dissolved long ago.

Work required under the Accord included installation and sampling of soil gas probes, soil borings, and monitoring wells on the western portion of the site, including areas next to a church on adjacent property. The Accord had the purpose of prioritizing the remaining environmental work under the former agreement and in so doing, DEC made the decision to suspend cost recovery for time spent by the project manager to ensure that the priority tasks were accomplished. This resulted in approximately \$1,000 not cost recovered.

Following completion of the activities set forth in the Accord, estimated to take place by July 2015, DEC will either issue a Cleanup Complete designation for the Site with or without institutional controls, or if the site is not eligible for either of these designations, will inform Walmart of the additional work required to reach Cleanup Complete, and the PPA will be closed out.

Does the SPAR division get full reasonable attorneys' fees in its cost-recovery actions? (Rep. Gara)

The Department believes we do get full reasonable attorney fees and costs under AS 46.03.822 and under AS 46.03.760(d). We do not have a state court ruling on the issue. AS 46.03.763 allows for full reasonable attorney fees in an action to collect a civil penalty under AS 46.03.758, AS 46.03.759 or AS 46.03.760 for a discharge of oil.

Are regulations sufficient to ensure the State isn't held hostage in fixing cost-recovery problem, or is a change in statute required? (Rep. Pruitt)

The Department does not need better liability authority in statute. AS 46.03.822 goes into great detail about who is liable for a release of hazardous substance. The Department does not believe it could be stricter. As said in testimony, the land owner is responsible even if they didn't cause the contamination. DEC has the authority to pursue other responsible parties if a connection to the release can be clearly made.

AS 46.08.070 already requires DEC to seek reimbursement promptly as does AS 46.04.010. AS 46.08.075 allows the Department of Law to put liens on property to reimburse the Department's expenses.

We hope these responses prove useful to the Committee, please feel free to follow up with us if you require additional information or have additional questions.

Sincerely,



Alice Edwards
Deputy Commissioner

2015 HOUSE FINANCE COMMITTEE VOTE SHEET

*passed
7/4*

DATE: 4/1/15
Vote to move bill from

Amendment: committee

MEMBER

Favor

Oppose

REP. EDGMON	✓	
REP. GARA	✓	
REP. GATTIS		✓
REP. GUTTENBERG		✓
REP. KAWASAKI	✓	
REP. MUNOZ	✓	
REP. PRUITT	✓	
REP. SADDLER	✓	
REP. WILSON		✓
REP. NEUMAN		✓
REP. THOMPSON	✓	

YEA

7

NAY

4

*Adopted
4/1/15*

29-LS0608I
Nauman
4/1/15

CS FOR HOUSE BILL NO. 158(FIN)

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-NINTH LEGISLATURE - FIRST SESSION

BY THE HOUSE FINANCE COMMITTEE

Offered:

Referred:

Sponsor(s): REPRESENTATIVE MUÑOZ

A BILL

FOR AN ACT ENTITLED

1 **"An Act relating to a refined fuel surcharge; relating to the motor fuel tax; relating to a**
2 **qualified dealer license; and providing for an effective date."**

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

4 *** Section 1.** AS 43.05.230(g) is amended to read:

5 (g) The information contained in a license issued by the commissioner of
6 revenue or the commissioner of commerce, community, and economic development
7 under AS 43.40, AS 43.50, AS 43.60, AS 43.65, AS 43.70, and AS 43.75 is public
8 information.

9 *** Sec. 2.** AS 43.40 is amended by adding new sections to read:

10 **Sec. 43.40.005. Refined fuel surcharge levied.** (a) Every dealer or user of
11 refined fuels shall pay a surcharge of \$.01 a gallon on refined fuel sold, transferred, or
12 used in the state.

13 (b) The following refined fuels are exempt from the surcharge imposed under
14 this section:

- 1 (1) fuel sold to a federal or state government agency for official use;
- 2 (2) fuel refined and used outside the United States;
- 3 (3) bonded fuel;
- 4 (4) liquefied petroleum gas;
- 5 (5) fuel sold or transferred between qualified dealers;
- 6 (6) aviation fuel.

7 **Sec. 43.40.007. Use of revenue derived from the refined fuel surcharge.**

8 The legislature may appropriate the annual estimated balance of the surcharge levied
9 under AS 43.40.005 to the oil and hazardous substance release prevention account of
10 the oil and hazardous substance release prevention and response fund established in
11 AS 46.08.010. Nothing in this section creates a dedicated fund.

12 * **Sec. 3.** AS 43.40.010(a) is amended to read:

13 (a) In addition to the surcharge levied under AS 43.40.005, there [THERE]
14 is levied a tax of eight cents a gallon on all motor fuel sold or otherwise transferred
15 within the state, except that

- 16 (1) the tax on aviation gasoline is four and seven-tenths cents a gallon;
- 17 (2) the tax on motor fuel used in and on watercraft of all descriptions is
18 five cents a gallon;
- 19 (3) the tax on all aviation fuel other than gasoline is three and two-
20 tenths cents a gallon; and
- 21 (4) the tax rate on motor fuel that is blended with alcohol is the same
22 tax rate a gallon as other motor fuel; however,

23 [(A)] in an area and during the months in which fuel containing
24 alcohol is required to be sold, transferred, or used in an effort to attain air
25 quality standards for carbon monoxide as required by federal or state law or
26 regulation, the tax rate on motor fuel that is blended with alcohol is six cents a
27 gallon less than the tax on other motor fuel not described in (1) - (3) of this
28 subsection [;

29 (B) NOTWITHSTANDING (A) OF THIS PARAGRAPH,
30 THROUGH JUNE 30, 2004, THE TAX ON MOTOR FUEL SOLD OR
31 OTHERWISE TRANSFERRED WITHIN THE STATE IS EIGHT CENTS A

1 GALLON LESS THAN THE TAX ON OTHER MOTOR FUEL NOT
2 DESCRIBED IN (1) - (3) OF THIS SUBSECTION IF THE MOTOR FUEL

3 (i) IS AT LEAST 10 PERCENT ALCOHOL BY
4 VOLUME, HAS BEEN PRODUCED FROM THE PROCESSING OF
5 LIGNOCELLULOSE DERIVED FROM WOOD, AND WAS
6 PRODUCED IN A FACILITY THAT PROCESSES
7 LIGNOCELLULOSE FROM WOOD, BUT THIS REDUCTION IN
8 THE RATE OF TAX APPLIES TO MOTOR FUEL SOLD OR
9 TRANSFERRED THAT CONTAINS ALCOHOL THAT WAS
10 PRODUCED ONLY DURING THE FIRST FIVE YEARS OF THE
11 FACILITY'S PROCESSING OF LIGNOCELLULOSE FROM
12 WOOD; OR

13 (ii) IS AT LEAST 10 PERCENT ALCOHOL BY
14 VOLUME, HAS BEEN PRODUCED FROM THE PROCESSING OF
15 WASTE SEAFOOD, AND WAS PRODUCED IN A FACILITY
16 THAT PROCESSES ALCOHOL FROM WASTE SEAFOOD, BUT
17 THIS REDUCTION IN THE RATE OF TAX APPLIES TO MOTOR
18 FUEL SOLD OR TRANSFERRED THAT CONTAINS ALCOHOL
19 THAT WAS PRODUCED ONLY DURING THE FIRST FIVE
20 YEARS OF THE FACILITY'S PROCESSING OF ALCOHOL FROM
21 WASTE SEAFOOD].

22 * Sec. 4. AS 43.40.010(b) is amended to read:

23 (b) In addition to the surcharge levied under AS 43.40.005, there
24 [THERE] is levied a tax of eight cents a gallon on all motor fuel consumed by a user,
25 except that

26 (1) the tax on aviation gasoline consumed is four and seven-tenths
27 cents a gallon;

28 (2) the tax on motor fuel used in and on watercraft of all descriptions is
29 five cents a gallon;

30 (3) the tax on all aviation fuel other than gasoline is three and two-
31 tenths cents a gallon; and

1 (4) the tax rate on motor fuel that is blended with alcohol is the same
2 tax rate a gallon as other motor fuel; however,

3 [(A)] in an area and during the months in which fuel containing
4 alcohol is required to be sold, transferred, or used in an effort to attain air
5 quality standards for carbon monoxide as required by federal or state law or
6 regulation, the tax rate on motor fuel that is blended with alcohol is six cents a
7 gallon less than the tax on other motor fuel not described in (1) - (3) of this
8 subsection [;

9 (B) NOTWITHSTANDING (A) OF THIS PARAGRAPH,
10 THROUGH JUNE 30, 2004, THE TAX ON MOTOR FUEL CONSUMED
11 BY A USER WITHIN THE STATE IS EIGHT CENTS A GALLON LESS
12 THAN THE TAX ON OTHER MOTOR FUEL NOT DESCRIBED IN (1) -
13 (3) OF THIS SUBSECTION IF THE MOTOR FUEL

14 (i) IS AT LEAST 10 PERCENT ALCOHOL BY
15 VOLUME, HAS BEEN PRODUCED FROM THE PROCESSING OF
16 LIGNOCELLULOSE DERIVED FROM WOOD, AND WAS
17 PRODUCED IN A FACILITY THAT PROCESSES
18 LIGNOCELLULOSE FROM WOOD, BUT THIS REDUCTION IN
19 THE RATE OF TAX APPLIES TO MOTOR FUEL CONSUMED BY
20 A USER THAT CONTAINS ALCOHOL THAT WAS PRODUCED
21 ONLY DURING THE FIRST FIVE YEARS OF THE FACILITY'S
22 PROCESSING OF LIGNOCELLULOSE FROM WOOD; OR

23 (ii) IS AT LEAST 10 PERCENT ALCOHOL BY
24 VOLUME, HAS BEEN PRODUCED FROM THE PROCESSING OF
25 WASTE SEAFOOD, AND WAS PRODUCED IN A FACILITY
26 THAT PROCESSES ALCOHOL FROM WASTE SEAFOOD, BUT
27 THIS REDUCTION IN THE RATE OF TAX APPLIES TO MOTOR
28 FUEL CONSUMED BY A USER THAT CONTAINS ALCOHOL
29 THAT WAS PRODUCED ONLY DURING THE FIRST FIVE
30 YEARS OF THE FACILITY'S PROCESSING OF ALCOHOL FROM
31 WASTE SEAFOOD].

1 * **Sec. 5.** AS 43.40.010(e) is amended to read:

2 (e) Sixty percent of the proceeds of the revenue from the motor fuel taxes on
3 aviation fuel, excluding the amount determined to have been spent by the state in its
4 collection, shall be refunded to a municipality owning and operating or leasing and
5 operating an airport in the proportion that the revenue was collected at the municipal
6 airport. All other proceeds of the motor fuel taxes on aviation fuel shall be paid into a
7 special aviation fuel tax account in the state general fund. The legislature may
8 appropriate funds from this account for capital or operating costs of airports
9 [AVIATION FACILITIES].

10 * **Sec. 6.** AS 43.40 is amended by adding a new section to read:

11 **Sec. 43.40.013. Collection of the refined fuel surcharge and the motor fuel**
12 **tax.** Every dealer who sells or otherwise transfers refined or motor fuel in the state
13 shall collect the surcharge and tax required in this chapter at the time of sale, and remit
14 the total surcharge and tax collected during each calendar month of each year to the
15 department by the last day of each succeeding month. Every user shall likewise remit
16 the surcharge and tax required in this chapter and accrued on fuel actually used by the
17 user during each month. If the monthly return is timely filed, one percent of the total
18 monthly surcharge and tax due, limited to a maximum of \$100, may be deducted and
19 retained to cover the expense of accounting and filing the monthly return. At the time
20 the remittance is made, each dealer or user shall submit a statement to the department
21 showing all fuel that the dealer or user has distributed or used during the month.

22 * **Sec. 7.** AS 43.40.015(c) is amended to read:

23 (c) A certificate of use obtained under this section must be renewed annually
24 for exemptions listed under AS 43.40.100(2).

25 * **Sec. 8.** AS 43.40.015(d) is amended to read:

26 (d) A certificate of use is not required under this section
27 (1) for fuel exempted under AS 43.40.100(2)(C) or (J); and
28 (2) for fuel exempted under AS 43.40.100(2)(I) other than fuel sold or
29 transferred under this exemption to a person who is engaged in construction or mining
30 activity.

31 * **Sec. 9.** AS 43.40.030 is amended to read:

1 **Sec. 43.40.030. Refund of the motor fuel tax for nonhighway use.** (a)

2 Except as specified in AS 43.40.010(j), a person who uses motor fuel to operate an
3 internal combustion engine is entitled to a motor fuel tax refund of six cents a gallon
4 if

5 (1) the tax on the motor fuel has been paid;

6 (2) the motor fuel is not aviation fuel, or motor fuel used in or on
7 watercraft; and

8 (3) the internal combustion engine is not used in or in conjunction with
9 a motor vehicle licensed to be operated on public ways.

10 (b) The entire amount of the motor fuel tax levied by this chapter shall be
11 refunded to the purchaser on that part of the motor fuel used in a foreign country on
12 which the tax has been paid when the fuel is sold and delivered in the state for non-
13 highway use in a foreign country.

14 (c) The department shall establish the necessary regulations and prescribe the
15 appropriate forms to prove that, for purposes of the motor fuel tax, the motor fuel is
16 taken to and used in foreign countries.

17 (d) If a person obtains motor fuel on which the motor fuel tax levied by this
18 chapter has been paid and the motor fuel is exempt from the motor fuel tax, the
19 person is entitled to a refund of the motor fuel tax paid.

20 * **Sec. 10.** AS 43.40.035(a) is amended to read:

21 (a) A person who resells fuel on which a surcharge under AS 43.40.005 or
22 the tax under AS 43.40.010(a) or (b) was previously paid is entitled to a credit or
23 refund of the (1) motor fuel tax if [(1)] the resold fuel is not motor fuel and the
24 requirements of AS 43.40.015 have been fulfilled; or (2) the amount of surcharge or
25 tax previously paid exceeds the surcharge or tax due on the resale. The amount of the
26 credit or refund under this section is equal to the amount of the surcharge or tax
27 previously paid on the resold fuel less the amount of the surcharge or tax prescribed
28 by AS 43.40.005 or 43.40.010(a) or (b), respectively [AS 43.40.010(a) OR (b)].

29 * **Sec. 11.** AS 43.40.035(c) is amended to read:

30 (c) For motor fuel sold to federal, state, and local government agencies for
31 official use and purchased with a government credit card, the credit card issuer may

1 apply for a refund of any motor fuel tax assessed on the purchase if the tax is not
2 billed by the credit card issuer to the government agency making the purchase. **For**
3 **refined fuel sold to federal agencies for official use and purchased with a**
4 **government credit card, the credit card issuer may apply for a refund of any**
5 **refined fuel surcharge assessed on the purchase if the surcharge is not billed by**
6 **the credit card issuer to the government agency making the purchase.**

7 * **Sec. 12.** AS 43.40.050(b) is amended to read:

8 (b) A claim for refund under AS 43.40.030 or 43.40.035 shall be filed within
9 one year **after** [FROM] the date of the purchase of the **refined or** motor fuel as
10 indicated on the invoice, and failure to file within the one-year period is a waiver of
11 the right to the refund. A claim is considered to be filed when the claim is mailed or
12 personally presented to an office of the department.

13 * **Sec. 13.** AS 43.40.060 is amended to read:

14 **Sec. 43.40.060. Separate invoices.** The department may require the issuance
15 of separate invoices for **refined or motor** fuel sold, distributed, or transferred when
16 the invoices will be the basis for a refund claim.

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18 **Sec. 43.40.070. Refund warrants.** Upon approval of a refund claim **of the**
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20 fuel tax account in the general fund in favor of the applicant in the amount of the
21 claim.

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23 (b) Upon approval of a refund claim of the refined fuel surcharge by the
24 department, a disbursement shall be made from the oil and hazardous substance
25 release prevention account of the oil and hazardous substance release prevention and
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27 the claim.

28 * **Sec. 16.** AS 43.40.080(a) is amended to read:

29 (a) To determine the validity of a claim for refund, the department may
30 examine the books and records of the claimant and the books and records of a
31 distributor of **the refined or** motor fuel. The department may cancel the refund

1 [PERMIT] of a [THE] claimant relying on [UPON] a fraudulent invoice [FOR A
2 PERIOD OF NOT MORE THAN ONE YEAR].

3 * Sec. 17. AS 43.40.085 is amended to read:

4 **Sec. 43.40.085. Preservation of books and records.** Dealers and users shall
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7 chapter.

8 * Sec. 18. AS 43.40.092(a) is amended to read:

9 (a) The provisions of this section apply to disallow the exemption from the
10 motor fuel tax for motor fuel sold for use by a dealer or used by a user in jet
11 propulsion aircraft operating in flights that continue from foreign countries if, for
12 motor fuel produced by a refiner,

13 (1) the refiner determines, on or after July 1, 1997, that the refiner will
14 expand capacity or expand the refinery to produce more residual fuel oil used in
15 watercraft;

16 (2) on or after the July 1, 1997, the refiner has voluntarily committed
17 by agreement entered into with the commissioner that, if the refiner expands its oil
18 refining capacity in order to produce additional supplies of fuel for use in jet
19 propulsion aircraft that qualify for the tax exemption, when the refiner expands
20 capacity, the refiner will

21 (A) use the refiner's best efforts to advertise for, recruit, and
22 employ in the construction activities associated with expanding refinery
23 capacity resident workers who have experience in the specific fields in which
24 they are hired to work;

25 (B) contract with licensed Alaska firms to prepare materials
26 that are used in construction activities and to provide services in conjunction
27 with activities associated with expanded refinery capacity and, in contracting
28 with those firms, to encourage the refiner's contractors to employ and, when
29 necessary, train state residents; and

30 (C) enter into contracts with Alaska-licensed vendors,
31 contractors, and suppliers for the provision of supplies and services used in

1 conjunction with activities associated with expanding refinery capacity; and

2 (3) the commissioner determines that a dealer or user claiming the
3 exemption for motor fuel acquired from a refiner who has entered into an agreement
4 described in (2) of this subsection acquired the motor fuel for which the exemption is
5 claimed from a refiner who has not complied with the requirements of the agreement
6 in completing expansion of its oil refining capacity under the agreement described in
7 (1) of this subsection.

8 * **Sec. 19.** AS 43.40 is amended by adding a new section to read:

9 **Sec. 43.40.094. Qualified dealer license.** (a) A dealer is eligible for a qualified
10 dealer license if the dealer sells at least 50 percent of fuel acquired to unrelated
11 persons for any combination of the following purposes:

- 12 (1) resale;
13 (2) use in heating private or commercial buildings or facilities;
14 (3) use in jet propulsion aircraft;
15 (4) motor fuel.

16 (b) A person applying for a qualified dealer license must use a form or format
17 prescribed by the department. At the time of application, the applicant must provide an
18 estimate of the average number of gallons of fuel subject to surcharge or tax each
19 month during a calendar year, and state the estimated amount of surcharge and tax on
20 those gallons. A license issued under this section is not transferable.

21 (c) The department may not issue or renew a qualified dealer license if

22 (1) the department finds that the applicant or qualified dealer has
23 withheld information required in the application or that the information submitted in
24 the application is false or misleading;

25 (2) the applicant, or a responsible person of a business organization
26 that is applying for the license, has been convicted within the last 10 years, in this state
27 or in any other taxing jurisdiction, of crimes involving a fuel surcharge or tax;

28 (3) the qualified dealer fails to comply with a requirement of this
29 chapter;

30 (4) the qualified dealer has failed to pay in full the surcharge, taxes,
31 interest, and penalties levied under AS 43.05 or this chapter.

1 (d) The department may

2 (1) issue only one qualified dealer license to each person;

3 (2) put additional limitations on the applicant or holder of a qualified
4 dealer license.

5 (e) A license issued under this section expires on June 30 following the date of
6 issue. Before a license issued under this section expires, the licensee may apply to
7 renew the license, on a form or in a format prescribed by the department, for one year
8 after the expiration date of the license.

9 (f) If the department determines a qualified dealer license may not be issued or
10 renewed under this section, the department shall mail or electronically deliver a notice
11 of license denial or nonrenewal to the person whose license was denied or not
12 renewed. The person may appeal a notice of license denial or nonrenewal not later
13 than 10 days after the date the notice was mailed or electronically delivered.

14 (g) The department may, at the time an applicant applies for a qualified dealer
15 license, require the applicant to file a bond or other security with the department in an
16 amount equal to twice the estimated surcharge and tax due to the department in one
17 month, or \$5,000, whichever is greater.

18 (h) The department may adopt regulations to implement this section, including
19 regulations relating to the revocation of a license.

20 * Sec. 20. AS 43.40.100(1) is amended to read:

21 (1) "dealer" means a person who sells or otherwise transfers in this
22 state refined or motor fuel upon which the surcharge or tax [TAXES] imposed by
23 this chapter has [HAVE] not been paid;

24 * Sec. 21. AS 43.40.100(3) is amended to read:

25 (3) "qualified dealer" means a person who (A) refines, (B) imports, (C)
26 manufactures, (D) produces, (E) compounds, or (F) wholesales refined or motor fuel
27 [, WHO SATISFIES CRITERIA FOR QUALIFIED DEALERS ESTABLISHED BY
28 THE DEPARTMENT BY REGULATION, AND WHO OBTAINS A QUALIFIED
29 DEALER'S LICENSE FROM THE DEPARTMENT];

30 * Sec. 22. AS 43.40.100(4) is amended to read:

31 (4) "user" means a person consuming or using refined or motor fuel,

1 who

2 (A) purchases the fuel out of the state and ships it into the state
3 for personal use in the state;

4 (B) manufactures the fuel in the state; or

5 (C) purchases or receives fuel in the state that is not subject to
6 the surcharge or tax under this chapter [TAXED] at the time of purchase or
7 receipt or is subject to a surcharge or tax [TAXED AT A RATE] that is less
8 than the rate prescribed by AS 43.40.005 or 43.40.010 [AS 43.40.010].

9 * Sec. 23. AS 43.40.100 is amended by adding a new paragraph to read:

10 (5) "refined fuel" means fuel produced from oil that is used in an
11 engine, machine, or contrivance that creates heat, energy, or power.

12 * Sec. 24. AS 43.40.010(c) is repealed.

13 * Sec. 25. The uncodified law of the State of Alaska is amended by adding a new section to
14 read:

15 QUALIFIED DEALER LICENSE; REGULATIONS. To the extent current
16 regulations are consistent with this Act, the regulations previously adopted by the Department
17 of Revenue relating to qualified dealers and qualified dealer licenses under AS 43.40.100
18 shall apply to qualified dealers and qualified dealer licenses until the regulations are amended
19 to be consistent with this Act.

20 * Sec. 26. This Act takes effect July 1, 2015.

*Adopted
3/25/15*

29-LS0608\E
Nauman
3/25/15

CS FOR HOUSE BILL NO. 158()

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-NINTH LEGISLATURE - FIRST SESSION

BY

**Offered:
Referred:**

Sponsor(s): REPRESENTATIVE MUÑOZ

A BILL

FOR AN ACT ENTITLED

1 **"An Act relating to a refined fuel surcharge; relating to the motor fuel tax; relating to a**
2 **qualified dealer license; and providing for an effective date."**

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

4 *** Section 1.** AS 43.05.230(g) is amended to read:

5 (g) The information contained in a license issued by the commissioner of
6 revenue or the commissioner of commerce, community, and economic development
7 under AS 43.40, AS 43.50, AS 43.60, AS 43.65, AS 43.70, and AS 43.75 is public
8 information.

9 *** Sec. 2.** AS 43.40 is amended by adding new sections to read:

10 **Sec. 43.40.005. Refined fuel surcharge levied.** (a) Every dealer or user of
11 refined fuels shall pay a surcharge of \$.01 a gallon on refined fuel sold, transferred, or
12 used in the state.

13 (b) The following refined fuels are exempt from the surcharge imposed under
14 this section:

- 1 (1) fuel sold to a federal or state government agency for official use;
- 2 (2) fuel refined and used outside the United States;
- 3 (3) bonded fuel;
- 4 (4) liquefied petroleum gas;
- 5 (5) fuel sold or transferred between qualified dealers;
- 6 (6) fuel sold for use in jet propulsion aircraft operating in flights
 - 7 (A) to foreign countries; or
 - 8 (B) that continue from foreign countries.

Sec. 43.40.007. Use of revenue derived from the refined fuel surcharge.

The legislature may appropriate the annual estimated balance of the surcharge levied under AS 43.40.005 to the oil and hazardous substance release prevention account of the oil and hazardous substance release prevention and response fund established in AS 46.08.010. Nothing in this section creates a dedicated fund.

* **Sec. 3.** AS 43.40.010(a) is amended to read:

(a) In addition to the surcharge levied under AS 43.40.005, there [THERE] is levied a tax of eight cents a gallon on all motor fuel sold or otherwise transferred within the state, except that

- 18 (1) the tax on aviation gasoline is four and seven-tenths cents a gallon;
- 19 (2) the tax on motor fuel used in and on watercraft of all descriptions is
- 20 five cents a gallon;
- 21 (3) the tax on all aviation fuel other than gasoline is three and two-
- 22 tenths cents a gallon; and
- 23 (4) the tax rate on motor fuel that is blended with alcohol is the same
- 24 tax rate a gallon as other motor fuel; however,

[(A)] in an area and during the months in which fuel containing alcohol is required to be sold, transferred, or used in an effort to attain air quality standards for carbon monoxide as required by federal or state law or regulation, the tax rate on motor fuel that is blended with alcohol is six cents a gallon less than the tax on other motor fuel not described in (1) - (3) of this subsection [;

(B) NOTWITHSTANDING (A) OF THIS PARAGRAPH,

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THROUGH JUNE 30, 2004, THE TAX ON MOTOR FUEL SOLD OR OTHERWISE TRANSFERRED WITHIN THE STATE IS EIGHT CENTS A GALLON LESS THAN THE TAX ON OTHER MOTOR FUEL NOT DESCRIBED IN (1) - (3) OF THIS SUBSECTION IF THE MOTOR FUEL

(i) IS AT LEAST 10 PERCENT ALCOHOL BY VOLUME, HAS BEEN PRODUCED FROM THE PROCESSING OF LIGNOCELLULOSE DERIVED FROM WOOD, AND WAS PRODUCED IN A FACILITY THAT PROCESSES LIGNOCELLULOSE FROM WOOD, BUT THIS REDUCTION IN THE RATE OF TAX APPLIES TO MOTOR FUEL SOLD OR TRANSFERRED THAT CONTAINS ALCOHOL THAT WAS PRODUCED ONLY DURING THE FIRST FIVE YEARS OF THE FACILITY'S PROCESSING OF LIGNOCELLULOSE FROM WOOD; OR

(ii) IS AT LEAST 10 PERCENT ALCOHOL BY VOLUME, HAS BEEN PRODUCED FROM THE PROCESSING OF WASTE SEAFOOD, AND WAS PRODUCED IN A FACILITY THAT PROCESSES ALCOHOL FROM WASTE SEAFOOD, BUT THIS REDUCTION IN THE RATE OF TAX APPLIES TO MOTOR FUEL SOLD OR TRANSFERRED THAT CONTAINS ALCOHOL THAT WAS PRODUCED ONLY DURING THE FIRST FIVE YEARS OF THE FACILITY'S PROCESSING OF ALCOHOL FROM WASTE SEAFOOD].

* Sec. 4. AS 43.40.010(b) is amended to read:

(b) In addition to the surcharge levied under AS 43.40.005, there [THERE] is levied a tax of eight cents a gallon on all motor fuel consumed by a user, except that

(1) the tax on aviation gasoline consumed is four and seven-tenths cents a gallon;

(2) the tax on motor fuel used in and on watercraft of all descriptions is five cents a gallon;

(3) the tax on all aviation fuel other than gasoline is three and two-

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tenths cents a gallon; and

(4) the tax rate on motor fuel that is blended with alcohol is the same tax rate a gallon as other motor fuel; however,

[(A)] in an area and during the months in which fuel containing alcohol is required to be sold, transferred, or used in an effort to attain air quality standards for carbon monoxide as required by federal or state law or regulation, the tax rate on motor fuel that is blended with alcohol is six cents a gallon less than the tax on other motor fuel not described in (1) - (3) of this subsection [;

(B) NOTWITHSTANDING (A) OF THIS PARAGRAPH, THROUGH JUNE 30, 2004, THE TAX ON MOTOR FUEL CONSUMED BY A USER WITHIN THE STATE IS EIGHT CENTS A GALLON LESS THAN THE TAX ON OTHER MOTOR FUEL NOT DESCRIBED IN (1) - (3) OF THIS SUBSECTION IF THE MOTOR FUEL

(i) IS AT LEAST 10 PERCENT ALCOHOL BY VOLUME, HAS BEEN PRODUCED FROM THE PROCESSING OF LIGNOCELLULOSE DERIVED FROM WOOD, AND WAS PRODUCED IN A FACILITY THAT PROCESSES LIGNOCELLULOSE FROM WOOD, BUT THIS REDUCTION IN THE RATE OF TAX APPLIES TO MOTOR FUEL CONSUMED BY A USER THAT CONTAINS ALCOHOL THAT WAS PRODUCED ONLY DURING THE FIRST FIVE YEARS OF THE FACILITY'S PROCESSING OF LIGNOCELLULOSE FROM WOOD; OR

(ii) IS AT LEAST 10 PERCENT ALCOHOL BY VOLUME, HAS BEEN PRODUCED FROM THE PROCESSING OF WASTE SEAFOOD, AND WAS PRODUCED IN A FACILITY THAT PROCESSES ALCOHOL FROM WASTE SEAFOOD, BUT THIS REDUCTION IN THE RATE OF TAX APPLIES TO MOTOR FUEL CONSUMED BY A USER THAT CONTAINS ALCOHOL THAT WAS PRODUCED ONLY DURING THE FIRST FIVE YEARS OF THE FACILITY'S PROCESSING OF ALCOHOL FROM

1 WASTE SEAFOOD].

2 * **Sec. 5.** AS 43.40.010(e) is amended to read:

3 (e) Sixty percent of the proceeds of the revenue from the **refined fuel**
4 **surcharge and the motor fuel** taxes on aviation fuel, excluding the amount
5 determined to have been spent by the state in its collection, shall be refunded to a
6 municipality owning and operating or leasing and operating an airport in the
7 proportion that the revenue was collected at the municipal airport. All other proceeds
8 of the **refined fuel surcharge and the motor fuel** taxes on aviation fuel shall be paid
9 into a special aviation fuel tax account in the state general fund. The legislature may
10 appropriate funds from this account for aviation facilities.

11 * **Sec. 6.** AS 43.40 is amended by adding a new section to read:

12 **Sec. 43.40.013. Collection of the refined fuel surcharge and the motor fuel**
13 **tax.** Every dealer who sells or otherwise transfers refined or motor fuel in the state
14 shall collect the surcharge and tax required in this chapter at the time of sale, and remit
15 the total surcharge and tax collected during each calendar month of each year to the
16 department by the last day of each succeeding month. Every user shall likewise remit
17 the surcharge and tax required in this chapter and accrued on fuel actually used by the
18 user during each month. If the monthly return is timely filed, one percent of the total
19 monthly surcharge and tax due, limited to a maximum of \$100, may be deducted and
20 retained to cover the expense of accounting and filing the monthly return. At the time
21 the remittance is made, each dealer or user shall submit a statement to the department
22 showing all fuel that the dealer or user has distributed or used during the month.

23 * **Sec. 7.** AS 43.40.015(c) is amended to read:

24 (c) A certificate of use **obtained under this section** must be renewed annually
25 for exemptions listed under AS 43.40.100(2).

26 * **Sec. 8.** AS 43.40.015(d) is amended to read:

27 (d) A certificate of use is not required **under this section**
28 (1) for fuel exempted under AS 43.40.100(2)(C) or (J); and
29 (2) for fuel exempted under AS 43.40.100(2)(I) other than fuel sold or
30 transferred under this exemption to a person who is engaged in construction or mining
31 activity.

1 * **Sec. 9.** AS 43.40.030 is amended to read:

2 **Sec. 43.40.030. Refund of the motor fuel tax for nonhighway use.** (a)

3 Except as specified in AS 43.40.010(j), a person who uses motor fuel to operate an
4 internal combustion engine is entitled to a **motor fuel tax** refund of six cents a gallon
5 if

6 (1) the tax on the motor fuel has been paid;

7 (2) the motor fuel is not aviation fuel, or motor fuel used in or on
8 watercraft; and

9 (3) the internal combustion engine is not used in or in conjunction with
10 a motor vehicle licensed to be operated on public ways.

11 (b) The entire **amount of the motor fuel** tax levied by this chapter shall be
12 refunded to the purchaser on that part of the motor fuel used in a foreign country on
13 which the tax has been paid when the fuel is sold and delivered in the state for non-
14 highway use in a foreign country.

15 (c) The department shall establish the necessary regulations and prescribe the
16 appropriate forms to prove that, **for purposes of the motor fuel tax**, the motor fuel is
17 taken to and used in foreign countries.

18 (d) If a person obtains motor fuel on which the **motor fuel** tax levied by this
19 chapter has been paid and the motor fuel is exempt from the **motor fuel** tax, the
20 person is entitled to a refund of the **motor fuel** tax paid.

21 * **Sec. 10.** AS 43.40.035(a) is amended to read:

22 (a) A person who resells fuel on which **a surcharge under AS 43.40.005 or**
23 the tax under AS 43.40.010(a) or (b) was previously paid is entitled to a credit or
24 refund of the **(1) motor fuel** tax if [(1)] the resold fuel is not motor fuel and the
25 requirements of AS 43.40.015 have been fulfilled; or (2) the amount of **surcharge or**
26 tax previously paid exceeds the **surcharge or** tax due on the resale. The amount of the
27 credit or refund under this section is equal to the amount of **the surcharge or** tax
28 previously paid on the resold fuel less the amount of **the surcharge or** tax prescribed
29 by **AS 43.40.005 or 43.40.010(a) or (b), respectively** [AS 43.40.010(a) OR (b)].

30 * **Sec. 11.** AS 43.40.035(c) is amended to read:

31 (c) For **motor** fuel sold to federal, state, and local government agencies for

1 official use and purchased with a government credit card, the credit card issuer may
2 apply for a refund of any motor fuel tax assessed on the purchase if the tax is not
3 billed by the credit card issuer to the government agency making the purchase. **For**
4 **refined fuel sold to federal agencies for official use and purchased with a**
5 **government credit card, the credit card issuer may apply for a refund of any**
6 **refined fuel surcharge assessed on the purchase if the surcharge is not billed by**
7 **the credit card issuer to the government agency making the purchase.**

8 * **Sec. 12.** AS 43.40.050(b) is amended to read:

9 (b) A claim for refund under AS 43.40.030 or 43.40.035 shall be filed within
10 one year **after** [FROM] the date of the purchase of the **refined or** motor fuel as
11 indicated on the invoice, and failure to file within the one-year period is a waiver of
12 the right to the refund. A claim is considered to be filed when the claim is mailed or
13 personally presented to an office of the department.

14 * **Sec. 13.** AS 43.40.060 is amended to read:

15 **Sec. 43.40.060. Separate invoices.** The department may require the issuance
16 of separate invoices for **refined or motor** fuel sold, distributed, or transferred when
17 the invoices will be the basis for a refund claim.

18 * **Sec. 14.** AS 43.40.070 is amended to read:

19 **Sec. 43.40.070. Refund warrants.** Upon approval of a refund claim **of the**
20 **motor fuel tax** by the department, a disbursement shall be made from the highway
21 fuel tax account in the general fund in favor of the applicant in the amount of the
22 claim.

23 * **Sec. 15.** AS 43.40.070 is amended by adding a new subsection to read:

24 (b) Upon approval of a refund claim of the refined fuel surcharge by the
25 department, a disbursement shall be made from the oil and hazardous substance
26 release prevention account of the oil and hazardous substance release prevention and
27 response fund established in AS 46.08.010 in favor of the applicant in the amount of
28 the claim.

29 * **Sec. 16.** AS 43.40.080(a) is amended to read:

30 (a) To determine the validity of a claim for refund, the department may
31 examine the books and records of the claimant and the books and records of a

1 distributor of the refined or motor fuel. The department may cancel the refund
 2 [PERMIT] of a [THE] claimant relying on [UPON] a fraudulent invoice [FOR A
 3 PERIOD OF NOT MORE THAN ONE YEAR].

4 * **Sec. 17.** AS 43.40.085 is amended to read:

5 **Sec. 43.40.085. Preservation of books and records.** Dealers and users shall
 6 preserve for three years all books and records pertaining to sales, transfers, and uses of
 7 refined or motor fuel that are subject to a surcharge or tax [TAXED] under this
 8 chapter.

9 * **Sec. 18.** AS 43.40.092(a) is amended to read:

10 (a) The provisions of this section apply to disallow the exemption from the
 11 motor fuel tax for motor fuel sold for use by a dealer or used by a user in jet
 12 propulsion aircraft operating in flights that continue from foreign countries if, for
 13 motor fuel produced by a refiner,

14 (1) the refiner determines, on or after July 1, 1997, that the refiner will
 15 expand capacity or expand the refinery to produce more residual fuel oil used in
 16 watercraft;

17 (2) on or after the July 1, 1997, the refiner has voluntarily committed
 18 by agreement entered into with the commissioner that, if the refiner expands its oil
 19 refining capacity in order to produce additional supplies of fuel for use in jet
 20 propulsion aircraft that qualify for the tax exemption, when the refiner expands
 21 capacity, the refiner will

22 (A) use the refiner's best efforts to advertise for, recruit, and
 23 employ in the construction activities associated with expanding refinery
 24 capacity resident workers who have experience in the specific fields in which
 25 they are hired to work;

26 (B) contract with licensed Alaska firms to prepare materials that
 27 are used in construction activities and to provide services in conjunction with
 28 activities associated with expanded refinery capacity and, in contracting with
 29 those firms, to encourage the refiner's contractors to employ and, when
 30 necessary, train state residents; and

31 (C) enter into contracts with Alaska-licensed vendors,

1 contractors, and suppliers for the provision of supplies and services used in
2 conjunction with activities associated with expanding refinery capacity; and

3 (3) the commissioner determines that a dealer or user claiming the
4 exemption for motor fuel acquired from a refiner who has entered into an agreement
5 described in (2) of this subsection acquired the motor fuel for which the exemption is
6 claimed from a refiner who has not complied with the requirements of the agreement
7 in completing expansion of its oil refining capacity under the agreement described in
8 (1) of this subsection.

9 * **Sec. 19.** AS 43.40 is amended by adding a new section to read:

10 **Sec. 43.40.094. Qualified dealer license.** (a) A dealer is eligible for a qualified
11 dealer license if the dealer sells at least 50 percent of fuel acquired to unrelated
12 persons for any combination of the following purposes:

- 13 (1) resale;
14 (2) use in heating private or commercial buildings or facilities;
15 (3) use in jet propulsion aircraft;
16 (4) motor fuel.

17 (b) A person applying for a qualified dealer license must use a form or format
18 prescribed by the department. At the time of application, the applicant must provide an
19 estimate of the average number of gallons of fuel subject to surcharge or tax each
20 month during a calendar year, and state the estimated amount of surcharge and tax on
21 those gallons. A license issued under this section is not transferable.

22 (c) The department may not issue or renew a qualified dealer license if

23 (1) the department finds that the applicant or qualified dealer has
24 withheld information required in the application or that the information submitted in
25 the application is false or misleading;

26 (2) the applicant, or a responsible person of a business organization that
27 is applying for the license, has been convicted within the last 10 years, in this state or
28 in any other taxing jurisdiction, of crimes involving a fuel surcharge or tax;

29 (3) the qualified dealer fails to comply with a requirement of this
30 chapter;

31 (4) the qualified dealer has failed to pay in full the surcharge, taxes,

1 interest, and penalties levied under AS 43.05 or this chapter.

2 (d) The department may

3 (1) issue only one qualified dealer license to each person;

4 (2) put additional limitations on the applicant or holder of a qualified
5 dealer license.

6 (e) A license issued under this section expires on June 30 following the date of
7 issue. Before a license issued under this section expires, the licensee may apply to
8 renew the license, on a form or in a format prescribed by the department, for one year
9 after the expiration date of the license.

10 (f) If the department determines a qualified dealer license may not be issued or
11 renewed under this section, the department shall mail or electronically deliver a notice
12 of license denial or nonrenewal to the person whose license was denied or not
13 renewed. The person may appeal a notice of license denial or nonrenewal not later
14 than 10 days after the date the notice was mailed or electronically delivered.

15 (g) The department may, at the time an applicant applies for a qualified dealer
16 license, require the applicant to file a bond or other security with the department in an
17 amount equal to twice the estimated surcharge and tax due to the department in one
18 month, or \$5,000, whichever is greater.

19 (h) The department may adopt regulations to implement this section, including
20 regulations relating to the revocation of a license.

21 * **Sec. 20.** AS 43.40.100(1) is amended to read:

22 (1) "dealer" means a person who sells or otherwise transfers in this
23 state refined or motor fuel upon which the surcharge or tax [TAXES] imposed by
24 this chapter has [HAVE] not been paid;

25 * **Sec. 21.** AS 43.40.100(3) is amended to read:

26 (3) "qualified dealer" means a person who (A) refines, (B) imports, (C)
27 manufactures, (D) produces, (E) compounds, or (F) wholesales refined or motor fuel
28 [, WHO SATISFIES CRITERIA FOR QUALIFIED DEALERS ESTABLISHED BY
29 THE DEPARTMENT BY REGULATION, AND WHO OBTAINS A QUALIFIED
30 DEALER'S LICENSE FROM THE DEPARTMENT];

31 * **Sec. 22.** AS 43.40.100(4) is amended to read:

1 (4) "user" means a person consuming or using refined or motor fuel,
2 who

3 (A) purchases the fuel out of the state and ships it into the state
4 for personal use in the state;

5 (B) manufactures the fuel in the state; or

6 (C) purchases or receives fuel in the state that is not subject to
7 the surcharge or tax under this chapter [TAXED] at the time of purchase or
8 receipt or is subject to a surcharge or tax [TAXED AT A RATE] that is less
9 than the rate prescribed by AS 43.40.005 or 43.40.010 [AS 43.40.010].

10 * **Sec. 23.** AS 43.40.100 is amended by adding a new paragraph to read:

11 (5) "refined fuel" means fuel produced from oil that is used in an
12 engine, machine, or contrivance that creates heat, energy, or power.

13 * **Sec. 24.** AS 43.40.010(c) is repealed.

14 * **Sec. 25.** The uncodified law of the State of Alaska is amended by adding a new section to
15 read:

16 **QUALIFIED DEALER LICENSE; REGULATIONS.** To the extent current
17 regulations are consistent with this Act, the regulations previously adopted by the Department
18 of Revenue relating to qualified dealers and qualified dealer licenses under AS 43.40.100
19 shall apply to qualified dealers and qualified dealer licenses until the regulations are amended
20 to be consistent with this Act.

21 * **Sec. 26.** This Act takes effect July 1, 2015.

Alaska Oil and Gas Association



121 W. Fireweed Lane, Suite 207
Anchorage, Alaska 99503-2035
Phone: (907) 272-1481 Fax: (907) 279-8114
Kara Moriarty, President/CEO

AOGA Testimony on House Bill 158

House Finance Committee

April 1, 2015

Good Afternoon Co-Chairs Thompson & Neuman and members of the Committee. For the record, my name is Kara Moriarty and I am the President/CEO of the Alaska Oil and Gas Association, commonly referred to as "AOGA".

AOGA is a professional trade association whose mission is to foster the long-term viability of the oil and gas industry in Alaska for the benefit of all Alaskans. Thank you for the opportunity to testify today on House Bill 158, an act relating to a refined fuel surcharge; relating to the motor fuel tax; relating to a qualified dealer license; and providing for an effective date.

AOGA represents the majority of oil and gas producers, explorers, refiners, transporters and marketers in Alaska. Our current members include: Alyeska Pipeline Service Company, Apache Corporation, BP, Caelus Energy, Chevron, eni petroleum, ExxonMobil, Hilcorp, PetroStar, Repsol, Shell, Statoil, Tesoro, and XTO Energy. Because this legislation is a tax related matter, this testimony has the unanimous consent from all of these companies; producers and refiners alike.

As a bit of history, Alaska has had some sort of oil spill cleanup fund in place since 1976 when the state created the Coastal Protection Fund during the construction of the Trans-Alaska Pipeline System or TAPS. Over time, the fund morphed into the Oil Spill Mitigation Account, then the Oil Spill Reserve Account, then in 1986, into what it is today, the Oil and Hazardous Substance Prevention & Release Response Fund, or what it is commonly referred to as the "470 Fund", a reference to the bill number that created it. The revenue generated by HB 158 would be deposited into the prevention account of this fund.

In addition to the hundreds of millions of dollars invested each year by the industry in

Alaska to prevent, prepare and respond to the release of hazardous substances, AOGA has long supported fair and equitable efforts to ensure the State of Alaska is also financially prepared.

To date, the state has collected a surcharge only on the oil and gas industry to pay for the "470 fund". If an incident occurs, the oil and gas industry also repays costs associated with the response, as do some other industries. Still, the oil and gas industry is the only industry that has been assessed a specific surcharge/tax to pay for the purposes of this fund, even though the state utilizes the fund for a variety of other industries and individual Alaskans. To date, the oil and gas industry has contributed more than \$350 million through this surcharge for the 470 Fund.

AOGA has been engaged in the policy decisions surrounding the 470 Fund since its inception. In 1994, AOGA supported the legislation that split the initial surcharge into two separate accounts, one for response and one for prevention. AOGA did not oppose the modification to the surcharge in 2006 because the total taxable amount remained at 5 cents per barrel.

Despite the stated purpose of cleaning up and preventing spills, previous Administrations and Legislatures allowed for the fund to be used for non-spill projects such as campgrounds, state airports, tank farm remediation, privately owned greenhouses and new ferries. DEC and the Legislature should be commended because it appears these types of expenditures are no longer being appropriated from the fund, but the corpus of the fund may have been unnecessarily reduced during years when these types of appropriations were authorized.

Although oil and gas production currently accounts for 100 percent of the surcharge for the fund, DEC annual reports show that, from Fiscal Year 2010 – FY 2014, oil production and exploration and natural gas production altogether amount to less than 29% of total spill volume.

It is important to note, as I've mentioned, the oil and gas industry invests hundreds of millions of dollars every year to have a robust response capabilities in the event an industry-related spill occurs. We are required by federal and state regulations to have current contingency plans in place, have spill response equipment available and exercise both plan and equipment regularly. In addition, the companies belong to not-for-profit response

cooperative, such as Cook Inlet Spill Prevention and Response and Alaska Clean Seas.

AOGA endorses the same position as the Oil and Gas Transition Team for the Walker/Mallott administration, which advocated for the State to utilize other revenue sources before increasing the surcharge on the oil and gas industry. House Bill 158 does broaden the contributing efforts of others that use the fund's services.

Additionally, AOGA advocates for DEC to continue to identify efficiencies internally. To that end, AOGA has identified suggestions for DEC's consideration and will work with the State to further identify cost reductions without diminishing the state's strong oversight and regulation of the industry.

We also encourage the State to adopt other policies to assist the state in recovering costs from other users who are not currently reimbursing the State after a response. In FY 14, DEC billed more than \$3 million to various industries and recovered one-third of that amount. To strengthen the State of Alaska's oil spill preparedness and response, there must be an effort to recover more than 30 percent of the state's spending.

In closing, AOGA is not opposed to House Bill 158. It does broaden the contributions of others that use the fund's services without having an overly adverse impact on our member companies.



THE STATE
of **ALASKA**
GOVERNOR BILL WALKER

Department of Revenue

TAX DIVISION

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April 1, 2015

The Honorable Steve Thompson
The Honorable Mark Neuman
Co-chairs, House Finance Committee
State Capitol
Juneau, AK 99801

Delivered Electronically via Email:

Dear Rep Thompson and Rep. Neuman:

I am writing to respond to questions that were raised during the March 25 hearing in your committee on HB 158, "An Act relating to a refined fuel surcharge." The analysis in this letter is based on work draft CS HB 158(FIN)\E.

First Question, from Rep. Neuman:

Explain in detail the various exemptions to the current motor fuel tax and which of these would and would not also be exempt in the proposed Refined Fuel Surcharge.

Answer:

The exemptions in current law are listed within the definition of "motor fuel," in AS 43.40.100(2). In the below table, we list these exemptions, indicate whether they are or are not also exempted in Sec. 2 of CSHB 158(FIN)\E, and indicate the average amount of fuel that was exempted from tax in Fiscal Years 2013-2014.

Category	Reference	Gallons (million)	Exempted in HB 158?
Total Reported Fuel Sales		1,555	n/a
Off-highway use	AS 43.40.030 (note: for this fuel, tax is paid at 8 cents and the refunded at 6 cents)	55	No
Exported	AS 43.40.100(2)(A)	61	Yes
Foreign Flights	AS 43.40.100(2)(B)	481	Yes
Utilities / Power Plants	AS 43.40.100(2)(C),(D),(H),(K)	33	No
Charitable Institutions	AS 43.40.100(2)(E)	1	No
Federal, State, and	AS 43.40.100(2)(G)	103	Yes

Local Government			
Heating Oil	AS 43.40.100(2)(I)	109	No
Other	AS 43.40.100(2)(K)	15	No
Total Taxable (Motor Fuel)		627	
Total Subject to Surcharge (HB 158)		930	

As you can see, the primary fuel types that would be subject to the surcharge while exempted from the motor fuel tax are heating fuel, fuel used in a vehicle for off highway use, and sales to utilities and power plants. In addition, much of the fuel that is initially taxed and on which the tax is later refunded is believed to also consist of heating fuel.

Second Question, from Rep. Pruitt

Would a UPS flight from a foreign country that refueled in Alaska and continued on to Memphis be subject to the Motor Fuel tax?

Answer:


In general, yes. So long as the flight is characterized as "continuing," which primarily means having the same flight number, that fuel would be exempt per AS 43.40.100(2)(B)(ii).

There is interesting legislative back story to this provision. The initial statute language in .100(2)(B) was limited to flights to foreign countries. The most recent major changes to the motor fuel tax statutes were in HB 63 in 1997, by Rep. Therriault of North Pole. In that bill, the "continuing from" language was added, along with the refinery expansion / voluntary Alaska Hire provisions in AS 43.40.092. It is clear from reading the legislative history that the "continuing from" language was added in large part to level the playing field for jet fuel manufactured in Alaska.

Much of the jet fuel imported into Alaska is imported from foreign countries. If used in international flights (including continuing flights), this "bonded" fuel is exempt from local taxation under federal law. Therefore, elimination of the "continuing from" language, although it would potentially add many gallons to the tax base, would only tax fuel from in-state refiners.

I hope you find this information is useful. Please let me know if we can provide any additional information.

Regards


Ken Alper
Director, Tax Division

Cc: Lacy Wilcox, Office of the Governor
Commissioner Larry Hartig, Department of Environmental Conservation
Deputy Commissioner Jerry Burnett, Department of Revenue



THE STATE
of **ALASKA**
GOVERNOR BILL WALKER

Department of Environmental
Conservation

OFFICE OF THE COMMISSIONER

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March 31, 2015

The Honorable Steve Thompson & Mark Neuman
Co-Chairs, House Finance Committee
State Capitol
Juneau, AK 99801

Dear Representatives Thompson & Neuman:

Thank you for hearing House Bill 158 – Refined Fuel Surcharge; Motor Fuel Taxes – on March 25th. During the hearing some questions arose that required additional information. The Department (DEC) has responded to those questions below. If you would like additional information, or have additional questions, we are happy to assist.

Can we see a report on the activities and functions of the Spill Prevention and Response Division over the past few years? (Rep. Thompson)

Please see the enclosed ‘Overview of the Spill Prevention and Response Division.’

Please also see the Biennial Report of the Oil & Hazardous Substance Release Prevention & Response Fund (O&HSRP&RF or Response Fund) available at this link (Please note the report is 574 pages):

<http://dec.alaska.gov/spar/rfa/docs/budget/biennial/Oil%20&%20Hazardous%20Substance%20Release%20Prevention%20&%20Response%20Fund%20-%20Fiscal%20Years%202013-2014%20Biennial%20Report.pdf>

How much did we spend on the most significant spills? (Rep. Gara)

The top spill sites active in FY2015 by total expenditure are shown in the table below. Please note these are the direct costs only, and do not reflect any of the indirect costs related to the spills.

Sites	Outstanding balance	Total Expenditure	Cost Recovered	Status
Aniak Airport	\$6,801,627.38	\$6,839,720.48	\$38,093.10	Settlement documents drawn to pay the outstanding expenditure.
River Terrace Laundry	\$4,223,172.79	\$6,503,477.78	\$2,280,304.99	Litigation matter. Placed a lien on the property and awaiting sale of the property to recover cost. (State Lead site)

Adak Naval Air Station Base Realignment and Closure	\$3,319,672.98	\$3,339,391.79	\$19,718.81	Currently drafting COBC (Compliance Order by Consent) with RP (Responsible Party) to recover outstanding balance.
Zipmart Store	\$2,504,078.38	\$3,257,701.09	\$753,622.71	We have recorded Lien against the RP. Settled with RP and received payment. Awaiting sale of property.
Flint Hills Refinery	\$2,251,971.99	\$4,438,244.77	\$2,186,272.78	Pending settlement matter, in the process of recovering outstanding balance.

The cost of a spill does not provide the entire picture. Overall, oil spills tend to cost most, but the state gets reimbursed when responding to oil spills. Since the State of Alaska has imposed prevention laws and regulations the frequency of large spills has decreased. Other than large marine vessels in innocent passage, the State of Alaska regulates all oil exploration, production, and transportation. If a company DEC regulates has a release, they are required by law to adequately respond. If the Spill Prevention and Response Division (SPAR) feels their response is inadequate, they have the capacity to take over the response but the responsible party must reimburse DEC for our expenses by law. Therefore, any SPAR expense related to a spill of a regulated company is recovered and the fund is sustained.

On the other hand, SPAR's responses to unregulated entities result in much more difficult cost recovery. These range from home owners to mines, small businesses (dry cleaners are particularly problematic), fishing vessels, and trucking companies. DEC is only able to recover a percentage of our costs for these entities and with complicated contaminated sites it takes many years. In some cases, we are unable to identify a responsible party, the responsible party has passed away, or the responsible party is simply unable to pay. DEC attempts to recover costs from everyone but with limited success. Some of these are very expensive as well, such as dry cleaners, but the majority are small fuel spills. So in terms of the costs that are draining the O&H SRP&RF's Prevention Account, refined fuel spills are more costly, primarily because industries and individuals SPAR does not regulate cause the majority of spills and don't have the resources to reimburse us.

Who is responsible for a spill at an airport? The airline or the airport? (Rep. Neuman)

This is a common scenario during most spills. For example, a truck roll over involves the company hauling the fuel, the company that owns the truck, and the company they are hauling the fuel for. There are similar issues with boats that are usually operated by a company that doesn't own the boat and another company that owns the product being transported. Planes and airports are similar.

By law, they are all considered potentially responsible parties (PRP's). For purposes of liability, Department of Law works with all the companies to determine which entity is responsible for what. This process can take years, which is one reason it is difficult to track cost recovery. If one of the responsible parties doesn't immediately step up to run response operations, SPAR does it

and recovers costs after the fact. Most companies prefer to do it themselves so they can control costs. Our threat of taking a response over is usually an incentive for the PRP's to quickly work together to establish a unified response. For example, one of the recent truck rollovers on the Dalton Highway resulted in the fuel buyer (an oil company) establishing the response command since they were the most experienced in that type of work. Afterward, they worked with the other PRP's to allocate cost responsibility. Most companies know punishment is greater if they wait as is cost to contain and clean up a spill. Prevention is by far cheaper than response but once a response has started, quick recovery is far cheaper than a protracted cleanup.

Would jet fuel used on a domestic flight be taxed despite whether they were a carrier under the Alaska International Airport System? (Rep. Pruitt)

The Department of Revenue will be providing a response to this question.

Why wasn't SPAR money able to be used concerning the Flint Hills contamination?

DEC is using money from the Response Fund to address Flint Hills Refinery contamination. To date, \$4,193,002.75 has come from the Response Account, while \$229,106.94 has come from the Prevention Account.

Why not just increase the per barrel oil surcharge?

This is a policy decision. The majority of spills are refined fuel as well as the majority of contaminated sites. The proposed surcharge in HB158 spreads the cost across all spillers since the oil industry is only responsible for a small portion of these spills.

What are the statutes pertaining to the requirements for DEC to respond to a spill? If DEC is called is the department required to respond? If so how does DEC gauge the initial response to a spill or report of a spill? (Rep. Gattis)

AS 46.04.020 (d) states "the department shall provide for the immediate containment or cleanup of an oil discharge of unexplained origin..."

AS 46.08.030 states "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."

If there is a responsible party, they are required to respond and report the spill as described below.

All spills, even in de minimus amounts, are reportable to the State under AS 46.03.745. Reporting requirements are set in 18 AAC 75.300. Those requirements are detailed below.

Hazardous Substance Releases (AS 46.03.745)

Any release of a hazardous substance must be reported as soon as the person has knowledge of the discharge.

Oil/Petroleum Releases (AS 46.03.740)

To Water: Any release of oil to water must be reported as soon as the person has knowledge of the discharge.

To Land: Any release of oil in excess of 55 gallons must be reported as soon as the person has knowledge of the discharge. Any release of oil in excess of 10 gallons but less than 55 gallons must be reported within 48 hours after the person has knowledge of the discharge. A person in charge of a facility or operation shall maintain, and provide to the Department on a monthly basis, a written record of any discharge of oil from 1 to 10 gallons.

To impermeable secondary containment areas: Any release of oil in excess of 55 gallons must be reported within 48 hours after the person has knowledge of the discharge.

The vast majority of spills are addressed by the spiller without DEC involvement. It's important that the Department be notified of all spills because multiple small spills from a facility/operation may trigger concerns that should be addressed to avoid a potentially larger spill. Given the number of very small spills that are reported to the State, the Department must manage its limited spill response resources efficiently and strategically based on the potential risk of harm to human health and the environment. This means that the Department does not actively respond to every spill reported. In cases where the Department is notified of a small spill but a response is not feasible or advisable, staff provide the spiller with technical guidance for necessary cleanup.

What state petroleum standards are more stringent than federal standards? (Rep. Wilson)

The EPA has not established cleanup levels for petroleum hydrocarbons because these substances are not regulated under the Comprehensive Environmental Response Compensation and Liability Act. Therefore, the state has established cleanup levels for petroleum ranges that address releases of refined fuels. These cleanup levels are established in regulation at 18 AAC 75.341(d) and 18 AAC 75.345(b)(1). Please see the enclosed 'ADEC Cleanup Levels Established for Petroleum for Soil and Groundwater.'

The Alaska Water Quality Standards contain petroleum criteria for total aromatic hydrocarbons (TAH) and total aqueous hydrocarbons (TAqH); state standards are found in 18 AAC 70.020(b)(5) for fresh water and 18 AAC 70.020(b)(17) for marine water protecting the uses for aquaculture and growth and propagation of fish, shellfish, other aquatic life and wildlife. Alaska's TAH and TAqH numeric criteria were set in 1979 based on toxicity tests of Alaskan aquatic species implemented following federal narrative criteria (1986 Gold Book), which are required for states to adopt under Clean Water Act section 304(a). Alaska's numeric criteria is more stringent than other states numeric criteria for petroleum, but are not directly comparable to any federal numeric water quality criteria under the Clean Water Act.

We hope these responses prove useful to the Committee, please feel free to follow up with us if you require additional information or have additional questions.

Sincerely,



Alice Edwards
Deputy Commissioner

Enclosures: ADEC Cleanup Levels Established For Petroleum for Soil and Groundwater
Overview of the Spill Prevention and Response Division.

TABLE B2. METHOD TWO - PETROLEUM HYDROCARBON SOIL CLEANUP LEVELS

Petroleum Hydrocarbon Range	Arctic Zone ¹ mg/kg			Under 40 Inch Zone ²			Over 40 Inch Zone ³			Maximum Allowable Concentrations ¹³ mg/kg
	Ingestion (mg/kg) ¹⁴	Inhalation (mg/kg) ¹⁷	Migration to Groundwater (mg/kg) ⁷	Ingestion (mg/kg) ¹⁶	Inhalation (mg/kg) ¹⁷	Migration to groundwater (mg/kg) ⁷	Ingestion (mg/kg) ¹⁶	Inhalation (mg/kg) ¹⁷	Migration to Groundwater (mg/kg) ⁷	
For Laboratory Analysis using AK Methods 101, 102, and 103										
C ₆ -C ₁₀ GRO using AK 101	1400	1400	n/a	1400	1400	300	1400	1400	260	1400
C ₁₀ -C ₂₅ DRO using AK 102	12500	12500	n/a	10250	12500	250	8250	12500	230	12500
C ₂₅ -C ₃₆ RRO using AK 103	13700	22000	n/a	10000	22000	11000	8300	22000	9700	22000
For Laboratory Analysis using AK Aliphatic and Aromatic Fraction Methods 101AA, 102AA, and 103AA										
C ₆ -C ₁₀ Aliphatics	1000	1000	n/a	1000	1000	270	1000	1000	240	1000
C ₆ -C ₁₀ Aromatics	1000	1000	n/a	1000	1000	150	1000	1000	130	1000
C ₁₀ -C ₂₅ Aliphatics	10000	10000	n/a	10000	10000	7200	8300	10000	6400	10000
C ₁₀ -C ₂₅ Aromatics	5000	5000	n/a	4100	5000	100	3300	5000	90	5000
C ₂₅ -C ₃₆ Aliphatics	20000	20000	n/a	20000	20000	20000	20000	20000	20000	20000
C ₂₅ -C ₃₆ Aromatics	4100	10000	n/a	3000	10000	3300	2500	10000	2900	10000
See notes to table for further requirements. "n/a" means not applicable.										

TABLE C (mg/L):

PETROLEUM HYDROCARBONS			
	C ₆ -C ₁₀ GRO	nc	2.2
	C ₁₀ -C ₂₅ DRO	nc	1.5
	C ₂₅ -C ₃₆ RRO	nc	1.1



Council of

Alaska Producers

**Comments on HB158 and funding for the
Spill Prevention and Response Division,
Alaska Department of Environmental Conservation**

March 31, 2015

Representative Mark Neuman, Co-Chair
Representative Steve Thompson, Co-Chair
House Finance Committee
Alaska State Legislature
State Capitol
Juneau, AK 99801

Dear Representative Neuman and Representative Thompson,

The Council of Alaska Producers (CAP) is writing to provide comment on HB158 as well as information about the Alaska Department of Environmental Conservation's Spill Response and Recovery (SPAR) activities in the metal mining sector.

CAP, a non-profit trade association formed in 1992, serves as a spokesperson for the large metal mines and major metal developmental projects in the state. Bringing together mining companies with interest in Alaska, the Council represents and informs members on legislative and regulatory issues, supports and advances the mining industry, educates members, the media, and the general public on mining related issues, and promotes economic opportunity and environmentally sound mining practices.

While the Council does not object to HB158, we question the amount of funding SPAR needs to fulfill its mandate. We would like to see the SPAR division undergo the same tough organizational and fiscal scrutiny as all other parts of state government. In addition to finding budget efficiencies, SPAR must improve the cost-recovery efforts for the services they provide.

As part of a regulated industry, the large metal mines in Alaska are closely monitored and are responsible for immediately reporting, monitoring and cleaning up any release. While the companies must also pay SPAR's costs for any involvement in administering and verifying cleanup, we have found that SPAR has not been consistent in sending invoices to recover those administrative costs.

According to presentations made by SPAR's Director, Kristin Ryan, most of SPAR's cleanup costs involve spills of home heating fuel, marine diesel, and hazardous substances at small businesses, yet there is little cost recovery from these incidents. The Council would like to see SPAR make more consistent cost recovery efforts for the spills that require the majority of SPAR's resources.

The Council also recommends changes to SPAR's annual report which currently focuses entirely on the volume of spills rather than the amount of state resources that are expended per spill. Even the supporting documents SPAR has provided for HB158 focus on volume: the 2014 document indicates oil and gas production, exploration, refineries and mining accounted for 60% of spills by volume¹. This implies incorrectly that regulated industries are a large part of SPAR's cleanup budget.

The SPAR reports should note whether the cleanup was managed by the state, what it cost and whether those costs were recovered. Since the issue is SPAR funding, information about the costs is essential to determine equitable funding solutions.

Sincerely,



Karen Matthias
Managing Consultant

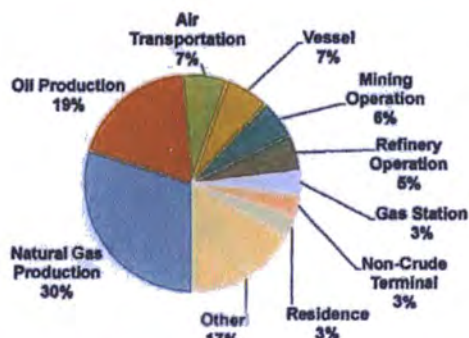
¹ Supporting Documents Division of Spill Prevention and Response submitted to HFIN, March 25, 2015



All Products Spilled in FY 2014

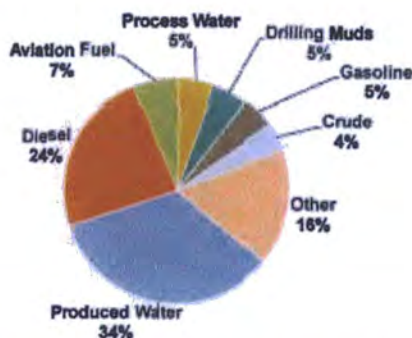
Number of Spills Reported 2,028
Total Gallons 284,729

Volume Released by Facility Type



'Other' includes facility categories comprising 3% or less of the total volume released.

Volume Released by Product

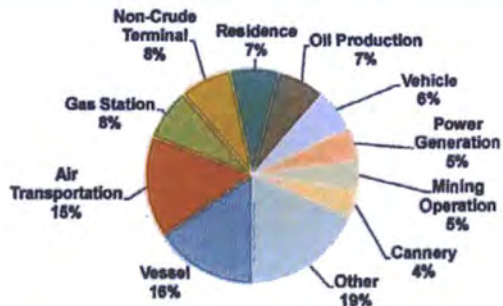


'Other' includes product categories comprising 3% or less of the total volume released.

Non-crude Oil or Refined Products Spilled in FY 2014

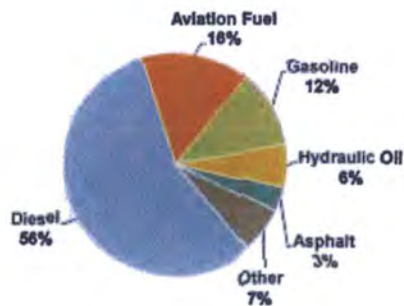
Number of Spills Reported 1,525
Total Gallons 121,517

Volume Released by Facility Type



'Other' includes facility categories comprising 4% or less of the total volume released.

Volume Released by Product



'Other' includes product categories comprising 2% or less of the total volume released.



Division of Spill Prevention and Response (SPAR)

House Finance

Subcommittee Overview

Kristin Ryan, Director

February 10, 2015

1



SPAR's Mission


Protect public safety, health, and the environment
through prevention, preparedness, and cleanup of
oil and hazardous substances



February 10, 2015

House Finance Subcommittee Overview

2



Division of Spill Prevention & Response


Component:

- Spill Prevention & Response
 - Prevention, Preparedness, and Response
 - Contaminated Sites
 - Response Fund Administration

Challenges & Opportunities:


- Prevention Account Sustainability
- Managing Risk Associated with New Natural Resource Development Activity and Marine Transportation

February 10, 2015 House Finance Subcommittee Overview 3




SPAR's Core Services

- Identify, oversee and conduct the cleanup, redevelopment, and management of contaminated sites in Alaska
- Ensure that producers, transporters, and distributors of crude oil and refined oil products prevent oil spills and are fully prepared materially and financially to clean up spills
- Prevent and mitigate the effects of oil and hazardous substance releases and ensure their cleanup through government planning, preparedness, and rapid response
- Manage the Oil and Hazardous Substance Release Prevention and Response Fund as a viable, long-term funding source for the state's core spill prevention and response initiatives




February 10, 2015 House Finance Subcommittee Overview 4




Prevention, Preparedness, and Response


- Ensure producers, transporters and distributors of oil and hazardous substances **prevent** spills and are **prepared** materially and Financially to respond and **clean them up**
- Exploration and Production Activities
- Pipelines
- Terminals and Tank Farms
- Marine Vessels
- Local response communities



February 10, 2015 House Finance Subcommittee Overview 5




Contaminated Sites




- Monitor existing sites to verify they aren't spreading
- Work with responsible parties to clean up contamination
- Partner with potential buyers to encourage reuse and redevelopment

February 10, 2015 House Finance Subcommittee Overview 6




Response Fund Administration


- AS 46.08.070 requires the Department attempt to recover 100% of costs incurred in the cleanup or containment of oil or a hazardous substance that has been released
- Budgeting, accounting (contracts, supplies, travel) and procurement
- Databases, tracking tools (information technology)



February 10, 2015 House Finance Subcommittee Overview 7

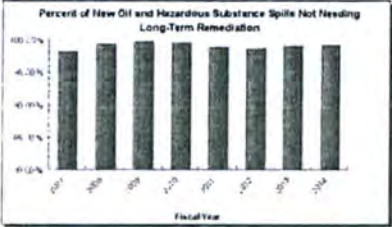


SPAR Performance Measures



Fiscal Year	Number of Sites
2008	~250
2009	~150
2010	~100
2011	~100
2012	~100
2013	~100
2014	~100


Sites with complex groundwater contamination challenge the technical and economic feasibility of completing site closures.




Fiscal Year	Percentage
2001	~90%
2002	~95%
2003	~95%
2004	~95%
2005	~95%
2006	~95%
2007	~95%
2008	~95%

Rapid containment and cleanup of oil and hazardous substances minimizes the number of spills needing long term remediation.


February 10, 2015 House Finance Subcommittee Overview 8



What is Spilling?



February 10, 2015 House Finance Subcommittee Overview 9



FY2014 Volume Released by Product

Spills Reported: 2,028
Total Gallons: 284,729

Product	Percentage
Produced Water	34%
Diesel	24%
Other	16%
Aviation Fuel	7%
Process Water	5%
Drilling Muds	5%
Gasoline	5%
Crude	4%

'Other' includes product categories comprising 3% or less of the total volume released

February 10, 2015 House Finance Subcommittee Overview 10



FY2014 Spill Summary – Top Five


Top Five Products Spilled:

• Produced Water	41 spills	96,736 Gallons
• Diesel	427 spills	67,889 Gallons
• Aviation Fuel	68 spills	18,855 Gallons
• Process Water	21 spills	14,385 Gallons
• Drilling Muds	28 spills	14,209 Gallons

Top Five Facility Types:

• Natural Gas Production	28 spills	85,037 Gallons
• Oil Production	335 spills	53,188 Gallons
• Air Transportation	65 spills	19,358 Gallons
• Vessel	166 spills	18,997 Gallons
• Mining Operation	305 spills	16,547 Gallons


February 10, 2015 House Finance Subcommittee Overview 11



Unregulated Facility Spills


- Air transportation
- Vessels
- Residences
- Vehicles

Volume of Oil Spilled




Fiscal Year	Regulated Facilities (Gallons)	Unregulated Facilities (Gallons)
FY 2013	164,513	70,519
FY 2014	153,245	131,414


■ Regulated Facilities ■ Unregulated Facilities




February 10, 2015 House Finance Subcommittee Overview 12



How much does Spill Prevention and Response cost the State?



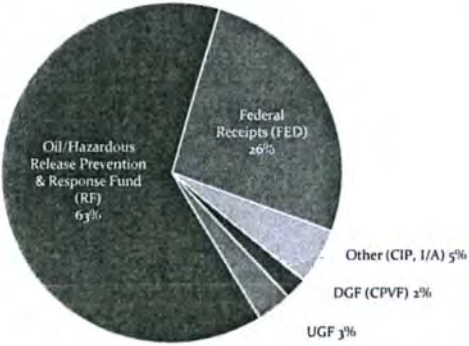
February 10, 2015 House Finance Subcommittee Overview 13



SPAR FY2016 Operating Budget by Fund Source


Operating Request: \$20,694.1

• Unrestricted GF	\$686.7
• Designated GF	
• DGF	\$429.6
• Response Fund	\$13,081.3
• Other State Funds	\$1,092.8
• Federal Receipts	\$5,403.7




Oil/Hazardous Release Prevention & Response Fund (RF)	63%
Federal Receipts (FED)	26%
Other (CIP, I/A)	5%
DGF (CPVF)	3%
UGF	3%


February 10, 2015 House Finance Subcommittee Overview 14



The Response Fund




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Statutory Authorities

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 (A.S. 46.08.030)

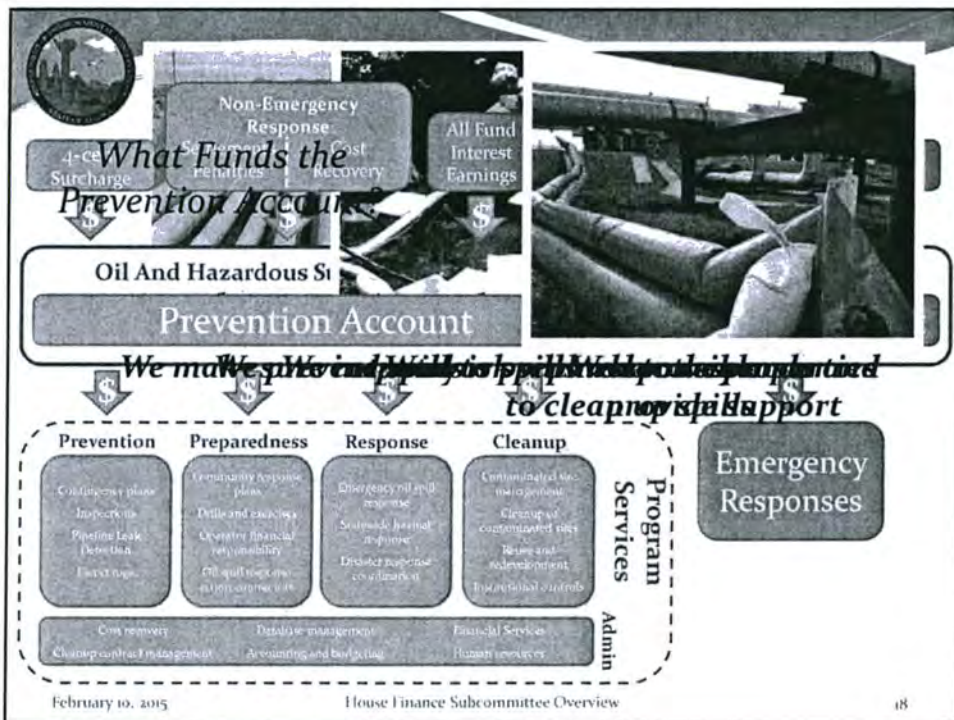


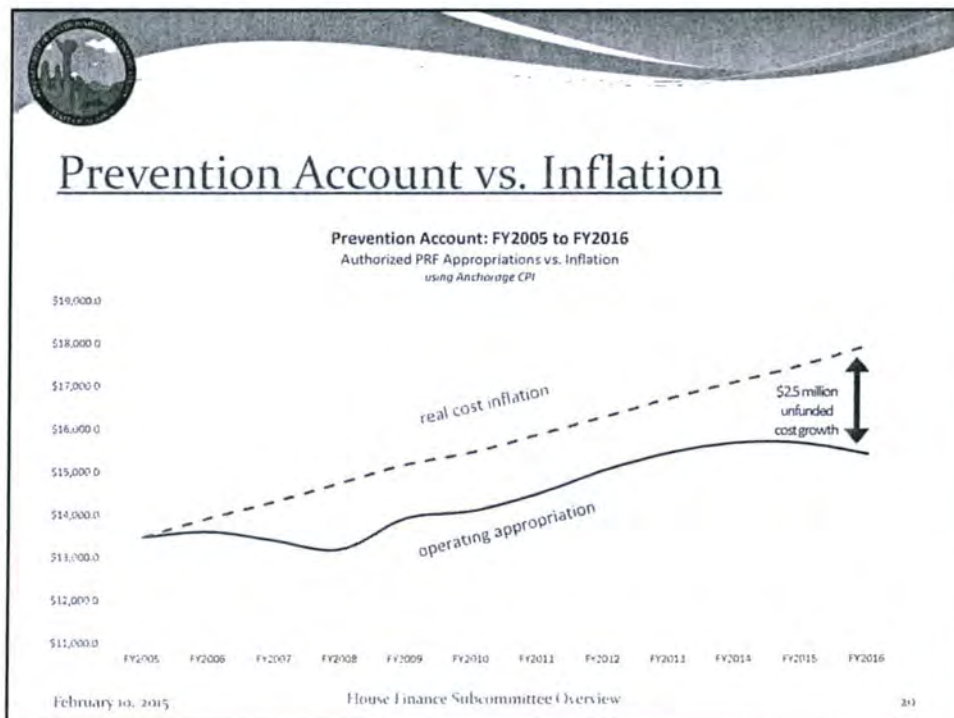
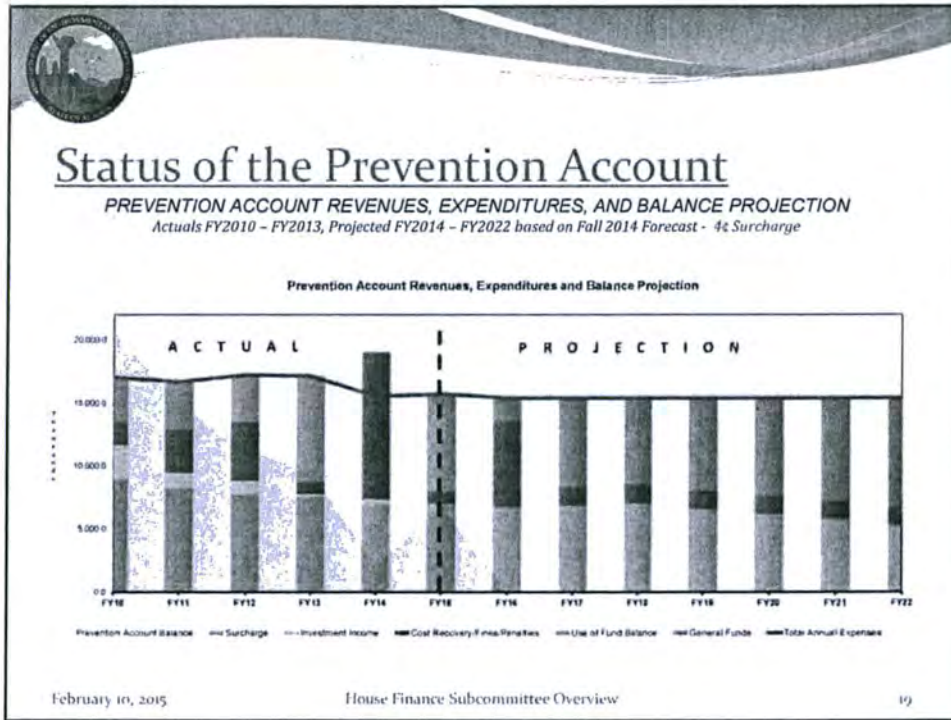
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Statutory Authorities

- Funds from the **Response Account** are used 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 -- AS 46.08.040(1)(A)
 - 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; -- AS 46.08.040(1)(C)
- Funds from the **Prevention Account** are used 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-- AS 46.08.040(2)(A)
 - pay all costs incurred to establish and maintain the oil and hazardous substance response office; to review oil discharge prevention and contingency plans; to conduct training, response exercises, inspections, and tests; and to verify or establish proof of financial responsibility-- AS 46.08.040(2)(B)
 - 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 -- AS 46.08.040(2)(I)
 - restore the environment by addressing the effects of an oil or hazardous substance release. -- AS 46.08.040(2)(K)

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Previous Measures to Sustain the Fund


- Restraining growth of SPAR
 - From FY2005-FY2015, SPAR grew on average at a rate of just 1.6% annually, and increased by only 2 PCNs
 - Maintained the same level of service while at the same time taking on new responsibilities (e.g. railroad and non-tank vessels)
- Cutting back on uses of the Prevention Account
 - Eliminated funding to Local Emergency Planning Committees, DMVA, and DOTPF
 - Eliminated a grant and loan program for removal of underground storage tanks
 - Withdrew efforts to fund a statewide hazmat team
 - Stopped requesting capital appropriations from the Prevention Account for the cleanup of State-owned contaminated sites
 - These activities were all allowable uses of the Prevention Account, but were eliminated to preserve more critical services as funding declined

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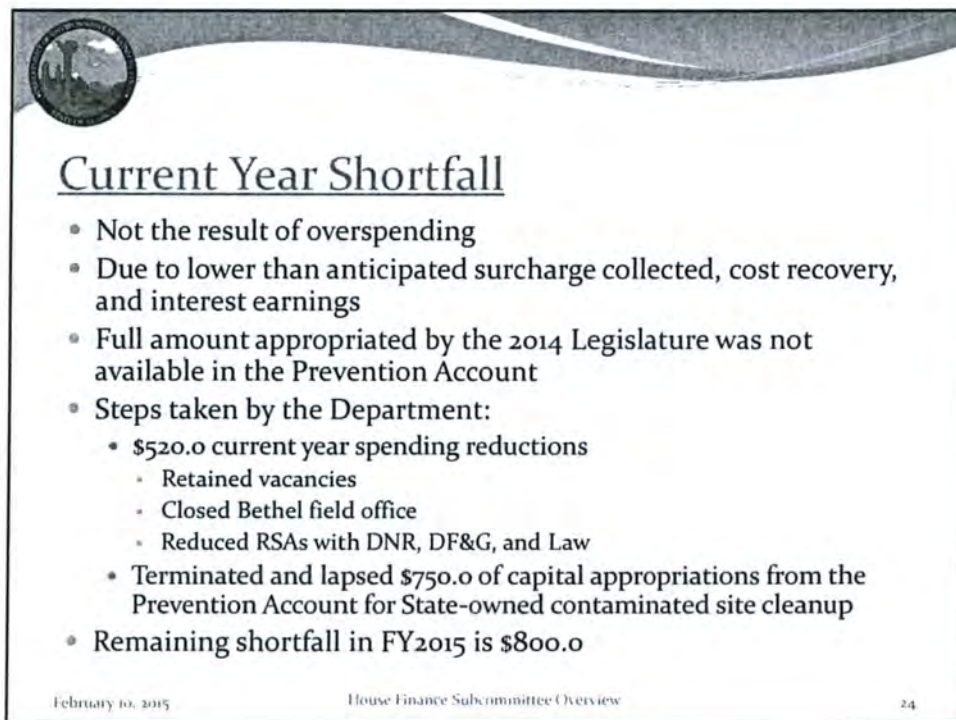
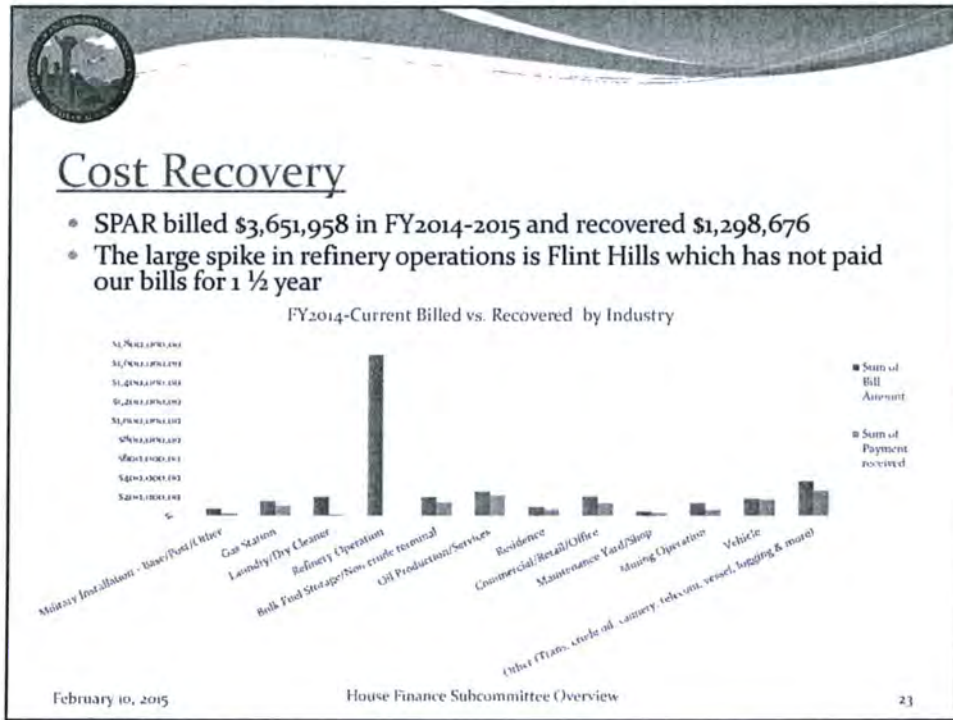


Previous Measures to Sustain the Fund

- 2006 Legislature re-split the \$.05 surcharge to increase the portion going to the Prevention Account from \$.03 to \$.04
- Appropriations to the Prevention Account from other sources:
 - FY2006: \$655,500 underground storage tank revolving loan funds
 - FY2007: \$1,800,000 commercial passenger vessel funds
 - FY2008: of \$2,000,000 general funds
- FY2013 SPAR overhauled and automated much of the cost recovery process
 - More timely and accurate billing
 - Better data to pursue aged receivables



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FY2016 Projected Shortfall

- \$1.9 million projected shortfall in FY2016
- Assumes receipt of a \$5 million settlement related to a site in Aniak
- FY2016 Budget Request includes a \$520.0 reduction in SPAR that will be achieved by
 - Deleting four PCNs
 - Combine SPAR's five components into one
 - Redefine how we plan, prepare for, and respond to spills



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FY2015 Supplemental Reappropriation

- 27 completed Municipal Matching Grant projects that were 100% general funds
- Appropriations set to otherwise lapse into general funds this year
- Request they be reappropriated into the Prevention Account instead
- This will not increase SPAR's operating appropriation
- Covers the \$800.0 FY2015 revenue shortfall and the \$1.9 million FY2016 revenue shortfall
- Estimated amount available \$3,179,058 UGF

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Considerations in Addressing the Shortfall

- Do not increase the risk from spills
- Recognize declining production and the impacts of this to the sustainability of the Response Fund
- Collaborate with existing and potential payees into the Response Fund to identify the correct amount and allocation
- Look to other sources to identify fair and reasonable alternatives to help sustain the fund
- Continue to look for efficiencies in SPAR, partnerships, new technologies, better assessment of risks, and improvement to cost recovery

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Questions?



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REPRESENTATIVE CATHY MUÑOZ

EXPLANATION OF CHANGES HOUSE BILL 158

"An Act relating to a refined fuel surcharge; relating to the motor fuel tax; relating to a qualified dealer license; and providing for an effective date."

The CS for HB 158 (version E) makes the following changes:

Section 2: Adds an exemption for state agencies and fuel sold for use in jet propulsion aircraft operating in flights to foreign countries or that continue from foreign countries.

Section 3: Technical language clean up suggested by Legislative Legal that removes language regarding gasohol as that program became obsolete as of June 20, 2004.

Section 4: Technical language clean up suggested by Legislative Legal that removes language regarding gasohol as that program became obsolete as of June 20, 2004.

Section 5: Adds the refined fuel surcharge to AS 43.40.010(e) that directs 60% of the proceeds of revenue from the refined fuel surcharge and motor fuel tax back to the municipalities who own, operate, or lease an airport.



REPRESENTATIVE CATHY MUÑOZ

SPONSOR STATEMENT HOUSE BILL 158

The Division of Spill Prevention and Response (SPAR), within the Department of Environmental Conservation, works to prevent spills of oil and hazardous substances, and prepares for and responds rapidly to spills. Alaska Statute 46.08.030 states "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."

One of the missions of the SPAR Division is to manage the Oil and Hazardous Substance Release Prevention and Response Fund as a viable, long-term funding source for the state's core spill prevention and response initiatives.

The Prevention and Response Fund is financed with a five cent per-barrel surcharge on oil produced. Decreasing oil production has resulted in a decline of revenue available to pay for spill prevention and cleanup work.

Despite previous efforts by the legislature and the SPAR Division to sustain the fund, there is a \$1.9 million projected shortfall in FY2016. This assumes receipt of a \$5 million federal settlement related to a site in Aniak and budget reductions that included deletion of four positions and consolidated programs. After FY2016, there is a projected \$7 million shortfall.

HB 158 establishes an environmental fee of one cent a gallon on refined fuel sold, transferred, or used in the state. The surcharge on the transfer or consumption of refined fuel does not apply to liquefied petroleum gas. Fuel distributors currently file and pay taxes on motor fuels each month and HB 158 anticipates that the surcharge will be collected from the same distributors. The revenue generated by this surcharge would, subject to legislative appropriation, be placed in the prevention account.

HB 158 creates a viable, long-term funding source for the state's core spill prevention and response initiatives. I urge your support on this piece of legislation to ensure the viability of the oil spill prevention and response.

LEGAL SERVICES

DIVISION OF LEGAL AND RESEARCH SERVICES
LEGISLATIVE AFFAIRS AGENCY
STATE OF ALASKA

(907) 465-3867 or 465-2450
FAX (907) 465-2029
Mail Stop 3101


State Capitol
Juneau, Alaska 99801-1182
Deliveries to: 129 6th St., Rm. 329

MEMORANDUM

March 21, 2015

SUBJECT: Sectional Summary of (HB 158; Work Order No. 29-LS0608\H)

TO: Representative Cathy Muñoz
Attn: Crystal Koeneman

FROM: Emily Nauman 
Legislative Counsel

You have requested a sectional summary of the above-described bill.

As a preliminary matter, note that a sectional summary of a bill should not be considered an authoritative interpretation of the bill and the bill itself is the best statement of its contents. If you would like an interpretation of the bill as it may apply to a particular set of circumstances, please advise.

Section 1 amends AS 43.05.230(g) by adding qualified dealer license information to the list of license information that is public.

Section 2 adds a new surcharge, a refined fuel surcharge, to AS 43.40, lists exemptions to the surcharge, and states that legislature may appropriate the balance of the surcharge to the oil and hazardous substance release prevention account of the oil and hazardous substance release prevention and response fund.

Section 3 amends AS 43.40.010(a), the motor fuel tax, to conform to the addition of the refined fuel surcharge in sec. 2.

Section 4 amends AS 43.40.010(b), the motor fuel tax, to conform to the addition of the refined fuel surcharge in sec. 2.

Section 5 amends AS 43.40.010(e) to specify that AS 43.40.010(e) applies only to the motor fuel tax and not to the refined fuel surcharge.

Section 6 replaces repealed AS 43.40.010(c), that applied only to the motor fuel tax, with a new statutory section AS 43.40.013, that sets the schedule for remittance of the refined fuel surcharge and the motor fuel tax, and allows a deduction from the amount owed for the expense of filing a return.

Representative Cathy Muñoz

March 21, 2015

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Section 7 amends AS 43.40.015(c) to specify that the certificate of use requirement in 43.40.015 applies only to the motor fuel tax.

Section 8 amends AS 43.40.015(d) to specify that the certificate of use requirement in AS 43.40.015 applies only to the motor fuel tax.

Section 9 amends AS 43.40.030, related to the refund of the motor fuel tax for nonhighway use, to clarify that AS 43.40.030 applies only to the motor fuel tax.

Section 10 amends AS 43.40.035(a), relating to refunds for resales, to include the new refined fuel surcharge in AS 43.40.

Section 11 amends AS 43.40.035(c), relating to federal fuel purchase with a credit card to include the new refined fuel surcharge in AS 43.40.

Section 12 amends AS 43.40.050(b), relating to the timing and waiver of a tax or surcharge refund to include the new refined fuel surcharge in AS 43.40.

Section 13 amends AS 43.40.060, relating to the issuance of separate invoices related to a refund claim, to include the new refined fuel surcharge in AS 43.40.

Section 14 amends AS 43.40.070, related to the refund of the motor fuel tax from the highway fuel tax account, to clarify that AS 43.40.070 only applies to the motor fuel tax.

Section 15 adds a new subsection to AS 43.40.070 requiring that the department refund the refined fuel surcharge from the oil and hazardous substance release prevention account of the oil and hazardous substance release prevention and response fund.

Section 16 amends AS 43.40.080(a), relating to determining the validity of a refund claim to include the new refined fuel surcharge in AS 43.40.

Section 17 amends AS 43.40.085, requiring dealers and users of fuel to maintain records relating to sales of fuel for three years, to include the new refined fuel surcharge in AS 43.40.

Section 18 amends AS 43.40.092(a), relating to a motor fuel exemption for certain jet fuels, to specify that the subsection applies only to the motor fuel tax.

Section 19 adds a new section, AS 43.40.094, creating a qualified dealer license in statute.

Section 20 amends the definition of "dealer" AS 43.40.100(1) to include the new refined fuel surcharge in AS 43.40.

Representative Cathy Muñoz

March 21, 2015

Page 3

Section 21 amends the definition of "qualified dealer" AS 43.40.100(3) to include the new refined fuel surcharge in AS 43.40.

Section 22 amends the definition of "user" AS 43.40.100(4) to include the new refined fuel surcharge in AS 43.40.

Section 23 adds a definition for "refined fuel" to AS 43.40.100.

Section 24 repeals AS 43.40.010(c).

Section 25 provides transition language for regulations related to qualified dealer licenses.

Section 26 provides an effective date of July 1, 2015.

ELN:lem
15-189.lem

March 30-April 1, 2015

Dear House and Senate Finance Committees,

Alaska's healthy fisheries depend on a robust oil and hazardous substance spill prevention and response agency. I support the approach proposed in HB 158 and SB 86. A modest per gallon surcharge on refined fuel products will help the Department of Environmental Conservation contain oil spills and clean up hazardous contaminated sites.

As you are aware, this fund is used to assist in large spill response activities, oil spill response training, contaminated soil clean up, containment of spills on land and water, and the administrative functions of the Spill Prevention and Response Division.

Without this important capacity to prevent, respond to, and clean up oil spills both large and small, we run the risk of putting the burden of cleanup on future Alaskans, and impacting the market perception of our world class wild Alaskan fisheries.

Oil and gas development is integral to the Alaska economy. It is fitting that we should have a well-funded agency prepared to quickly assist when an accidental spill occurs. Please consider and pass HB 158 or SB 86 this session so Alaska can maintain its reputation for responsible resource development, which includes accidental spill prevention and cleanup.

I support HB 158 and SB 86 - please fund our Spill Prevention and Response Division

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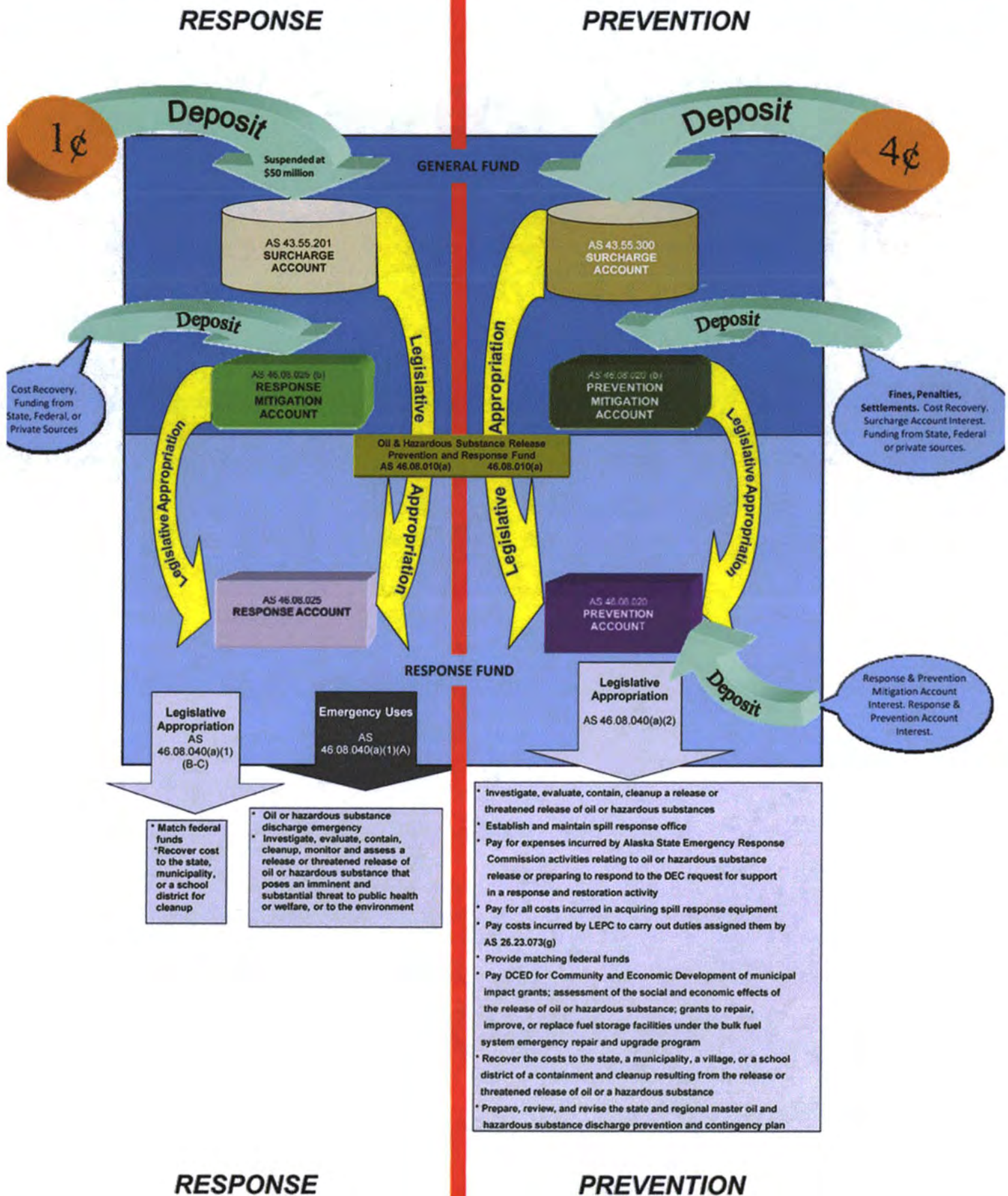
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Oil & Hazardous Substance Release Prevention and Response Fund

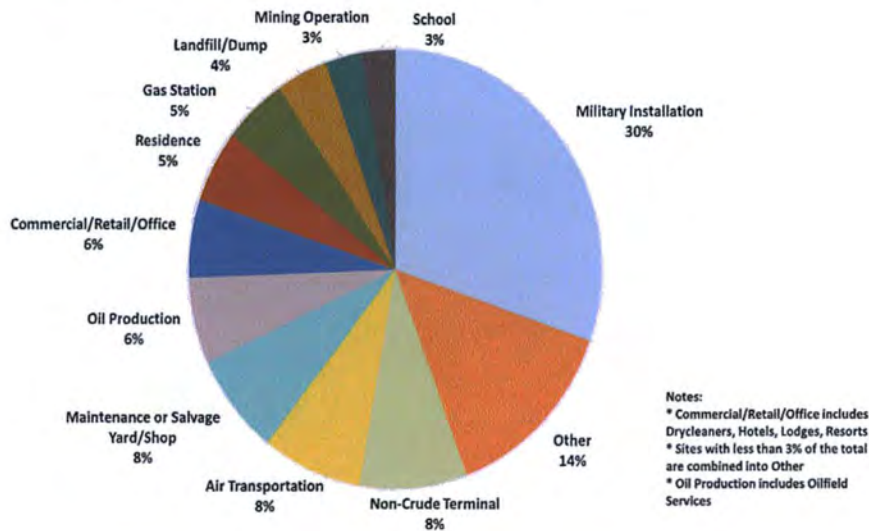




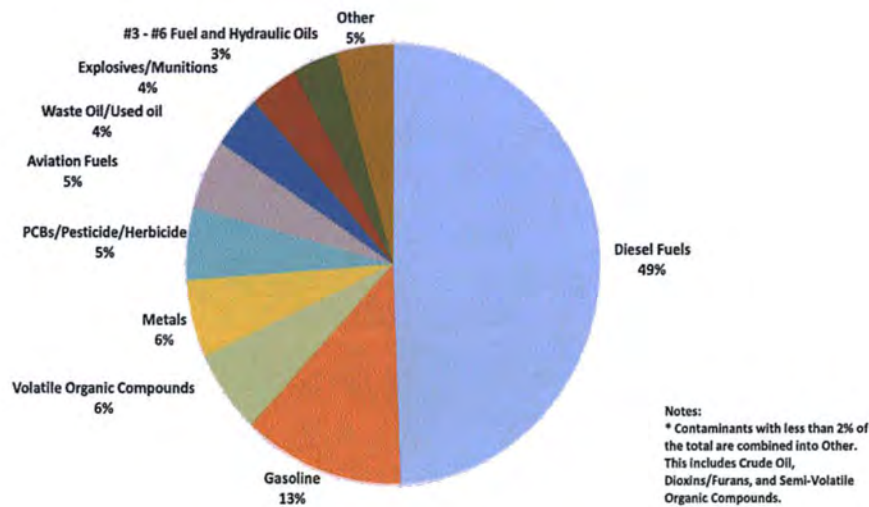
Division of Spill Prevention and Response Contaminated Sites Program

Active Contaminated Sites by Facility Type

Number of Active Sites 2,288 (as of March 3, 2015)



Active Contaminated Sites by Contaminant Type

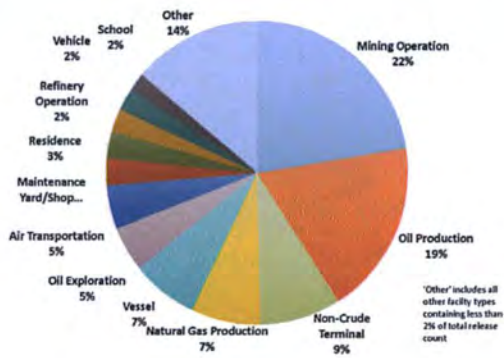




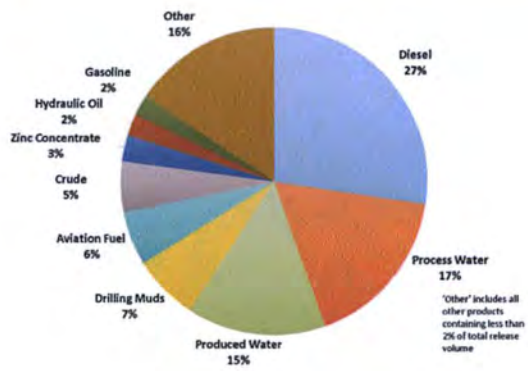
All Products Spilled, FY10-14

Number of Spills Reported 9,434
 Total Gallons 1,258,731

Volume Released by Facility Type



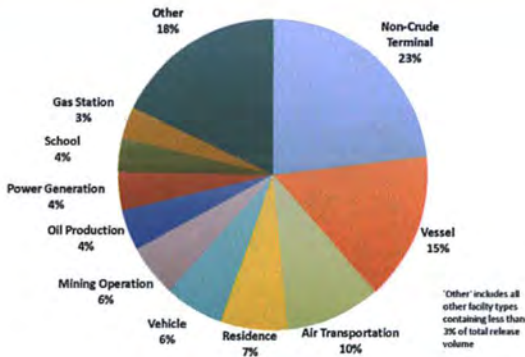
Volume Released by Product



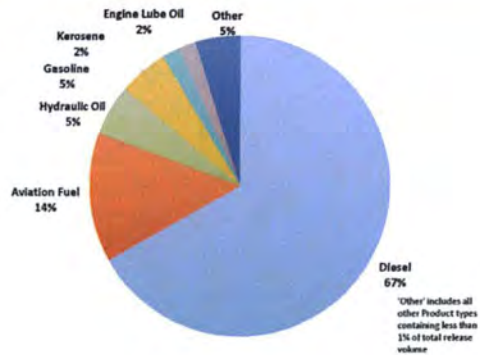
Non-crude Oil or Refined Products Spilled, FY10-14

Number of Spills Reported 6,971
 Total Gallons 516,792

Volume Released by Facility Type



Volume Released by Product



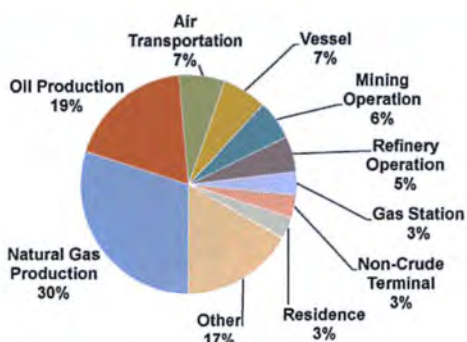


Alaska Department of Environmental Conservation Spill Prevention and Response

All Products Spilled in FY 2014

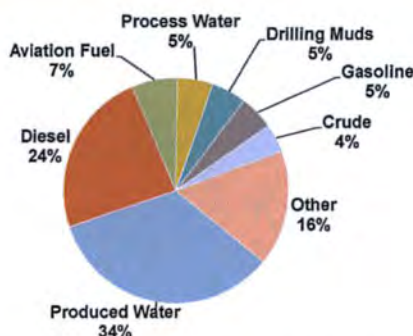
Number of Spills Reported 2,028
Total Gallons 284,729

Volume Released by Facility Type



'Other' includes facility categories comprising 3% or less of the total volume released.

Volume Released by Product

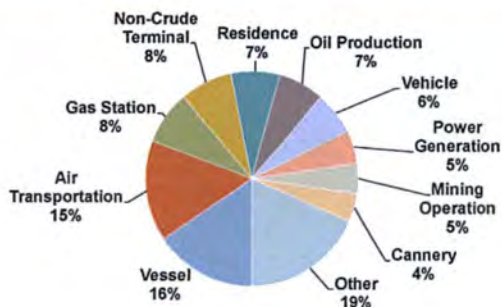


'Other' includes product categories comprising 3% or less of the total volume released.

Non-crude Oil or Refined Products Spilled in FY 2014

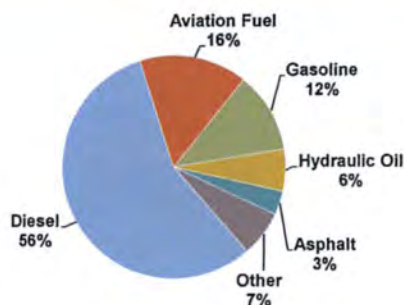
Number of Spills Reported 1,525
Total Gallons 121,517

Volume Released by Facility Type



'Other' includes facility categories comprising 4% or less of the total volume released.

Volume Released by Product



'Other' includes product categories comprising 2% or less of the total volume released.



Cleanup Process

Cleanup of contaminated sites in Alaska

March 2009

The Alaska Department of Environmental Conservation's Contaminated Sites program oversees or conducts cleanup of contaminated sites based on their danger to public health and the environment. DEC stresses prevention as the best way to protect people and the environment. When spills and leaks do occur, cleaning up soil and groundwater can be quite difficult, time-consuming and expensive, but foremost in the process is protecting the health and safety of people and the environment.

The following process describes careful investigation and cleanup of what remains after an initial spill response or upon discovery of a leak or discharge underground. The process can range from a large, formal cleanup with extensive public involvement and lasting several years to a simple one taking a few months. It all depends on the source and extent of contamination and the threat to humans and the environment. This fact sheet briefly summarizes the cleanup process. For complete information, see Alaska's Statutes Title 46, and Alaska's Administrative Code of regulations 18 AAC 75. If the contamination comes from a leaking underground fuel tank, the process is slightly different: see 18 AAC 78. Cleanup overseen by a federal agency, military sites for example, may also use other terms and the steps may vary somewhat.

Site characterization workplan

18AAC 75.335(b)*

The person who caused the contamination or who owns the land is typically the one legally responsible for cleaning it up. That person must arrange for a "qualified person"*** (typically a contractor or consultant) to prepare a site characterization workplan for DEC approval. Preparation usually involves these steps:

Scoping, to find all available information about the site, how much and what kind of contamination exists, and what harm there could be to people, animals and plants.

A **Conceptual Site Model**, or a first estimate of what and where the contaminants are, how they behave under site conditions, and what threat they may pose. This may be in a separate report or included in the next step.

A **Workplan**, to guide a more detailed investigation, designing field work to confirm or correct the first estimates of the conceptual site model.

Site characterization report

18AAC 75.335(c)

Field investigation: Guided by the workplan, the contractor (qualified person) takes samples and gathers more information at the site, and DEC oversees this work. The contractor then recommends cleanup techniques and levels in the report.

Cleanup levels: One of the most important parts of the cleanup process is determining cleanup levels - the concentration of a hazardous substance that may be left in soil or water without posing a threat to human health, safety or welfare, or to the environment. Different levels are chosen depending on the contaminant, the soil, and whether or not the hazardous substance would be taken in through breath, skin, or eating/drinking. When little is known about a site, strict default cleanup levels set in state and federal law are used to be most protective. Less strict levels can

*Title 18 of Alaska's Administrative Code of regulations, Chapter 75, section 335, paragraph (b)

**See tips on selecting an environmental consultant at www.dec.state.ak.us/spar/csp/consultant.htm. Also see glossary for the definition of qualified person at www.dec.state.ak.us/spar/glossary.htm#qp

sometimes be set when specific information is known about the site.

A **Risk Assessment** is sometimes conducted to gather detailed information about the site and how people would be exposed to contamination. Risk assessments can also be used to justify protective cleanup levels which are more or less strict than default levels. An important part of a risk assessment is to gather information from residents and other people on how they use the land and its resources.

Site Characterization Report: This report draws conclusions about the contamination and the risk to people and the environment, and it proposes cleanup levels for DEC to approve. A formal risk assessment, if conducted, would also be included. Removal of 100% of the contamination may not be possible, practical or affordable. Cleanup techniques are analyzed, and one or more is recommended based on their protectiveness, as well as practicality, effectiveness, conformity with state regulations, and consideration of any public comment.

DEC's Cleanup decision

18AAC 75.335 - 370, cleanup and reporting requirements

DEC's decision is made in writing, defining soil and groundwater cleanup levels and cleanup techniques. The decision takes into account current and future use of the site, the degree of treatment, and protection of human health and safety and the environment if contamination will remain on site. Minimizing spread of contamination and monitoring plans are also part of it. In a formal cleanup, the decision involves first issuing a Proposed Plan, inviting public comment, and a final Record of Decision.

Cleanup and report

18AAC 75.360, cleanup and reporting requirements

Before work begins, the responsible person submits a cleanup plan to DEC. After a plan is approved, the work must be performed by a qualified person, with DEC oversight to document and inspect the effort. A final report is completed for DEC review when cleanup is complete.

Site closure

18AAC 75.375, institutional controls

Institutional Controls: DEC will give "Cleanup Complete" status when efforts to reduce contamination have met approved cleanup levels, or the possibility of human exposure to any residual contamination is highly unlikely.

18AAC 75.380, site closure

Complete cleanup is not always practical or affordable. DEC may allow residual contamination to remain at a site if it does not pose a risk to human health or the environment, but there may be conditions or restrictions on land use that require compliance by current or future owners/operators. Those conditions require follow-up reporting. DEC would then grant "Cleanup Complete – Institutional Controls" status. The conditions allow the land to be put back to use.

DEC recovers the cost of its oversight and/or damages from responsible persons, if this hasn't already happened.

Follow-up ...

The Contaminated Sites Program protects human safety, human health and the environment by overseeing and conducting cleanups at contaminated sites in Alaska and by preventing releases from underground storage tanks and unregulated aboveground storage tanks. For follow-up questions, please contact our staff at the Contaminated Site program closest to you:

Juneau: 907-465-5390 / Anchorage: 907-269-7503 / Fairbanks: 907-451-2153 / Kenai: 907-262-5210

www.state.ak.us/dec/spar/csp



Alaska Department of Environmental Conservation Spill Prevention and Response

DEC State of Alaska

State of Alaska > DEC > SPAR > PERP

SPAR PROGRAMS

- Contaminated Sites
- Industry Preparedness
- Prevention and Emergency Response
- Response Fund Administration

INFORMATION

- Report a Spill
- About Us
- Recent Spill Responses
- Approvals and Permits
- Guidance and Forms

FY 15 RESPONSE SUMMARIES

Please contact the webmaster to inquire about the availability of Situation Reports and related information for responses earlier than July 1, 2003.

Active [FY04](#) [FY05](#) [FY06](#) [FY07](#) [FY08](#) [FY09](#) [FY10](#) [FY11](#) [FY12](#) [FY13](#) [FY14](#) [FY15](#)

Spill Date	Spill Name	Spill Number	Area	Product
09/08/2014	NOAA M/V Rainier Fuel Discharge	14249925201	CART	diesel
10/02/2014	Hilcorp Alaska Baker Platform Fire	14239927501	CART	potential
12/07/2014	Kake Tribal Fuel Tank Farm Gasoline Spill (FINAL)	14119934101	SART	gasoline
12/09/2014	Alaska Petroleum Mile 48 Richardson Hwy (FINAL)	14229934301	CART	diesel
12/14/2014	Wiseman Corner Rollover 1,200 Gallon Diesel	14309934801	NART	diesel
12/15/2014	Kuparuk Pad 1B Hard Line Leak	14399934901	NART	drilling mud, brine, diesel
01/19/2015	FV Eyak Grounding (FINAL)	15119901901	SART	potential
02/16/2015	FV Savannah Ray Grounding	15249904701	CART	potential
01/22/2015	Auke Bay Harbor Used Oil Spill (FINAL)	15119905301	SART	used oil
01/25/2015	Colville Truck Rollover Dalton Highway MP 86	15309905601	NART	diesel
01/28/2015	Milne Point Tract 14 Production Line Release	15399905901	NART	crude, process water

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Department of Environmental Conservation
Division of Spill Prevention and Response
410 Willoughby Ave., Ste. 302
P.O. Box 111800
Juneau, AK 99811-1800





Alaska Department of Environmental Conservation

Spill Prevention and Response

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FY 14 RESPONSE SUMMARIES

Please contact the webmaster to inquire about the availability of Situation Reports and related information for responses earlier than July 1, 2003.

[Active](#) [FY04](#) [FY05](#) [FY06](#) [FY07](#) [FY08](#) [FY09](#) [FY10](#) [FY11](#) [FY12](#) [FY13](#) [FY14](#) [FY15](#)

Spill Date	Spill Name	Spill Number	Area	Product
08/11/2013	FN Fate Hunter Grounding (FINAL)	13229922301	CART	diesel, other petroleum products
08/14/2013	FN Pacific Queen Sinking (FINAL)	13119922601	SART	diesel, other petroleum products
11/01/2013	FN Arctic Hunter Grounding	13259930501	CART	diesel, other petroleum products
12/11/2013	St. Lawrence Oiled Wildlife	13389934401	NART	unknown
12/14/2013	Kake Tribal Fuel Gasoline Spill (FINAL)	13119934801	SART	gasoline
01/14/2014	TN Silver Bay II Sinking (FINAL)	14119901401	SART	diesel
02/10/2014	Kotzebue 483 8th Ave., HHO Spill (FINAL)	14389904101	NART	diesel
02/11/2014	Dalton Highway Truck Rollover MP 309.5 Diesel Release	14399904301	NART	diesel
04/20/2014	FN Mirage Grounding (FINAL)	14119911101	SART	potential
04/28/2014	BPXA H Pad Well 8 Three-Phase Flowline Spill (FINAL)	14399911801	NART	natural gas, produced water containing crude oil
05/14/2014	MV Devon Grounding (FINAL)	14269913401	CART	diesel
05/21/2014	Eni Oliktok Point Crude Oil and Produced Water Release (FINAL)	14399914101	NART	produced water containing crude oil
06/04/2014	Shishmaref Chukchi Sea Sheen	14389913501	NART	unknown
06/07/2014	NOSI Diesel Truck Rollover Dalton Highway Milepost 299.4 (FINAL)	14399915801	NART	diesel
06/20/2014	Norton Sound Regional Hospital Fuel Release (FINAL)	14389917101	NART	diesel

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907 586-4004

Law Office of Douglas K. Mertz 1-888-293-2530 [fax]

319 Seward Street, Suite 5
Juneau, Alaska 99801
mertzlaw@gmail.com

March 24, 2015

Hon. Mark Neuman
Hon. Steve Thompson
Co-chairs, House Finance Committee

Re: HB 158, Position of Prince William Sound Regional Citizens Advisory Council

Dear Representatives:

Please accept these comments on behalf of my client, the Prince William Sound Citizens Advisory Council, on House Bill 158, which comes before your committee tomorrow.

The RCAC was founded in the wake of the Exxon Valdez spill as a preeminent source of expertise on oil spill prevention and response. The primary lessons learned from that spill are

1) Prevention is the most important single step in avoiding damage and large spill response costs; and 2) if a spill is not contained within 72 hours, very little will be recovered. So we must have a robust prevention program and be prepared to respond to spills immediately and with full vigor.

When the current laws were passed and improved on after the Exxon Valdez, the easiest solution seemed to be to put the burden entirely on the crude oil industry. Almost all of us have come to recognize that it would be fairer to spread the burden among all entities who have a role in created spill expenses, both the crude oil producers and the refined product producers and transporters. It makes sense to spread the burden among all who handle products that may be spilled.

Prevention is cheap insurance. The Exxon Valdez spill cost Exxon over \$2.5 billion, and today many spillers are either not insured, are underinsured, or cannot be found. Having a sound prevention system and a sensible response capacity are protections for the state treasury.

We support this bill, but note the one thing that is lacking. The bill would increase revenue available to the prevention efforts of ADEC, but would do nothing for the response program. The response fund is now capped at \$50 million, i.e., the surcharge no longer is collected after the fund reaches that amount. But \$50 million in 1991 dollars is roughly the equivalent of \$32 million today, due to inflation. So in essence we have fewer real dollars available to respond to spills today than we did twenty-five years ago. We recommend that an inflation adjustment be added to the response account or that the \$50 million cap be expanded to \$75 million to make up for inflation. The funds will be available for the immediate response that is critical to prevent greater damage and higher costs.

With that suggestion, we support HB 158 and urge its passage.

Sincerely,

A handwritten signature in black ink, appearing to read "Douglas K. Mertz". The signature is fluid and cursive, with a long horizontal stroke extending to the right.

Douglas K Mertz
For the Prince William Sound RCAC



Alaska Department of Environmental Conservation Spill Prevention and Response

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ABOUT RFA AND THE RESPONSE FUND

Mission

The mission of the Response Fund Administration is to manage the Oil and Hazardous Substance Release Prevention and Response Fund as a viable, long-term funding source for the state's core spill prevention and response programs. The program manages the Prevention and Response Accounts of the Oil & Hazardous Substances Release Prevention and Response Fund, including the recovery of state costs for responding to spills from the responsible party or other sources of funding if recovery from the responsible party is not possible. The program also manages the Underground Storage Tank Revolving Loan Fund and issues fund grants and loans, is responsible for the receipt and expenditure of federal dollars for cleanup of federal facilities, and oversees the Division's professional services contracts.

Services Provided

- ▶ Provide accurate three-year projections of the Response Fund balance and accurate and timely expenditure and revenue reporting to support fund management strategy.
- ▶ Target budget requests to limit annual funding requests to revenue available from the prevention account surcharge.
- ▶ Develop a long-term strategy for maintaining core spill prevention and response program with available revenue.
- ▶ Process grants and loans for underground storage tank cleanup and manages CIP expenditures for cleanup at state owned facilities.
- ▶ Track all state spill response expenditures and initiates timely billings to responsible parties to ensure maximum recovery of state costs.
- ▶ Identify and pursue other cost recovery sources such as the Federal Oil Spill Liability Trust Fund and participates in the settlement of cost recovery claims with the Department of Law.
- ▶ Manages and maintains contracts with private firms engaged in cleanup and remediation work for the Department.
- ▶ Prepare biennial Response Fund and annual Underground Storage Tank Revolving Loan Fund reports.
- ▶ In the case of a major spill response, support the Finance Section within the Incident Command System.

History of the Response Fund

The Oil and Hazardous Substance Release Prevention and Response Fund was created by the legislature in 1986 to provide a readily available funding source to investigate, contain, clean up and take other necessary action to protect public health and welfare and the environment from the releases or threatened release of oil or a hazardous substance. Alaska Statute 46.08.030 states: "It is the intent of the legislature and declared to be the public policy of the state that the funds for the abatement of a release of oil or hazardous substance will always be available." (SLA 1986 Sec.1 Ch. 59)

Statutes governing the Response Fund were amended in 1989, 1990, 1991, 1994, 1999, and 2006. Generally, these amendments added more purposes for which the Response Fund could be used and increased the Department of Environmental Conservation's reporting requirements. The 1994 amendment made major changes to the Response Fund structure by dividing it into two separate accounts: the "Response account" and the "Prevention account". The 1999 amendment changed the requirement for an annual fund status report to the legislature to a biennial status report. The 2006 amendment changed the surcharge levied on crude oil produced in the state. HB3001C amended Sec. 28 of AS 43.55.300 and imposed a prevention account surcharge of \$.04 (formerly \$.03) per barrel of oil produced from each lease or property in the state, less any oil the ownership or right to which is exempt from taxation. Sec. 26 of AS 43.55.201 was also amended to change the response account surcharge of \$.02 to a \$.01 per barrel of oil produced from each lease or property in the state.

Response Account

The Response account may be used to finance the state's response to an oil or hazardous substance release that is declared a disaster by the governor, or to respond to a release or threatened release that poses an imminent and substantial threat to the public health or welfare, or to the environment. If the Response account is accessed for any incident other than a declared disaster, within 120 hours the Commissioner of DEC must provide the Governor and the Legislative Budget and Audit Committee with a written report summarizing the release, the State's actions and associated costs, both taken and anticipated, and any other information deemed appropriate.

The Response Account receives funding from two different sources:

- I. A surcharge of two cents per barrel that is levied on each taxable barrel of oil produced in the state, which is deposited to the response surcharge account until March 31, 2006. Effective April 1, 2006, House Bill 3001C changed the surcharge tax of two cents to a one cent per barrel
- II. Money that is recovered from parties financially responsible for the release of oil or hazardous substance which is deposited in the response mitigation account.

The one cent per barrel surcharge is suspended when the combined balances of the surcharge account, the response mitigation account and the unreserved and unobligated balance in the Response Account itself reaches or exceeds \$50 million.

Prevention Account

The Prevention account may be used to investigate, evaluate, clean up, and take other necessary action to address oil and hazardous substance releases that have not been declared a disaster by the Governor, or do not pose an imminent and substantial threat to the public health or welfare of the environment. The Prevention Account may also be used to fund Alaska's oil and hazardous substance release prevention programs and to fund activities related to cost recovery.

The Prevention Account receives funding from three sources: 1) a surcharge of four cents per barrel that is levied on each taxable barrel of oil produced in the state which is deposited in the prevention surcharge account; 2) fines, settlements, penalties, and costs recovered from parties financially responsible for the release of oil or a hazardous substance deposited into the prevention mitigation account; and 3) interest earned on the balance of each of the following accounts deposited into the general fund and credited to the Prevention Account: (a) the prevention account; (b) the prevention mitigation account; (c) the response account; and (d) the response mitigation account.

The legislature appropriates money from the prevention surcharge and prevention mitigation accounts into the Prevention Account to support the State's oil and hazardous substance spill clean-up efforts and spill prevention and preparedness planning activities.

Related Files

[Response Fund Diagram](#)



Alaska Qualified Motor Fuel Dealer License Application



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<input type="checkbox"/> SSN <input type="checkbox"/> FEIN	Alaska Business License Number	QD License Number	Entity Type <input type="checkbox"/> Corporation <input type="checkbox"/> Partnership <input type="checkbox"/> Individual <input type="checkbox"/> LLC	
Taxpayer Name		Contact Person		
Business Name		Contact Telephone	Contact Fax	
Mailing Address	City	Contact Email		
State	ZIP Code	License Year	Is This A Renewal? <input type="checkbox"/> Yes <input type="checkbox"/> No	

Qualifying Activity or Activities Check the appropriate box.

- Refines, blends, imports, manufactures and/or produces motor fuel
- Sells at least 50 percent of fuel acquired to unrelated persons for resale and/or for use as heating fuel
- Sells at least 50 percent of fuel acquired to unrelated persons for use in jet propulsion aircraft

Affidavit of Estimated Tax

If at any time during the year these estimates are lower than actual gallons subject to tax, you must file an amended affidavit and comply with any additional security requirements if applicable. The amended affidavit and additional tax security is due 30 days after you have knowledge of the underestimate.

	Estimated monthly sales (gallons)		Tax rate		Tax liability
Jet fuel		X	\$0.032	=	
Aviation gas		X	\$0.047	=	
Marine diesel & gasoline		X	\$0.05	=	
Highway diesel, gasoline & gasohol		X	\$0.08	=	
Heating fuel diesel (exempt)		X	\$0.00	=	
Total estimated maximum monthly tax liability (add amounts in this column)					=

Your estimated maximum monthly tax liability must be secured either by a bond, cash, letter of credit, or certificate of deposit from an Alaska bank. Check one.

- Bond in an amount equal to twice the average monthly motor fuel tax remittance but not less than \$5,000.
- Cash, letter of credit or certificate of deposit from an Alaska bank in an amount equal to twice the average monthly motor fuel tax remittance but not less than \$5,000.

Location of storage facility or base port of mobile operations	Facility or vessel capacity
Legal description or vessel name(s)	

- I agree to allow the Department of Revenue to publish, on a list of current Alaska Qualified Motor Fuel Dealers, my name, license number, license effective date and physical location(s) of Alaska operations.

Qualified dealer reports are available at www.tax.alaska.gov.

I certify that an accurate record will be kept of all purchases, sales, transfers and uses of fuel and that taxes will be remitted on or before the last day of each succeeding month. Under penalty of perjury, I declare that this application and any attachments have been examined by me and, to the best of my knowledge and belief are true, correct and complete.

Signature	Date
Printed Name	Printed Title

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Alaska Motor Fuel Tax Return Gasoline

FEIN		Qualified Dealer Number		For the Month of	Year	<input type="checkbox"/> Check if amended return
Name				Contact Person		
Mailing Address		<input type="checkbox"/> Check if new address		Contact Telephone		Fax Number
City	State	Zip Code		Contact Email		

Section I. Summary

INVENTORY RECONCILIATION

- Beginning physical inventory (must agree with prior month's ending inventory)
- Receipts (from Page 2, Section II, line 5)
- Less: Disbursements (from Page 2, Section III, line 15)
- Gain (Loss) (attach explanation)
- Transfers (re-brands from one product to another)
- Ending physical inventory (add lines 1, 2, 4, and 5, subtract line 3)

GALLONS

TAX COMPUTATION

- Total gallons delivered tax-on (from Page 2, Section III, line 4)
- Less: tax-paid purchases (total should equal Page 2, Section II, line 2)
- Net taxable gallons (subtract line 8 from of line 7)
- Tax rate
- Tax (multiply line 9 by line 10)
- Total tax (add each entry from line 11)
- Less: Deduction for timely filing (1% of line 12 or \$100, whichever is less)
- Less: Claim for refund on fuel used by dealer for non-highway use (see instructions)

HIGHWAY

MARINE

0.08	0.05

- Gasoline purchased at 8¢
 - Gasoline purchased at 5¢
- AMENDED RETURNS ONLY - Less: Gasoline tax previously paid for this month
 - Amount due (overpaid). (subtract lines 13, 14a, 14b and 15, from line 12)

Gallons

Refundable
Portion

	x .06 =	
	x .03 =	

Note: If your liability is \$100,000 or more, you must pay online at www.online.tax.alaska.gov or by wire transfer.

I declare, under penalty of perjury, that I have examined this return, including accompanying schedules and statements, and to the best of my knowledge and belief, it is true, correct, and complete. Declaration of preparer (other than taxpayer) is based on all information of which preparer has any knowledge.

Signature	Printed Name and Title	Date
-----------	------------------------	------

File and pay online at www.online.tax.alaska.gov
or make check payable to **State of Alaska**

Alaska Motor Fuel Tax Return Gasoline

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FEIN	Company Name	QDL Number	For the Month of	Year
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Report all transactions in whole gallons.

Section II. Receipts

- In-state refinery production
- Gallons received tax-on (attach invoices)
- Gallons received tax-off from Licensed Qualified Dealers
- Gallons imported from other states or foreign countries
- Total receipts (Add lines 1 through 4. Enter here and on Page 1, Section I, line 2)

From Schedule	GALLONS
2	
3	

Section III. Disbursements

GALLONS DELIVERED TAX-ON

- Gallons used (including non-highway use)
- Gallons delivered tax-on to retailers and consumers
- Gallons delivered tax-on to Licensed Qualified Dealers
- Total gallons delivered tax-on (Add lines 1 through 3. Enter here and on Page 1, Section I, line 7)

Highway	Marine

GALLONS DELIVERED TAX-OFF

- Gallons delivered tax-off to Licensed Qualified Dealers
- Gallons exported to other states or foreign countries
- Gallons delivered to U.S. government agencies for their official use
- Gallons delivered to state or local government agencies for their official use
- Gallons delivered to charitable institutions
- Gallons used or delivered to users for heating
- Gallons delivered to public utilities
- Gallons used or delivered to stationary power plants
- Other exempt use or delivery (attach explanation)
- Total gallons delivered tax-off (add lines 5 through 13)
- Total disbursements (Add lines 4 and 14. Enter here and on Page 1, Section I, line 3)

From Schedule	GALLONS
6	
7	

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KENAI LEGISLATIVE INFORMATION OFFICE

Email: Kenai_LIO@akleg.gov

Phone: 907-283-2030 / Fax: 907-283-3075

WRITTEN TESTIMONY

NAME:	<u>J.R. Meyers</u>	
REPRESENTING:	<u>Self</u>	
BILL # or SUBJECT:	<u>HB 158</u>	
COMMITTEE:	<u>House Finance</u>	DATE: <u>3-25-15</u>

Dear Representatives,

Stop increasing fees on essential items.

The people are maxed out.

Curb your spending!

Vote no in HB 158.

Peace & Blessings,

J.R. Myers

Soldotna, AK