

LEG. FINANCE - BILLS 1979 - 1980 1066

HB 203 thru HB 205



RECORDS CERTIFICATION



I, the undersigned, an employee of the State of Alaska, do hereby certify that the microfilm images on this microform are accurate reproductions of the original records of the State of Alaska as accumulated during the regular course of business, and that it is the established policy and practice of this State to microfilm its records and to dispose of the original records after microfilm reproductions have been made.

James O. Smith
Signature of Camera Operator

3/20/90
Date

RB 203

February 13, 1979

The Honorable Terry Gardiner
Speaker of the House
Alaska State Legislature
Juneau, Alaska 99811

Dear Mr. Speaker:

Under the authority of art. III, sec. 18 of the Alaska Constitution, I am transmitting a bill establishing the Alaska Senior ROTC scholarship program. This program would provide a scholarship, covering tuition, fees, and books, to selected members of the Alaska National Guard or Alaska Naval Militia who are enrolled as full-time students at the University of Alaska and participating in the University Senior ROTC program. It would ensure that the projected officer needs of the Alaska National Guard and the Alaska Naval Militia are met.

Sincerely,

5/85H

Jay S. Hammond
Governor

**THE LEGISLATURE OF THE STATE OF ALASKA
ELEVENTH LEGISLATURE**

FISCAL NOTE

I. REQUEST

Bill/Resolution No. HOUSE BILL NO. 203
 Title An Act establishing the Alaska Senior ROTC Scholarship program/ effective date
 Requested by Department of Military Affairs Date 13 February 1979

II. FISCAL DETAIL

Agency Affected Department of Military Affairs
 Program Category Affected Public Protection
 BRU, Program, or Subprogram(s) Affected Alaska National Guard
 (Note: If more than one budget component is affected, separate line-item amounts and funding for each component in the analysis section.)

EXPENDITURES (Thousands of Dollars)

	FY 79	FY 80	FY 81	FY 82	FY 83	FY 84
100 PERSONAL SERVICES						
200 TRAVEL						
300 CONTRACTUAL						
400 COMMODITIES						
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS, ETC.	4,500	4,500	9,000	9,000	13,500	13,500
TOTAL	4,500	4,500	9,000	9,000	13,500	13,500

FUNDING (Thousands of Dollars)

GENERAL FUND						
FEDERAL FUNDS						
OTHER (Specify Fund Source)						

POSITIONS

FULL TIME						
PART TIME						
TEMPORARY						

III. ANALYSIS (See Fiscal Note Preparation Instructions, Section III)

Costs computed at \$450/Student/Semester at the University of Alaska to cover a scholarship equal to resident tuition, fees and books.

FY 80 - 5 individuals estimated enrollment
 FY 81 - 5 individuals estimated enrollment
 FY 82 - 10 individuals estimated enrollment
 FY 83 - 10 individuals estimated enrollment (maximum anticipated)
 FY 84 - 15 individuals estimated enrollment (maximum anticipated)
 FY 85 - 15 individuals estimated enrollment (maximum anticipated)

IV. DATE 13 February 1979 **PREPARED BY** COL. John V. Hoyt
AGENCY Department of Military Affairs
PHONE 465-4600
 Original: Legislative Finance
 cc: Budget and Management
 Prime Sponsor (First Legislator Named)

Introduced: 2/14/79
Referred: State Affairs and
Finance

1 IN THE HOUSE

BY THE RULES COMMITTEE BY
REQUEST OF THE GOVERNOR

2 HOUSE BILL NO. 203

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 ELEVENTH LEGISLATURE -- FIRST SESSION

5 A BILL

6 For an Act entitled: "An Act establishing the Alaska Senior Reserve Offi-
7 cers' Training Corps Scholarship Program; and providing
8 for an effective date."

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

10 * Section 1. AS 26.05 is amended by adding a new section to read:

11 Sec. 26.05.297. ALASKA SENIOR RESERVE OFFICERS' TRAINING CORPS
12 SCHOLARSHIP PROGRAM. (a) There is established within the Department
13 of Military Affairs an Alaska Senior Reserve Officers' Training Corps
14 scholarship program.

15 (b) Persons meeting the eligibility requirements of (c) of this
16 section may receive a grant equivalent to the current cost of resident
17 tuition, fees, and books at the University of Alaska for each qualifying
18 semester to the extent funds are available.

19 (c) To be eligible for a scholarship, a person must:

20 (1) be enrolled as a full-time student at the University of
21 Alaska and qualify for resident tuition status;

22 (2) be enrolled and participating in the Senior Reserve
23 Officers' Training Corps program at the University of Alaska for the
24 qualifying semester;

25 (3) be a satisfactory participating member of the Alaska
26 National Guard or Alaska Naval Militia;

27 (4) maintain a satisfactory standard of academic achieve-
28 ments as prescribed by the adjutant general;

29 (5) meet all current federal requirements for appointment

1 as an officer in the Alaska National Guard;

2 (6) agree in writing that he will accept an appointment, if
3 offered, as a commissioned officer in the Alaska National Guard or
4 Alaska Naval Militia and that he will serve in the Alaska National
5 Guard or Alaska Naval Militia for a period of time prescribed for this
6 program by the adjutant general.

7 (d) Persons receiving scholarship benefits under this section
8 are ineligible to apply for or receive benefits under AS 26.05.295 or
9 26.05.296.

10 * Sec. 2. This Act takes effect July 1, 1979.

8a
2/14/79

Introduced: 2/14/79
Referred: State Affairs and
Finance

BY THE RULES COMMITTEE BY
REQUEST OF THE GOVERNOR

1 IN THE HOUSE

2 HOUSE BILL NO. 203

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 ELEVENTH LEGISLATURE - FIRST SESSION

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JSH

Jay S. Hammond
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THE LEGISLATURE OF THE STATE OF ALASKA
ELEVENTH LEGISLATURE

FISCAL NOTE

I. REQUEST
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 Requested by Department of Military Affairs Date 13 February 1979

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GENERAL FUND						
FEDERAL FUNDS						
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POSITIONS

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IV. DATE 13 February 1979 PREPARED BY COL. John V. Hoyt
 AGENCY Department of Military Affairs
 Original: Legislative Finance PHONE 465-4600
 cc: Budget and Management
 Prime Sponsor (First Legislator Named)

ALASKA STATE LEGISLATURE

ELEVENTH Legislature FIRST Session

HOUSE BILL NO. 203

By THE RULES COMMITTEE BY REQUEST OF THE GOVERNOR

"An Act establishing the Alaska Senior Reserve Officers' Training Corps Scholarship Program; and providing for an effective date."

Ak. Sr. Reserve Officers' Training Corps Scholarship Program

Introduced in the House 2-14, 1979

HISTORY IN THE HOUSE

19 79	Read first time and referred to Committee on State Affairs and Finance										
Feb. 14	Reported back with recommendation that										
	Read second time and										
	Read third time and										
	<table border="0"> <tr> <td>PASS</td> <td>Effective Date</td> </tr> <tr> <td>Yeas</td> <td>Yeas</td> </tr> <tr> <td>Nays</td> <td>Nays</td> </tr> <tr> <td>Absent</td> <td>Absent</td> </tr> <tr> <td>Excused</td> <td>Excused</td> </tr> </table>	PASS	Effective Date	Yeas	Yeas	Nays	Nays	Absent	Absent	Excused	Excused
PASS	Effective Date										
Yeas	Yeas										
Nays	Nays										
Absent	Absent										
Excused	Excused										
	Reconsideration										
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PASS	Effective Date										
Yeas	Yeas										
Nays	Nays										
Absent	Absent										
Excused	Excused										
	Reported correctly engrossed										
	Signed by Speaker										
	Sent to Senate										
	CHIEF CLERK OF THE HOUSE										

HISTORY IN THE SENATE

19	Read first time and referred to Committee on										
	Reported back with recommendation that										
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PASS	Effective Date										
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Nays	Nays										
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Excused	Excused										
	Reported correctly engrossed										
	Signed by President										
	Returned to House										
	SECRETARY OF THE SENATE										

HISTORY IN THE HOUSE

19	Received from Senate
	Concurred in Senate amendment thus adopting: VOTE
	Failed to concur in Senate amendment; asked Senate to recede VOTE
	Senate receded from amendment VOTE
	Senate failed to recede from amendment VOTE
	CC appointed by House
	CC appointed by Senate
	CC adopted by House VOTE
	CC adopted by Senate VOTE
	To enrolling Reported correctly enrolled Sent to Governor by Governor
	Filed with Lt. Governor
	Chapter No.

THE LEGISLATURE OF THE STATE OF ALASKA
ELEVENTH LEGISLATURE

FISCAL NOTE

I. REQUEST

Bill/Resolution No. HB 203
 Title An Act establishing the Alaska Senior ROTC Scholarship program/ effective date
 Requested by Department of Military Affairs Date 22 Feb 1979

II. FISCAL DETAIL

Agency Affected Department of Military Affairs
 Program Category Affected Public Protection
 BRU, Program, or Subprogram(s) Affected Alaska National Guard
 (Note: If more than one budget component is affected, separate line-item amounts and funding for each component in the analysis section.)

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300 CONTRACTUAL						
400 COMMODITIES						
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS, ETC.	4.5	4.5	9.0	9.0	13.5	13.5
TOTAL	4.5	4.5	9.0	9.0	13.5	13.5

FUNDING (Thousands of Dollars)

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GENERAL FUND						
FEDERAL FUNDS						
OTHER (Specify Fund Source)						

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III. ANALYSIS (See Fiscal Note Preparation Instructions, Section III)

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IV. DATE 22 Feb 1979

PREPARED BY *Luis T. Richardson*
 AGENCY Department of Military Affairs
 PHONE 465-4600

Original: Legislative Finance
 cc: Budget and Management
 Prime Sponsor (First Legislator Named)

revised

THE LEGISLATURE OF THE STATE OF ALASKA
ELEVENTH LEGISLATURE

FISCAL NOTE

I. REQUEST

Bill/Resolution No. HB 203
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FULL TIME						
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IV. DATE 22 Feb 1979

PREPARED BY Luis T. Rubalcava
AGENCY Department of Military Affairs
PHONE 465-4600

Original: Legislative Finance
cc: Budget and Management
Prime Sponsor (First Legislator Named)



RECORDS CERTIFICATION



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James A. Smith
Signature of Camera Operator

3/20/90
Date

(11)

COMMITTEE REPORT

HOUSE

3/27/80

FURTHER:

Date: 4-7-80

Mr. Speaker:

The Committee on FINANCE has had HB 205
"An Act relating to the prevention and control of oil pollution."

under consideration and (a majority of the committee) (the committee) reports it back with the following recommendations:

- do pass do not pass
- do pass with attached amendments(s)
- replace with CS for HB 205 same title
 new title
- and recommends it be passed
- AND attaches a "Letter of Intent" New Fiscal Note 1542.6
3/12/80
- reports it back without recommendation
- referred to the _____ Committee

**MEMBERS SIGNING
DO PASS**

Meekins

Duncan

McKinnon

Smith

Rogers

Freeman

**MEMBERS HAVING
OTHER RECOMMENDATIONS:**

Hamm - No Rec.

Montgomery - No Rec.

St. John - No Rec.

Meekins

CHAIRMAN

THE LEGISLATURE OF THE STATE OF ALASKA
ELEVENTH LEGISLATURE

FISCAL NOTE

I. REQUEST
 Bill/Resolution No. Committee Substitute for H.B. 205
 Title An Act Relating To The Prevention And Control Of Oil Pollution
 Requested by Governor Date 3/7/1980

II. FISCAL DETAIL
 Agency Affected Department of Environmental Conservation
 Program Category Affected Natural Resources Management Environmental Conservation
 Budget Request Unit(s) Affected EQM, ECO

EXPENDITURES (Thousands of Dollars)

	FY 79	FY 80	FY 81	FY 82	FY 83	FY 84
100 PERSONAL SERVICES			269.4	337.6	371.4	408.5
200 TRAVEL			46.4	54.2	59.7	65.6
300 CONTRACTUAL			52.3	57.8	63.5	69.9
400 COMMODITIES			4.0	5.0	5.5	6.0
500 EQUIPMENT			170.5	34.0	37.4	41.1
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS, ETC.						
SPILL RESERVE			1000			
TOTAL			1542.6			

FUNDING (Thousands of Dollars)

GENERAL FUND			1542.6	488.6*	537.5*	591.3*
FEDERAL FUNDS						
OTHER (Specify)						

POSITIONS

FULL TIME			8	9	9	9
PART TIME						
TEMPORARY						

III. ANALYSIS (See Fiscal Note Preparation Instructions, Section III)

SEE ATTACHED

IV. DATE March 12, 1980 PREPARED BY Andrew Spear
 AGENCY ADEC
 Original: Legislative Finance PHONE 465-2686
 cc: Budget and Management
 Prime Sponsor (First Legislator Named)

STATE
of ALASKA


MEMORANDUM

TO: Robert L. Grogan
Legislative Finance Division
Legislative Affairs Agency

DATE: March 21, 1980

FILE NO:

TELEPHONE NO:

FROM: Andrew M.  Spear, Manager
Oil Pollution Control
Department of Environmental
Conservation

SUBJECT: CSHB 205 Fiscal Note

Here is a copy of the fiscal note which is to accompany CSHB 205 to the floor.

As we discussed on the phone today, I'm not sure about all of the working concerning the fate of fiscal notes so I would appreciate your following this. If there is something that I must do or any questions you have, please call me at 465-2686.

Thanks for your consideration.

THE LEGISLATURE OF THE STATE OF ALASKA
ELEVENTH LEGISLATURE

FISCAL NOTE

I. REQUEST

Bill/Resolution No. Committee Substitute for H.B. 205
 Title An Act Relating To The Prevention And Control Of Oil Pollution
 Requested by Governor Date 3/7/1980

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 Budget Request Unit(s) Affected EOM, ECO

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IV. DATE March 12, 1980 PREPARED BY Andrew Spear
 AGENCY ADEC
 PHONE 465-2686
 Original: Legislative Finance
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July 1979, the legislature appropriated \$991.0 (based on program receipts) for administration of the Oil Pollution Control program and the Coastal Protection Fund (\$6000.0). Only a small amount of program receipts were collected because of the decision in Chevron vs. Hammond. The court found the funding mechanism of the program to be invalid. The decision, however, did not appreciably decrease the Department's responsibilities for oil pollution control.

The Department's FY 80 budget request of \$450.0, for the Oil Pollution Control program was significantly reduced to \$250.0. Because of the emergency nature of oil spill response and the need for immediate state attention to these events, the Department has responded far beyond what the current appropriations warrant. Funds from other sources have been secured as a "stop gap" measure. Coastal Zone Management and other federal monies have been used for this purpose, however the majority of these funds will not be available in FY 81. Staff and field personnel are diverted from other duties to respond to specific spills.

The department's FY 81 budget request reflects a new organization with oil pollution control as an element of water quality management and each regional office's responsibilities. Costs are distributed accordingly. It should be noted that the FY 81 budget was prepared under the Governor's budget guidelines and does not show a substantial increase above the FY 80 appropriation of \$250.0. Should CS HB 205 be passed, there will be costs incurred above the department's FY 81 request level.

This bill extends the Department's Oil Pollution Control authority to include offshore exploration, production, and land-based facilities, as well as large tank barges. In addition, CS HB 205 lowers the exemption cut off to 10,000 bbls. Because of this increased scope and other duties to be discussed later in this note, the existing oil pollution control program will need considerable improvement to fulfill the intent of this Legislation.

Sectional Analysis

Section 46.04.010 requires that the state seek to recoup spill clean-up costs from the spiller, from applicable federal clean-up funds or from a combination of the two. This procedure is designed to reimburse the general fund and thus hold down overall state clean-up costs. It is estimated that about 20% of clean-up costs can be recovered. Incident to cost recovery is identification of the polluter and determination of the damages caused by the oil. A critical element in establishing evidence is the analysis of the oil. Spill samples must be taken and analysed in a very specific manner. This process has been developed by the U.S. Coast Guard and is currently the only method acceptable in court actions. In order to develop this capability it will be necessary to improve the Department's Douglas Lab analytical capability. Currently the Department and the U.S. Coast Guard are entering into an agreement where the Lab will perform oil analysis for the Coast Guard in return for the loan of a flurometer. Development costs will be \$40.0

Section 46.04.050 exempts certain small transfer facilities from the requirements for a spill contingency plan, and proof of financial responsibility. The addition of facilities of 10,000-25,000 barrel capacities will increase the entire program as explained in each section analysis.

Section 46.04.060 permits the department to inspect oil terminal facilities, offshore exploration, and production facilities, large tank vessels and oil barges. There will be a need to administer this section through DEC regional offices. Four field positions are requested to perform these as well as other duties related to this bill including emergency, response, contingency plan review and technical assistance to the public.

Section 46.04.070 defines the scope of regulations the department shall adopt pursuant to this Legislation. In addition to preparing the regulations it will be necessary to provide public participation in this process. These costs are reflected in personal services, travel, contractual and commodities.

Section 46.04.080 defines the department responsibilities in the event of a catastrophic oil discharge. Since the state spill fund no longer exists, it is necessary to prepare for a catastrophic spill through existing state resources. It will also be necessary to write a detailed oil pollution contingency plan for these events to be included in the State Emergency Plan and ensure that all state agencies are familiar with their duties. It is envisioned that state emergency personnel including the Alaska National Guard will be called upon to perform specific duties during a catastrophic oil discharge. Training and orientation must be conducted in this highly specialized and technical area. The associated costs to this section are reflected in the travel and contractual portions of the fiscal note. An Ecologist II position is requested to administer this section, act on the state spill team, be operations specialist, manage the pollution reserve fund and perform other duties. There will be a Clerk Typist III position incident to this and the other requested positions.

No estimate of the loss to the state resulting from a catastrophic oil spill can be reasonably made. The cost of cleaning up this type of oil spill (to a minimum acceptable level) have exceeded \$84,000,000 in the case of the AMOCO CADIZ. Costs associated with the ARGO MERCHANT amounted to about \$3,000,000 even though no oil was recovered in that case.

The State will attempt to recover all costs in accordance with section 46.04.010.

Section 46.04.090 empowers the Department to contract or directly provide oil spill clean-up equipment, material and personnel at various locations in the state. Modest amounts of oil spill clean-up equipment will be stationed at each district and regional office. In subsequent years additional equipment at specific sites may be requested as trained personnel within and without the department become available to handle clean-up of small spills.

CORRECTION

**THIS DOCUMENT
HAS BEEN REPHOTOGRAPHED
TO ASSURE LEGIBILITY**

FISCAL NOTE ANALYSIS, CS FOR HB 205

July 1979, the legislature appropriated \$991.0 (based on program receipts) for administration of the Oil Pollution Control program and the Coastal Protection Fund (\$6000.0). Only a small amount of program receipts were collected because of the decision in Chevron vs. Hammond. The court found the funding mechanism of the program to be invalid. The decision, however, did not appreciably decrease the Department's responsibilities for oil pollution control.

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The task of rewriting the state spill plan will be assigned to the Ecologist II (planning specialist) located in Juneau. He will be supported by the regional offices and central office personnel.

The main costs for this plan will be for the Ecologist II to travel to the regions and for contractual services in graphics and printing.

The method by which the state will respond to oil spills of catastrophic proportions will be through the state emergency plan as required by the Governor's declaration of a state of emergency. At this time there is no section in the "State Emergency Plan" concerning oil spills as a catastrophic event or resulting from other disasters such as floods and earthquakes.

This plan will be closely related to the state oil spill contingency plan and will be written by the aforementioned Ecologist II.

Costs will be in travel to Anchorage for coordination with the Division of Emergency Services (DES) and in contractual graphics and printing.

TRAINING

A most important aspect of the oil pollution control program is training. Because of the technical nature of oil spill cleanup operations, it is essential that state response personnel be properly trained in order to apply or recommend the application of the best cleanup techniques for a given situation. In addition trained personnel will provide technical information to the general public to solve their spill problems.

Training will also be required in order for personnel to review oil spill contingency plans required by state and federal law.

There are several such trained personnel already employed in the department so a complete training program will not have to be developed for inhouse purposes, however certain key people and new employees provided for in CSFB 205 should receive oil spill training.

Inhouse training breakdown:

1. EFO II - SERO - Tex. A&M
2. EFO II - SCRO - Tex. A&M
3. EFO II - NRO - Tex. A&M
4. EFO II - NRO - Tex. A&M
5. Ecologist II - Juneau - Nat. Spill School
6. Ecologist II - Juneau - Nat. Spill School
7. Turnover

OTHER TRAINING NEEDS

On regular oil spill response matters ADEC works closely with the Department of Fish and Game, Department of Public Safety and other state agencies. In the event of a catastrophic oil spill a state of emergency would be declared requiring participation from nearly all agencies. These training needs should be first identified and then addressed. At this time it appears that the same type of training will not be necessary and that state sponsored workshops offered by the department will be the most effective and economically feasible approach.

Training will be coordinated by the operations manager in Juneau.

PUBLIC INFORMATION

Public information for this program will take on several tasks. In order to prevent spills and the damage from spills, the general public must know what to do. Chronic small spills have become a growing and serious problem in Alaska not only because of their damage, but also because of their costs. Through public information we can provide:

1. Standard contingency and spill prevention plans for pleasure and fishing boats. These plans must be small, simple and instructive with graphic illustrations depicting spill cleanup techniques.
2. A standard contingency plan and spill prevention for rural areas. This plan should be similar to the above plan with low cost ideas on how to set up good fuel storage systems and perform spill cleanup with "Yankee Ingenuity".
3. Considerable burden will be removed from the larger storage operation if the state prepares a model contingency plan which with minimum completion or modification it can be used to satisfy state contingency plan requirements and provide a good plan to those not covered by state law.

Radio, TV, and newspaper ads will be needed to inform the public of these services of new state laws and regulations.

Notification and hearings will be provided in order that the department may adopt regulations which will reflect good public input. This will be performed through standard mailouts, media coverage, workshops and hearings.

The main costs for this aspect of the program will be in travel, contractual and commodities.

EMERGENCY NOTIFICATION

Oil and hazardous substance spills do not observe the work week or working hours, therefore, there must be a system by which spills can be reported and responded to 24 hours a day, seven days each week.

The state now provides a 24 hour oil spill reporting system that can be used by the spiller to satisfy state reporting requirements and by the general public to report spills they observe. This is the Zenith 9300 telephone number manned by the Department of Public Safety.

When a spill is reported to Zenith 9300 certain questions are asked about the spill and recorded. Values are placed on the different aspects of the spill such as size, location, type of oil etc. and tallied up to give a final value. Regional office personnel are contacted after working hours if the spill figure is high enough.

This system was also developed before an oil spill control program was established and several problems with it have surfaced which need attention. They include:

1. Does not take in account for potential spills and/or dangers of existing spills.
2. Department personnel are not always at home after hours.
3. Public Safety personnel are not familiar with spill problems and can not evaluate the spill.
4. Report form is not comprehensive.
5. Only DEC personnel are contacted.
6. Long distance numbers do not work in Anchorage area.
7. Public is not well informed of it's existance.
8. Spiller must notify - State, EPA and Coast Guard.

Solutions to these problems include:

1. Revamp spill classification schedule.
2. Provide a "beeper" signaling system for regional office personnel.
3. Instruct Public Safety personnel in spill reporting, problems, and classification.

4. Use Z-9300 to notify other state agencies.
5. Provide alternate number in Anchorage or negotiate a system with AIASCCM for universal number.
6. Educate public of spill number.
7. Work with EPA and USCG to provide "one-number reporting system".

DOUGLAS LAB OIL SPILL ANALYSIS

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It should be noted that analysis results would be available to the public for purposes of claims for damages to their property or loss of income and may be the only method of fixing responsibility on the spiller.

SPILL RESPONSE EQUIPMENT

It is not economically sensible for the department to hire a cleanup contractor for every spill reported. The majority of spills are small and can be addressed by DEC personnel, however, certain equipment must be used. Sorbant pads, booms and sweeps, static free plastic bags, rakes, pumps and skimmers are some.

In order to properly document spills and their movement sampling, gear, meteorological instruments, explosion meters and other equipment will be required.

Because of weather and remote spill site locations transportation and safety must be addressed. In areas where marine spills are common, trailer boats are necessary to work with the spill. Survival suits and emergency equipment will allow state personnel to address spills that previously were not because of transportation and safety reasons.

On-scene spill response equipment is vital to effective action and without such equipment, the department will not be able to respond in many cases and spills may go unchecked.

Spill response equipment needs will vary between the regions and already existing equipment may be used. The Ecologist II operations manager will evaluate spill equipment needs in cooperation with each regional office. He will then purchase the correct equipment after researching and selecting the appropriate equipment and assemble specific spill response kits for each region and district office. This equipment will also have to be maintained and maintenance schedules will be drawn up for the regional offices to follow.

BUDGET ELEMENTS

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ENVIRONMENTAL FIELD OFFICER II

1. Inspect and verify the existence and condition of pollution abatement materials and equipment as specified in current prevention and oil pollution laws and regulations.
2. Inspect oil terminals, tank vessels, tank barges, offshore exploration and production facilities in his region to assure compliance with applicable state law and to maintain surveillance for oil discharges.
3. Monitor for oil discharges through the use of aerial photographs and current sampling techniques and observe routine oil transfer operations in his region.
4. Review oil spill contingency plans submitted by industry in his region and recommend approval or disapproval of them and recommend changes which will bring the plans into compliance with state laws and regulations.
5. Take oil, water benthic, littoral, and biological samples in order to evaluate environmental damage from an oil spill.
6. In the event of an oil spill, actively participate in state spill team performing the duties required of him as provided in the state spill plan.
7. Provide technical information to the public regarding oil pollution prevention and control matters.
8. Assist in the development and maintenance of an inventory of oil terminal facilities, tank and vessels, offshore facilities and oil spill statistical information.
9. Review and comment on specific oil development proposals in his region.
10. Performs other related duties as required.

BUDGET ELEMENTS

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ECOLOGIST II - JUNEAU - PLANNING

1. With the assistance of the operations manager and state oil spill researcher, write and maintain the state oil and hazardous substance contingency plan and the state emergency plan for catastrophic spills.
2. Assist regional office personnel in industry contingency plan review, evaluation and testing in cooperation with operations manager.
3. Assists in procedures development for departmental oil spill response matters.
4. Serve on Regional Response Team (RRT) functional groups and assist RRT in appropriate planning efforts.
5. Review and comment on state and federal OCS lease oil pollution matters.
6. Review specific project oil pollution matters.
7. Develop and maintain state spill reporting and notification system.
8. Prepares work plans, five year strategy and assists in preparation of State/EPA Agreements.
9. Prepares and maintains departmental water pollution monitoring program for oil pollution.
10. Prepares public awareness program in cooperation with public information office.
11. Assists in the development and maintenance of the data management program.

BUDGET ELEMENTS

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ECOLOGIST II - OPERATIONS MANAGER

1. Develop methods and procedures for the operation of the state spill reserve and administer it in accordance with state law, including, emergency purchasing, contracting, and administration procedures.
2. Assist in the development, implementation, and maintenance of the state oil spill contingency plan in accordance with department field operations.
3. Assist in the development, implementation and maintenance of the state emergency plan for catastrophic spills in accordance with state emergency policy and in conjunction with concerned state, local, and federal agencies.
4. Assist in operational aspects of ACORP industry/government cooperative.
5. Maintain information on the specifications, history applicability and effectiveness of oil spill cleanup equipment and techniques making this information available to the public and industry officials.
6. Insures that all regional and district office personnel are fully informed of oil pollution control matters effecting their areas of operations.
7. Be licensed and capable of handling and cleaning and supervision or monitoring the cleaning of oiled waterfowl and other animals.
8. Develop and maintain state oil spill training program.

BUDGET ELEMENTS

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ECOLOGIST III - JUNEAU - PROGRAM MANAGER

1. Develop and implement regulations and procedures to prevent the discharge of oil and hazardous substances and if spilled, mitigate their damages to the land and waters of the state. To monitor and revise the program to insure accomplishment of department goals for safeguarding the natural resources of the state.
2. Contribute to the development of the state's position on the environmental impact of oil exploration, production, storage and transportation.
3. Coordinate the state's oil and hazardous spill response with state, local, and federal agencies and with industry in order to maintain in adequate, comprehensive spill response mechanism.
4. Develop an array of supplementary agreements, reciprocal agreements, compacts, etc. with other state and federal government entities.
5. Develop oil spill cleanup capabilities where none previously exists and verify the effectiveness of oil spill cleanup capability where previously in place.
6. Establish administrative systems for operation of the Oil Pollution Control Program including report formats, operating procedures, data collection and management and program budget.
7. Acts as state's primary representative on the Regional Response Team, state/federal/industry cooperative, and various groups concerned with oil pollution control.
8. Perform other duties as required.

BUDGET ELEMENTS

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COMMUNITY OIL SPILL CONTROL

Funding Source: Federal CEIP 1981 - General Fund 1982

Objectives of Position: The analyst will develop a model (prototype) oil spill contingency plan for coastal communities using a specific community (Yakutat) as the model. The plan will detail the role of the community in responding to both nuisance and catastrophic spills. The plan will show how community activities will be integrated with the actions of state and federal agencies (through coordination with agency contingency plan).

Impact of Position on Existing Personnel: The analyst will develop a product - and a process - which will increase the effectiveness of DEC field staff in responding to all types of spills. By emphasizing community response, the cost of cleanup may be significantly reduced. The U.S. Coast Guard testified to the House Resource Committee of the Alaska Legislature that the most important assistance they could receive on spills is immediate response from those close to the accident. The state has more staff in dispersed locations than does the Coast Guard. By increasing cleanup capability through organization of local efforts, the state can dramatically increase the effectiveness of spill control efforts while reducing potential costs and damage.

Duties: The analyst position is proposed for one year under Coastal Energy Impact Program (CEIP) grant funds, provided by the Office of Coastal Zone Management of National Oceanic Atmospheric Agency. If House Bill 205 (an act relating to the prevention and control of oil pollution) is passed and funded by the Alaska State Legislature. This position will be continued under general funds in FY 1982. The purpose and duties will shift to establishing the model plan as an operational tool in other coastal communities, and assisting their efforts to cope with oil pollution.

The analyst will during FY 1981:

1. Review state, federal and industry contingency plans to determine the method by which a local representative can be included in the decision-making processes of oil spill cleanup;
2. Meet with community officials in Yakutat to determine local resources and capability for spill response;
3. Complete a rough draft of a local spill contingency plan;
4. Draft language for inclusion of the local response effort in applicable agency contingency plans;

5. A final contingency plan will be completed after the draft is thoroughly reviewed to determine its adequacy and its consistency with state and federal agency contingency plans.

In order to make this an effective program modest oil spill cleanup equipment will be stationed at these communities to address small spills. It is planned that four communities will receive contingency plan and equipment assistance in FY 81. Once the program has been established assistance to more communities and replacement funds will be necessary.

SPILL SITE COMMUNICATIONS

During an investigation of a spill or potential spill communications is an extremely important factor.

First safety of the spill team must be insured as after spills occur at remote locations and in unfavorable and often dangerous weather conditions. If a member of the team can not contact his base or other elements of the cleanup operation his safety is jeopardized.

The state on-scene coordinator must be able to receive information about the spill cleanup and give his directions for response without traveling to each location. This aspect is important for state interests, but also for thoroughly coordinating state efforts with other cleanup elements such as EPA or the Coast Guard. For example, if a state person is flying surveillance of the spill he must be able to report the spill movement and characteristics to the spill control headquarters allowing simultaneous actions from all quarters of the cleanup effort.

A valuable tool used in spill cleanup efforts is the video tape television system. This system is routinely used to provide the Regional Response Team with information which will guide them in making spill cleanup decisions. Unfortunately this information is often biased to the organization in command of the equipment and video tapes are rarely available to other groups. By using it's own system the State will have the independence to graphically present it's case to the Regional Response Team, evaluate spill cleanup equipment effectiveness, provide photographic information to other state agencies and local concerns and preserve important events for critique purposes.

BUDGET ELEMENTS

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ENVIRONMENTAL RESEARCH ANALYST II

1. Develop and maintain an inventory of oil terminal facilities tank vessels, tank barges, and offshore exploration and production facilities operating or projected to operate in Alaska. Contacts industry and applicable sources to obtain and verify data base.
2. Based upon inventory forms submitted and occasional field checks, determines that oil terminal facilities and tanker operations are in compliance with all provisions of the terms and conditions of approval criteria. Refers violations of state laws and regulations concerning tanker terminal, tank barges, and offshore exploration and production facilities to field staff for action. Shall assist Attorney General office staff in the preparation of legal case concerning certain violations of these laws and regulations.
3. Serves as the primary source of information to industry officials inquiring about the state's tanker, terminal, offshore facilities, tank barge and tank vessel laws and regulations.
4. Assists in integrating the state's oil prevention and pollution control program throughout the various regional offices of the department and other concerned state and federal agencies.
5. Assists in developing legislative proposals, regulations, implementing existing legislation, programs and coastal zone management plans.
6. Serves as the department's and state's researcher in areas of tanker oil terminal, offshore oil exploration and production, tank barge operations, oil terminal capacities, oil pollution incidents worldwide etc.
7. Performs other related duties as required.

FISCAL NOTE ANALYSIS, CS FOR HB 205

July 1979, the legislature appropriated \$991.0 (based on program receipts) for administration of the Oil Pollution Control program and the Coastal Protection Fund (\$6000.0). Only a small amount of program receipts were collected because of the decision in Chevron vs. Hammond. The court found the funding mechanism of the program to be invalid. The decision, however, did not appreciably decrease the Department's responsibilities for oil pollution control.

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*Duplicate
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STATE CONTINGENCY PLAN

The "Oil and Hazardous Substance Pollution Contingency" plan now used by the state was written before there was a oil pollution control program. In addition the program has traveled a rocky road through the courts and the Legislature requiring many changes over the last three years. Hence the state contingency plan is badly in need of a complete overhaul. It is equally important that the plan be maintained as a working document to be followed in actual spill incidents.

The task of rewriting the state spill plan will be assigned to the Ecologist II (planning specialist) located in Juneau. He will be supported by the regional offices and central office personnel.

The main costs for this plan will be for the Ecologist II to travel to the regions and for contractual services in graphics and printing.

The method by which the state will respond to oil spills of catastrophic proportions will be through the state emergency plan as required by the Governor's declaration of a state of emergency. At this time there is no section in the "State Emergency Plan" concerning oil spills as a catastrophic event or resulting from other disasters such as floods and earthquakes.

This plan will be closely related to the state oil spill contingency plan and will be written by the aforementioned Ecologist II.

Costs will be in travel to Anchorage for coordination with the Division of Emergency Services (DES) and in contractual graphics and printing.

TRAINING

A most important aspect of the oil pollution control program is training. Because of the technical nature of oil spill cleanup operations, it is essential that state response personnel be properly trained in order to apply or recommend the application of the best cleanup techniques for a given situation. In addition trained personnel will provide technical information to the general public to solve their spill problems.

Training will also be required in order for personnel to review oil spill contingency plans required by state and federal law.

There are several such trained personnel already employed in the department so a complete training program will not have to be developed for inhouse purposes, however certain key people and new employees provided for in CSHE 205 should receive oil spill training.

Inhouse training breakdown:

1. EFO II - SERO - Tex. A&M
2. EFO II - SCRO - Tex. A&M
3. EFO II - NRO - Tex. A&M
4. EFO II - NRO - Tex. A&M
5. Ecologist II - Juneau - Nat. Spill School
6. Ecologist II - Juneau - Nat. Spill School
7. Turnover

OTHER TRAINING NEEDS

On regular oil spill response matters ADEC works closely with the Department of Fish and Game, Department of Public Safety and other state agencies. In the event of a catastrophic oil spill a state of emergency would be declared requiring participation from nearly all agencies. These training needs should be first identified and then addressed. At this time it appears that the same type of training will not be necessary and that state sponsored workshops offered by the department will be the most effective and economically feasible approach.

Training will be coordinated by the operations manager in Juneau.

BUDGET ELEMENTS
200
300
400

PUBLIC INFORMATION

Public information for this program will take on several tasks. In order to prevent spills and the damage from spills, the general public must know what to do. Chronic small spills have become a growing and serious problem in Alaska not only because of their damage, but also because of their costs. Through public information we can provide:

1. Standard contingency and spill prevention plans for pleasure and fishing boats. These plans must be small, simple and instructive with graphic illustrations depicting spill cleanup techniques.
2. A standard contingency plan and spill prevention for rural areas. This plan should be similar to the above plan with low cost ideas on how to set up good fuel storage systems and perform spill cleanup with "Yankee Ingenuity".
3. Considerable burden will be removed from the larger storage operation if the state prepares a model contingency plan which with minimum completion or modification it can be used to satisfy state contingency plan requirements and provide a good plan to those not covered by state law.

Radio, TV, and newspaper ads will be needed to inform the public of these services of new state laws and regulations.

Notification and hearings will be provided in order that the department may adopt regulations which will reflect good public input. This will be performed through standard mailouts, media coverage, workshops and hearings.

The main costs for this aspect of the program will be in travel, contractual and commodities.

EMERGENCY NOTIFICATION

Oil and hazardous substance spills do not observe the work week or working hours, therefore, there must be a system by which spills can be reported and responded to 24 hours a day, seven days each week.

The state now provides a 24 hour oil spill reporting system that can be used by the spiller to satisfy state reporting requirements and by the general public to report spills they observe. This is the Zenith 9300 telephone number manned by the Department of Public Safety.

When a spill is reported to Zenith 9300 certain questions are asked about the spill and recorded. Values are placed on the different aspects of the spill such as size, location, type of oil etc. and tallied up to give a final value. Regional office personnel are contacted after working hours if the spill figure is high enough.

This system was also developed before an oil spill control program was established and several problems with it have surfaced which need attention. They include:

1. Does not take in account for potential spills and/or dangers of existing spills.
2. Department personnel are not always at home after hours.
3. Public Safety personnel are not familiar with spill problems and can not evaluate the spill.
4. Report form is not comprehensive.
5. Only DEC personnel are contacted.
6. Long distance numbers do not work in Anchorage area.
7. Public is not well informed of it's existance.
8. Spiller must notify - State, EPA and Coast Guard.

Solutions to these problems include:

1. Revamp spill classification schedule.
2. Provide a "beeper" signaling system for regional office personnel.
3. Instruct Public Safety personnel in spill reporting, problems, and classification.

4. Use Z-9300 to notify other state agencies.
5. Provide alternate number in Anchorage or negotiate a system with AIASCOM for universal number.
6. Educate public of spill number.
7. Work with EPA and USCG to provide "one-number reporting system".

DOUGLAS LAB OIL SPILL ANALYSIS

The state must seek to recoup spill cleanup costs from the spiller, from applicable federal cleanup funds or from a combination of the two. This procedure is designed to reimburse the general fund and thus hold down overall state cleanup costs. It is estimated that about 20% of cleanup costs can be recovered. Incident to cost recovery is identification of the polluter and determination of the damages caused by the oil. A critical element in establishing evidence is the analysis of the oil. Spill samples must be taken and analysed in a very specific manner. This process has been developed by the U.S. Coast Guard and is currently the only method acceptable in court actions. In order to develop this capability it will be necessary to improve the Department's Douglas Lab analytical capability. Currently the Department and the U.S. Coast Guard are entering into an agreement where the Lab will perform oil analysis for the Coast Guard in return for the loan of a fluorometer.

It should be noted that analysis results would be available to the public for purposes of claims for damages to their property or loss of income and may be the only method of fixing responsibility on the spiller.

SPILL RESPONSE EQUIPMENT

It is not economically sensible for the department to hire a cleanup contractor for every spill reported. The majority of spills are small and can be addressed by DEC personnel, however, certain equipment must be used. Sorbant pads, booms and sweeps, static free plastic bags, rakes, pumps and skimmers are some.

In order to properly document spills and their movement sampling, gear, meteorological instruments, explosion meters and other equipment will be required.

Because of weather and remote spill site locations transportation and safety must be addressed. In areas where marine spills are common, trailer boats are necessary to work with the spill. Survival suits and emergency equipment will allow state personnel to address spills that previously were not because of transportation and safety reasons.

On-scene spill response equipment is vital to effective action and without such equipment, the department will not be able to respond in many cases and spills may go unchecked.

Spill response equipment needs will vary between the regions and already existing equipment may be used. The Ecologist II operations manager will evaluate spill equipment needs in cooperation with each regional office. He will then purchase the correct equipment after researching and selecting the appropriate equipment and assemble specific spill response kits for each region and district office. This equipment will also have to be maintained and maintenance schedules will be drawn up for the regional offices to follow.

BUDGET ELEMENTS

100

200

300

400

500

ENVIRONMENTAL FIELD OFFICER II

1. Inspect and verify the existence and condition of pollution abatement materials and equipment as specified in current prevention and oil pollution laws and regulations.
2. Inspect oil terminals, tank vessels, tank barges, offshore exploration and production facilities in his region to assure compliance with applicable state law and to maintain surveillance for oil discharges.
3. Monitor for oil discharges through the use of aerial photographs and current sampling techniques and observe routine oil transfer operations in his region.
4. Review oil spill contingency plans submitted by industry in his region and recommend approval or disapproval of them and recommend changes which will bring the plans into compliance with state laws and regulations.
5. Take oil, water benthic, littoral, and biological samples in order to evaluate environmental damage from an oil spill.
6. In the event of an oil spill, actively participate in state spill team performing the duties required of him as provided in the state spill plan.
7. Provide technical information to the public regarding oil pollution prevention and control matters.
8. Assist in the development and maintenance of an inventory of oil terminal facilities, tank and vessels, offshore facilities and oil spill statistical information.
9. Review and comment on specific oil development proposals in his region.
10. Performs other related duties as required.

BUDGET ELEMENTS

100

200

300

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ECOLOGIST II - JUNEAU - PLANNING

1. With the assistance of the operations manager and state oil spill researcher, write and maintain the state oil and hazardous substance contingency plan and the state emergency plan for catastrophic spills.
2. Assist regional office personnel in industry contingency plan review, evaluation and testing in cooperation with operations manager.
3. Assists in procedures development for departmental oil spill response matters.
4. Serve on Regional Response Team (RRT) functional groups and assist RRT in appropriate planning efforts.
5. Review and comment on state and federal OCS lease oil pollution matters.
6. Review specific project oil pollution matters.
7. Develop and maintain state spill reporting and notification system.
8. Prepares work plans, five year strategy and assists in preparation of State/EPA Agreements.
9. Prepares and maintains departmental water pollution monitoring program for oil pollution.
10. Prepares public awareness program in cooperation with public information office.
11. Assists in the development and maintenance of the data management program.

BUDGET ELEMENTS

100

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ECOLOGIST II - OPERATIONS MANAGER

1. Develop methods and procedures for the operation of the state spill reserve and administer it in accordance with state law, including, emergency purchasing, contracting, and administration procedures.
2. Assist in the development, implementation, and maintenance of the state oil spill contingency plan in accordance with department field operations.
3. Assist in the development, implementation and maintenance of the state emergency plan for catastrophic spills in accordance with state emergency policy and in conjunction with concerned state, local, and federal agencies.
4. Assist in operational aspects of ACORP industry/government cooperative.
5. Maintain information on the specifications, history applicability and effectiveness of oil spill cleanup equipment and techniques making this information available to the public and industry officials.
6. Insures that all regional and district office personnel are fully informed of oil pollution control matters effecting their areas of operations.
7. Be licensed and capable of handling and cleaning and supervision or monitoring the cleaning of oiled waterfowl and other animals.
8. Develop and maintain state oil spill training program.

BUDGET ELEMENTS

100

200

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ECOLOGIST III - JUNEAU - PROGRAM MANAGER

1. Develop and implement regulations and procedures to prevent the discharge of oil and hazardous substances and if spilled, mitigate their damages to the land and waters of the state. To monitor and revise the program to insure accomplishment of department goals for safeguarding the natural resources of the state.
2. Contribute to the development of the state's position on the environmental impact of oil exploration, production, storage and transportation.
3. Coordinate the state's oil and hazardous spill response with state, local, and federal agencies and with industry in order to maintain in adequate, comprehensive spill response mechanism.
4. Develop an array of supplementary agreements, reciprocal agreements, compacts, etc. with other state and federal government entities.
5. Develop oil spill cleanup capabilities where none previously exists and verify the effectiveness of oil spill cleanup capability where previously in place.
6. Establish administrative systems for operation of the Oil Pollution Control Program including report formats, operating procedures, data collection and management and program budget.
7. Acts as state's primary representative on the Regional Response Team, state/federal/industry cooperative, and various groups concerned with oil pollution control.
8. Perform other duties as required.

BUDGET ELEMENTS

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COMMUNITY OIL SPILL CONTROL

Funding Source: Federal CEIP 1981 - General Fund 1982

Objectives of Position: The analyst will develop a model (prototype) oil spill contingency plan for coastal communities using a specific community (Yakutat) as the model. The plan will detail the role of the community in responding to both nuisance and catastrophic spills. The plan will show how community activities will be integrated with the actions of state and federal agencies (through coordination with agency contingency plan).

Impact of Position on Existing Personnel: The analyst will develop a product - and a process - which will increase the effectiveness of DEC field staff in responding to all types of spills. By emphasizing community response, the cost of cleanup may be significantly reduced. The U.S. Coast Guard testified to the House Resource Committee of the Alaska Legislature that the most important assistance they could receive on spills is immediate response from those close to the accident. The state has more staff in dispersed locations than does the Coast Guard. By increasing cleanup capability through organization of local efforts, the state can dramatically increase the effectiveness of spill control efforts while reducing potential costs and damage.

Duties: The analyst position is proposed for one year under Coastal Energy Impact Program (CEIP) grant funds, provided by the Office of Coastal Zone Management of National Oceanic Atmospheric Agency. If House Bill 205 (an act relating to the prevention and control of oil pollution) is passed and funded by the Alaska State Legislature. This position will be continued under general funds in FY 1982. The purpose and duties will shift to establishing the model plan as an operational tool in other coastal communities, and assisting their efforts to cope with oil pollution.

The analyst will during FY 1981:

1. Review state, federal and industry contingency plans to determine the method by which a local representative can be included in the decision-making processes of oil spill cleanup;
2. Meet with community officials in Yakutat to determine local resources and capability for spill response;
3. Complete a rough draft of a local spill contingency plan;
4. Draft language for inclusion of the local response effort in applicable agency contingency plans;

5. A final contingency plan will be completed after the draft is thoroughly reviewed to determine its adequacy and its consistency with state and federal agency contingency plans.

In order to make this an effective program modest oil spill cleanup equipment will be stationed at these communities to address small spills. It is planned that four communities will receive contingency plan and equipment assistance in FY 81. Once the program has been established assistance to more communities and replacement funds will be necessary.

SPILL SITE COMMUNICATIONS

During an investigation of a spill or potential spill communications is an extremely important factor.

First safety of the spill team must be insured as after spills occur at remote locations and in unfavorable and often dangerous weather conditions. If a member of the team can not contact his base or other elements of the cleanup operation his safety is jeopardized.

The state on-scene coordinator must be able to receive information about the spill cleanup and give his directions for response without traveling to each location. This aspect is important for state interests, but also for thoroughly coordinating state efforts with other cleanup elements such as EPA or the Coast Guard. For example, if a state person is flying surveillance of the spill he must be able to report the spill movement and characteristics to the spill control headquarters allowing simultaneous actions from all quarters of the cleanup effort.

A valuable tool used in spill cleanup efforts is the video tape television system. This system is routinely used to provide the Regional Response Team with information which will guide them in making spill cleanup decisions. Unfortunately this information is often biased to the organization in command of the equipment and video tapes are rarely available to other groups. By using it's own system the State will have the independence to graphically present it's case to the Regional Response Team, evaluate spill cleanup equipment effectiveness, provide photographic information to other state agencies and local concerns and preserve important events for critique purposes.

BUDGET ELEMENTS

100

200

300

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ENVIRONMENTAL RESEARCH ANALYST II

1. Develop and maintain an inventory of oil terminal facilities tank vessels, tank barges, and offshore exploration and production facilities operating or projected to operate in Alaska. Contacts industry and applicable sources to obtain and verify data base.
2. Based upon inventory forms submitted and occasional field checks, determines that oil terminal facilities and tanker operations are in compliance with all provisions of the terms and conditions of approval criteria. Refers violations of state laws and regulations concerning tanker terminal, tank barges, and offshore exploration and production facilities to field staff for action. Shall assist Attorney General office staff in the preparation of legal case concerning certain violations of these laws and regulations.
3. Serves as the primary source of information to industry officials inquiring about the state's tanker, terminal, offshore facilities, tank barge and tank vessel laws and regulations.
4. Assists in integrating the state's oil prevention and pollution control program throughout the various regional offices of the department and other concerned state and federal agencies.
5. Assists in developing legislative proposals, regulations, implementing existing legislation, programs and coastal zone management plans.
6. Serves as the department's and state's researcher in areas of tanker oil terminal, offshore oil exploration and production, tank barge operations, oil terminal capacities, oil pollution incidents worldwide etc.
7. Performs other related duties as required.

Original sponsor: Rules/Governor

Offered: 3/18/80
Referred: Judiciary

1 IN THE HOUSE

BY THE RESOURCES COMMITTEE

2 CS FOR HOUSE BILL NO. 205

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 ELEVENTH LEGISLATURE - SECOND SESSION

5 A BILL

6 For an Act entitled: "An Act relating to the prevention and control of oil
7 pollution; and providing for an effective date."

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

9 * Section 1. FINDINGS AND INTENT. (a) The legislature finds that

10 (1) it is a matter of the highest urgency and priority to protect
11 Alaska's coastal and inside water, estuaries, wetlands, beaches, and land
12 from the damage which may be occasioned by the discharge of oil;

13 (2) the storage, transfer, transportation, and offshore explora-
14 tion for and production of oil within the jurisdiction of the state are
15 hazardous undertakings; oil discharges may cause both short-term and long-
16 term damage to the environment and the beauty of the state, to owners and
17 users of affected property, to public and private recreation, to residents of
18 the state and other interests deriving livelihood from fishing, hunting,
19 tourism and related activities; the intensity of oil storage, exploration,
20 production, transportation, and transfer operations in Alaska presents future
21 threats of potentially catastrophic proportions, all of which are expressly
22 declared to be inimical to the paramount interests of the state as set out in
23 this section;

24 (3) assuring sufficient capability, among industrial and commercial
25 interests, and the state and federal governments, to contain and clean up
26 discharges of oil is of vital public interest; weather conditions, logistic
27 constraints and the relative paucity of labor and equipment resources in the
28 state increase the difficulty of oil discharge containment and cleanup in
29 Alaska, making imperative an active state role; it is the policy of the state

1 that, to the maximum extent practicable, prompt and adequate containment and
2 cleanup of oil discharges is the responsibility of the discharger; it is
3 therefore of the utmost importance to assure that those engaged in oil stor-
4 age, transfer, transportation, exploration, and production operations have
5 sufficient resources and capabilities to respond to oil discharges, and to
6 provide for compensation of third persons injured by those discharges; and

7 (4) the state should continue its cooperative relationships with
8 appropriate federal agencies, protecting its legitimate interests while
9 working to remove any duplicative or potentially conflicting regulatory
10 activities.

11 (b) The legislature intends by the enactment of this legislation

12 (1) to exercise the police power of the state through the Depart-
13 ment of Environmental Conservation by conferring upon the department the
14 authority and capability to deal with the hazards and threats posed by oil
15 storage, transfer, transportation, exploration and production operations in a
16 manner which is not inconsistent with the National Contingency Plan (33
17 U.S.C. sec. 1321(c), as amended) and to encourage and ensure, in accordance
18 with 33 U.S.C. sec. 1321, as amended, cooperation with the United States
19 Coast Guard and other state and federal departments and agencies;

20 (2) to require, through the maximum practicable use of private
21 services and resources, the prompt containment and cleanup of oil discharges;

22 (3) to provide assurance that persons suffering damage from oil
23 discharges will be compensated promptly;

24 (4) to provide for the inspection and supervision of oil trans-
25 portation, transfer, storage, and offshore exploration and production activi-
26 ties, and to guarantee the prompt cleanup of oil discharges and the payment
27 of costs incurred as a result of the oil discharges; and

28 (5) that oil discharge containment, cleanup or contingency measures
29 which are undertaken, directed, or authorized by the Department of Environ-

1 mental Conservation should supplement and support federal cleanup and con-
2 tainment actions under 33 U.S.C. sec. 1321, as amended.

3 * Sec. 2. AS 46 is amended by adding a new chapter to read:

4 CHAPTER 04. OIL POLLUTION CONTROL.

5 Sec. 46.04.010. REIMBURSEMENT FOR CLEANUP EXPENSES. The depart-
6 ment shall promptly seek reimbursement, either under AS 46.03.760(e) or
7 from an applicable federal fund, for the expenses it incurs in cleaning
8 up or containing a discharge of oil. If the department obtains reim-
9 bursement for a portion of its expenses from a federal fund, the re-
10 mainder of the expenses incurred may be recovered under AS 46.03.760(e).
11 Money received by the department under this section shall be deposited
12 in the general fund.

13 Sec. 46.04.020. REMOVAL OF OIL DISCHARGES. (a) A person causing
14 or permitting the discharge of oil shall immediately contain and clean
15 up the discharge. The department may waive this requirement

16 (1) if it determines, in consultation with the United States
17 Coast Guard or the United States Environmental Protection Agency, as
18 appropriate, that containment or cleanup is technically not feasible; or

19 (2) if the cleanup or containment activities would result in
20 greater environmental damage than the discharge itself.

21 (b) The containment and cleanup of discharged oil must be carried
22 out in a manner approved by the department. Wastes generated as a
23 result of containment or cleanup activities shall be disposed of in a
24 manner approved by the department. The requirement of this subsection
25 for approval of containment and cleanup activities does not apply to the
26 United States Coast Guard or United States Environmental Protection
27 Agency acting under the authority of sec. 311(c) or (d) of the Clean
28 Water Act.

29 (c) If the department determines that containment or cleanup

1 activities are not adequate, it may direct the person engaged in the
2 activities to cease and may undertake the activities itself through
3 contract or its own resources, or both. The department may not direct
4 the cessation of containment or cleanup activities undertaken by the
5 United States Coast Guard or United States Environmental Protection
6 Agency under sec. 311 of the Clean Water Act. However, the department
7 may undertake, direct, or authorize supplemental cleanup or containment
8 efforts.

9 (d) The department shall provide for the immediate containment or
10 cleanup of an oil discharge of unexplained origin unless

11 (1) the department determines, in consultation with the
12 United States Coast Guard or the United States Environmental Protection
13 Agency that containment or cleanup of the oil discharge is technically
14 not feasible; or

15 (2) the containment or cleanup activities would result in
16 greater environmental damage than the discharge itself.

17 (e) The department shall enter into negotiations for memoranda of
18 understanding or cooperative agreements with the United States Coast
19 Guard, the United States Environmental Protection Agency, and other
20 persons in order to facilitate coordinated and effective oil discharge
21 response in the state.

22 Sec. 46.04.025. CONFIDENTIAL INFORMATION. The department may
23 maintain the confidentiality of a manufacturer's proprietary technical
24 information relating to chemical and biological agents used to control
25 or mitigate the effects of an oil discharge. The department may refuse
26 to release the information unless the manufacturer authorizes its release
27 or unless a court orders its release. The department may provide the
28 information to the Department of Fish and Game and other state and
29 federal agencies if the department or other agency requesting the infor-

1 mation agrees to maintain its confidentiality.

2 Sec. 46.04.030. OIL DISCHARGE CONTINGENCY PLANS. (a) A person
3 may not cause or permit the operation of an oil terminal facility in the
4 state unless an oil discharge contingency plan for the facility has been
5 approved by the department.

6 (b) After January 1, 1981, a person may not cause or permit the
7 operation of an offshore exploration or production facility in the state
8 unless an oil discharge contingency plan for the facility has been
9 approved by the department.

10 (c) A person may not cause or permit the transfer of oil to or
11 from a tank vessel, or, after January 1, 1981, to or from an oil barge,
12 unless an oil discharge contingency plan for the tank vessel or oil
13 barge has been approved by the department. Except for prosecutions
14 under AS 46.03.790(b), it is not a defense to an action brought for
15 violation of this subsection that the person charged believed that a
16 current oil discharge contingency plan for the tank vessel or oil barge
17 had been approved by the department.

18 (d) An oil discharge contingency plan must be renewed at least
19 every three years.

20 (e) The department may attach reasonable terms and conditions to
21 its approval of an oil discharge contingency plan which it determines
22 are necessary to insure that the applicant for an oil discharge con-
23 tingency plan has access to sufficient resources to protect environ-
24 mentally sensitive areas and to contain, clean up, and mitigate poten-
25 tial oil discharges from the facility or vessel within the shortest
26 feasible time. The plan must provide for the use of the best available
27 technology by the applicant. The department may require an applicant to
28 undertake discharge exercises.

29 (f) The department, after notice and opportunity for hearing, may

1 modify its approval of an oil discharge contingency plan if it deter-
2 mines that a change has occurred in the operation of a facility, marina
3 or vessel necessitating an amended or supplemented plan, or the opera-
4 tor's discharge experience demonstrates a necessity for modification.
5 The department, after notice and opportunity for hearing, may revoke its
6 approval of a contingency plan if it determines that

- 7 (1) approval was obtained by fraud or misrepresentation;
- 8 (2) the operator does not have access to the quality or
9 quantity of resources identified in the plan; or
- 10 (3) a term or condition of approval has been violated.

11 Sec. 46.04.040. PROOF OF FINANCIAL RESPONSIBILITY. (a) A person
12 may not cause or permit the operation of an oil terminal facility in the
13 state unless he has furnished proof of financial ability to respond in
14 damages which has been accepted by the department. Ability to respond
15 in damages need not exceed \$50,000,000 but must be in an amount (1) not
16 less than \$10, per incident, for each barrel of storage capacity at the
17 oil terminal facility; or (2) \$1,000,000, whichever is greater.

18 (b) After January 1, 1981, a person may not cause or permit the
19 operation of an offshore exploration or production facility in the state
20 unless proof of financial ability to respond in damages has been ac-
21 cepted by the department. Proof of financial responsibility may not be
22 less than \$35,000,000 per incident.

23 (c) A person may not cause or permit the transfer of oil to or
24 from a tank vessel, or, after January 1, 1981, to or from an oil barge,
25 unless proof of financial responsibility for the tank vessel or barge
26 has been accepted by the department. Financial responsibility under
27 this subsection shall be in the following amounts:

- 28 (1) for a tank vessel or oil barge involved in the transpor-
29 tation of trans-Alaska pipeline oil, the amount required by the Federal

1 Maritime Commission under sec. 304(c)(3) of the Trans-Alaska Pipeline
2 Authorization Act (43-U.S.C. sec. 1653(c)(3)), as amended; and

3 (2) for any other oil barge, the amount required by sec.
4 311(b)(1) of the Clean Water Act, or \$1,000,000, whichever is greater;

5 (3) for any other tank vessels, the amount required by sec.
6 311(b)(1) of the Clean Water Act, or \$20,000,000, whichever is greater.

7 (d) Except for prosecutions under AS 46.03.790(b), it is not a
8 defense to an action brought for violation of (c) of this section that
9 the person charged believed in good faith that the vessel operator
10 possessed proof of financial responsibility accepted by the department.

11 (e) Financial responsibility may be demonstrated by self-insur-
12 ance, insurance, surety, or guarantee, under terms the department may
13 prescribe. An action brought under AS 46.03.758, 46.03.760(a) or (e),
14 or 46.03.822 may be brought in a state court directly against the in-
15 surer or another person providing evidence of financial responsibility.
16 The applicant, and an insurer, surety, or guarantor shall appoint an
17 agent for service of process in the state. An insurer must either be
18 authorized by the Department of Commerce and Economic Development to
19 sell insurance in the state or be an unauthorized insurer listed by the
20 Department of Commerce and Economic Development as not disapproved for
21 use in the state.

22 (f) Acceptance of proof of financial responsibility expires

23 (1) one year from its issuance for self-insurance;

24 (2) on the effective date of a change in the surety bond,
25 guarantee, or insurance agreement; or

26 (3) on the expiration or cancellation of the surety bond,
27 guarantee, or insurance agreement.

28 (g) The person whose proof of financial responsibility is accepted
29 by the department under this section shall notify the department at

1 least 30 days before the effective date of a change, expiration or
2 cancellation in the surety bond, guarantee, or insurance agreement.
3 Application for renewal of acceptance of proof of financial responsi-
4 bility under this section must be filed at least 30 days before the date
5 of expiration.

6 (h) The department, after notice and hearing, may revoke accep-
7 tance of proof of financial responsibility if it determines that

- 8 (1) acceptance was procured by fraud or misrepresentation; or
9 (2) a change of circumstance has occurred other than a change
10 specified in (f)(1) - (3) of this section, which would have warranted
11 denial of the application.

12 (j) Financial responsibility under this section extends to a loss
13 compensable under AS 46.03.760(e) or 46.03.822 and an assessment under
14 AS 46.03.758 or 46.03.760(a).

15 Sec. 46.04.050. EXEMPTIONS. Because of the restricted nature of
16 these operations and the minimal danger to the environment posed by
17 their activities, AS 46.04.030, 46.04.040 and 46.04.060 do not apply to
18 an oil terminal facility that has an effective storage capacity of less
19 than 10,000 barrels of oil.

20 Sec. 46.04.060. INSPECTIONS. Oil terminal facilities, offshore
21 exploration and production facilities, tank vessels, and oil barges are
22 subject to inspection by the department to ensure compliance with the
23 provisions of this chapter.

24 Sec. 46.04.070. SCOPE OF REGULATIONS. The department shall adopt
25 regulations which are necessary to carry out the purposes of this chap-
26 ter and which do not conflict with and are not preempted by federal law
27 or regulations, including provisions concerning the following:

- 28 (1) operation, inspection, and abandonment requirements for
29 oil terminal facilities, tank vessels, oil barges, and offshore explora-

1 tion and production facilities;

2 (2) procedures and methods of reporting oil discharges and
3 other occurrences prohibited or regulated by this chapter;

4 (3) procedures and methods for the transfer of oil between a
5 tank vessel or oil barge and an oil terminal facility;

6 (4) procedures, methods, means, and equipment to be used in
7 the abatement, containment, or removal of oil discharges;

8 (5) development and implementation of criteria and plans to
9 meet oil discharges, including regulation of the use of chemical or
10 biological agents;

11 (6) requirements for the safety and operation of tank ves-
12 sels, oil barges, motor vehicles, motorized equipment and other equip-
13 ment relating to the use and operation of terminals and offshore ex-
14 ploration and production facilities;

15 (7) minimum personnel, equipment, and operations standards
16 for oil discharge cleanup services; and

17 (8) other matters the department considers necessary to carry
18 out the purposes of this chapter.

19 Sec. 46.04.080. CATASTROPHIC OIL DISCHARGES. (a) The actual or
20 imminent occurrence of a catastrophic oil discharge constitutes a
21 disaster emergency under AS 26.23. However, the department shall per-
22 form the duties of the Alaska division of emergency services under
23 AS 26.23.040 as they apply to catastrophic oil discharges. The de-
24 partment shall consult and coordinate its duties under this section with
25 the Alaska division of emergency services.

26 (b) The department shall promptly, under AS 46.04.010, seek reim-
27 bursement of oil discharge cleanup or containment expenses incurred as a
28 result of an actual or imminent catastrophic oil discharge under AS 26.-
29 23.050.

1 Sec. 46.04.090. OIL DISCHARGE CLEANUP PERSONNEL, EQUIPMENT, EX-
2 PENSES. (a) The department may establish and maintain at ports, har-
3 bors, or other locations in the state, the personnel, equipment, and
4 supplies which, in its judgment, are necessary to carry out this chap-
5 ter. When feasible, the department shall enter into contracts with
6 persons or private organizations to provide the personnel, equipment, or
7 other services or supplies which may be required to carry out this
8 chapter.

9 (b) Inspection and enforcement employees of the department desig-
10 nated by the commissioner are peace officers in the performance of their
11 duties under this chapter and AS 46.03.

12 Sec. 46.04.100. COMPACTS AUTHORIZED. The governor may execute
13 supplementary agreements, reciprocal arrangements, or compacts with any
14 other state or country, subject to the approval, if required by the
15 United States Constitution, of the Congress of the United States, for
16 the purpose of implementing this chapter.

17 Sec. 46.04.110. MUNICIPAL POWERS LIMITED. If a conflict occurs
18 between a provision of this chapter, or a regulation, order, decision,
19 or other determination of the department under this chapter, and a
20 charter, ordinance, permit, regulation, franchise, decision, or other
21 determination of a municipality, the provisions of this chapter or the
22 regulation, order, decision, or other determination of the department
23 prevail. However, nothing in this chapter precludes a municipality, by
24 ordinance or regulation, from exercising its police powers in the area
25 regulated by this chapter.

26 Sec. 46.04.120. DEFINITIONS. In this chapter, unless the context
27 requires otherwise,

28 (1) "barrel" is a measure of capacity equal to the space
29 occupied by 42 U.S. gallons at 60 degrees Fahrenheit;

1 (2) "catastrophic oil discharge" means an oil discharge in
2 excess of 100,000 barrels, or any other discharge which the governor
3 determines presents a grave and substantial threat to the economy or
4 environment of the state;

5 (3) "Clean Water Act" means the Federal Water Pollution
6 Control Act of 1972 (P.L. 92-500), as amended by the Clean Water Act of
7 1977 (P.L. 95-217), as amended;

8 (4) "commissicner" means the commissioner of environmental
9 conservation;

10 (5) "containment and cleanup" includes all direct and in-
11 direct efforts associated with the prevention, abatement, containment or
12 removal of a pollutant, the restoration of the environment to its former
13 state, and all incidental administrative costs;

14 (6) "department" means the Department of Environmental Con-
15 servation;

16 (7) "discharge" means spilling, leaking, pumping, pouring,
17 emitting, emptying, or dumping;

18 (8) "limited capacity facility" means a small tank farm,
19 small bulk fuel storage facility, or other onshore facility which is
20 used to store refined petroleum products or their by-products, except
21 asphalt, and which is used in the business of servicing the requirements
22 of transporters and vendors of refined petroleum products or their
23 by-products, or of storing the fuel requirements for village domestic,
24 school, or commercial use, including but not limited to fish processing,
25 logging operations, construction projects, or electric power generation;

26 (9) "marina" means a facility used in the business, whether
27 onshore or offshore, of servicing the fuel requirements of aircraft,
28 pleasure watercraft, fishing boats, and other commercial vessels, when
29 the purchaser and the consumer are the same entity, and the fuel capa-

1 city of the servicing vessel and of the serviced vessel is less than
2 10,000 barrels of refined petroleum products or their by-products, and
3 is not covered by the definition of limited capacity facility in (8) of
4 this section;

5 (10) "offshore exploration or production facility" means a
6 platform, vessel or other facility used to explore for or produce hydro-
7 carbons in the waters of the state; the term does not include vessels
8 used for stratigraphic drilling or other operations which are not autho-
9 rized or intended to drill to a producing formation;

10 (11) "oil" means oil of any kind and in any form, whether
11 crude, refined, or a petroleum by-product, including but not limited to
12 petroleum, fuel oil, gasoline, lubricating oils, oily sludge, oil re-
13 fuse, oil mixed with other wastes, crude oils, liquefied natural gas,
14 propane, butane, or other liquid hydrocarbons regardless of specific
15 gravity;

16 (12) "oil barge" means a vessel which is not self-propelled
17 and which is constructed or converted to carry oil as cargo in bulk;

18 (13) "oil terminal facility" means an onshore or offshore
19 facility of any kind, and related appurtenances, including but not
20 limited to a deepwater port, bulk storage facility or marina, located
21 in, on, or under the surface of the land or waters of the state, in-
22 cluding tide and submerged land, which is used for the purpose of trans-
23 ferring, processing, refining, or storing oil; a vessel is considered an
24 oil terminal facility only when it is used to make a ship-to-ship trans-
25 fer of oil, and when it is traveling between the place of the ship-to-
26 ship transfer of oil and an oil terminal facility;

27 (14) "operator" means a person who, through contract, lease,
28 sublease or otherwise, exerts general supervision and control of activi-
29 ties at the facility; the term includes, by way of example and not

1 limitation, prime or general contractors, the master of a vessel and his
2 employer, or any other person who, through himself, his agents, or
3 contractors, undertakes the general functioning of the facility;

4 (15) "person" means an individual, public or private corpora-
5 tion, political subdivision, government agency, municipality, industry,
6 partnership, association, firm, trust, estate, or any other entity;

7 (16) "self-propelled" means propelled either by machinery
8 aboard the vessel, or by a tug or other vessel secured into the cargo-
9 carrying vessel through special hull design;

10 (17) "tank vessel" means a self-propelled vessel that is
11 constructed or converted to carry liquid bulk cargo in tanks and in-
12 cludes tankers, tankships, and combination carriers when carrying oil;
13 the term does not include vessels carrying oil in drums, barrels, or
14 other packages, or vessels carrying oil as fuel or stores for that
15 vessel;

16 (18) "vessel" includes tank vessels and oil barges;

17 (19) "waters of the state" includes lakes, bays, sounds,
18 ponds, impounding reservoirs, springs, wells, rivers, streams, creeks,
19 estuaries, marshes, inlets, straits, passages, canals, the Pacific
20 Ocean, Gulf of Alaska, Bering Sea and Arctic Ocean, in the territorial
21 limits of the state, and all other bodies of surface or underground
22 water, natural or artificial, public or private, inland or coastal,
23 fresh or salt, which are wholly or partially in or bordering the state
24 or under the jurisdiction of the state.

25 * Sec. 3. AS 46.03.750 is repealed and re-enacted to read:

26 Sec. 46.03.750. BALLAST WATER DISCHARGE. (a) Except as provided
27 in (b) of this section, a person may not cause or permit the discharge
28 of ballast water from a cargo tank of a tank vessel into the waters of
29 the state. A tank vessel may not take on petroleum or a petroleum

1 product or by-product as cargo unless it arrives in ports in the state
2 without having discharged ballast from cargo tanks into the waters of
3 the state and the master of the vessel certifies that fact on forms
4 provided by the department.

5 (b) The master of a tank vessel may discharge ballast water from a
6 cargo tank of his tank vessel if it is necessary for the safety of the
7 tank vessel and no alternative action is feasible to assure the safety
8 of the tank vessel.

9 * Sec. 4. AS 46.03.755(a) is amended to read:

10 (a) A person in charge of a facility, operation or vessel, as soon
11 as he has knowledge of any discharge from the facility, operation or
12 vessel in violation of AS 46.03.740 or 46.03.750 [OR AS 30.25.020,]
13 shall immediately notify the department of the discharge.

14 * Sec. 5. AS 46.03.760(a) is amended to read:

15 (a) A person who violates or causes or permits to be violated a
16 provision of this chapter or AS 46.04 [AS 30.25.020], or a regulation, a
17 lawful order of the department, or a permit, approval, or acceptance [OR
18 CERTIFICATE], or term or condition of a permit, approval, or acceptance
19 [OR CERTIFICATE] issued under this chapter or AS 46.04 [AS 30.25] is
20 liable, in a civil action, to the state for a sum to be assessed by the
21 court of not less than \$500 nor more than \$100,000 for the initial
22 violation, nor more than \$5,000 for each day thereafter on which the
23 violation continues, and which shall reflect, when applicable,

24 (1) reasonable compensation in the nature of liquidated
25 damages for any adverse environmental effects caused by the violation,
26 which shall be determined by the court according to the toxicity, de-
27 gradability and dispersal characteristics of the substance discharged,
28 the sensitivity of the receiving environment, and the degree to which
29 the discharge degrades existing environmental quality;

1 (2) reasonable costs incurred by the state in detection,
2 investigation, and attempted correction of the violation [, EXCEPT
3 DISBURSEMENTS FOR POLLUTION ABATEMENT COSTS UNDER AS 30.25.260(a)(2)];
4 and

5 (3) the economic savings realized by the person in not com-
6 plying with the requirement for which a violation is charged.

7 * Sec. 6. AS 46.03.760(e) is amended to read:

8 (e) In addition to liability under (a) - (d) of this section, a
9 person who violates or causes or permits to be violated a provision of
10 AS 46.03.740 - 46.03.750 is liable to the state, in a civil action
11 brought under AS 46.03.822, for the full amount of actual damages caused
12 to the state by the violation, including direct and indirect costs
13 associated with the abatement, containment or removal of the pollutant,
14 restoration of the environment to its former state, and all incidental
15 administrative costs. [THAT PORTION OF THE DAMAGES RECOVERED BY THE
16 STATE IN A CIVIL ACTION BROUGHT UNDER AS 46.03.822 ATTRIBUTABLE TO COSTS
17 INCURRED BY THE DEPARTMENT IN THE ABATEMENT, CONTAINMENT OR REMOVAL OF
18 THE POLLUTANT RESULTING FROM A DISCHARGE OF CRUDE OIL, REFINED PETROLEUM
19 PRODUCTS OR THEIR BY-PRODUCTS SHALL BE DEPOSITED IN THE COASTAL PROTEC-
20 TION FUND CREATED UNDER AS 30.25.220. EXCEPT FOR SPECIAL RISK CHARGES
21 COLLECTED UNDER AS 30.25.270, A PERSON HOLDING A RISK AVOIDANCE CERTIFI-
22 CATE MAY NOT BE HELD LIABLE FOR COSTS ASSOCIATED WITH THE ABATEMENT,
23 CONTAINMENT OR REMOVAL OF THE POLLUTANT.]

24 * Sec. 7. AS 46.03.765 is amended to read:

25 Sec. 46.03.765. INJUNCTIONS. The superior court has jurisdiction
26 to enjoin a violation of this chapter or AS 46.04 [AS 30.25], or of a
27 regulation, lawful order of the department, or permit, approval, or ac-
28 ceptance [OR CERTIFICATE], or term or condition of a permit, approval,
29 or acceptance [OR CERTIFICATE] issued under this chapter or AS 46.04

1 [AS 30.25]. In actions brought under this section, temporary or pre-
2 liminary relief may be obtained upon a showing of an imminent threat of
3 continued violation, and probable success on the merits, without the
4 necessity of demonstrating physical irreparable harm. The balance of
5 equities in actions under this section may affect the timing of com-
6 pliance, but not the necessity of compliance within a reasonable period
7 of time.

8 * Sec. 8. AS 46.03.790(a) is amended to read:

9 (a) A person who violates or who causes or permits a violation of
10 a provision of this chapter or AS 46.04 [AS 30.25], or of a regulation,
11 lawful order of the department, or permit, approval, or acceptance [OR
12 CERTIFICATE], or term or condition of a permit, approval, or acceptance
13 [OR CERTIFICATE] issued under this chapter or AS 46.04 [AS 30.25] is
14 guilty of a violation [MISDEMEANOR AND, UPON CONVICTION, IS PUNISHABLE
15 BY A FINE OF NOT MORE THAN \$25,000 AND COSTS OF PROSECUTION].

16 * Sec. 9. AS 46.03.790(b) is amended to read:

17 (b) A person who wilfully violates a provision of this chapter, or
18 of a regulation, lawful order of the department, or permit, approval, or
19 acceptance [OR CERTIFICATE], or term or condition of a permit, approval,
20 or acceptance [OR CERTIFICATE] issued under this chapter or AS 46.04
21 [AS 30.25] is guilty of a misdemeanor [AND, UPON CONVICTION, IS PUNISH-
22 ABLE BY A FINE OF NOT MORE THAN \$25,000 AND COSTS OF PROSECUTION, OR BY
23 IMPRISONMENT FOR NOT MORE THAN ONE YEAR, OR BY FINE, COSTS, AND IMPRI-
24 SONMENT].

25 * Sec. 10. AS 44.19.171(b)(2) is amended to read:

26 (2) to alleviate the effects of a disaster as defined in
27 AS 44.19.175 occurring after October 11, 1967, by making loans or grants
28 to persons or municipalities on terms the governor considers appropriate
29 or by other means the governor considers appropriate.

1 * Sec. 11. AS 30.20 and AS 30.25 are repealed.

2 * Sec. 12. The Department of Environmental Conservation shall prepare a
3 report describing the status of the negotiations required by AS 46.04.020(e)
4 and shall submit the report to the legislature no later than the 60th day of
5 the First Session of the Twelfth Legislature.

6 * Sec. 13. (a) An oil spill contingency plan approved between July 1,
7 1979, and June 30, 1980, under AS 30.25, as it existed before the effective
8 date of this Act, is an approved plan for the purposes of AS 46.04.030, and
9 may be renewed in accordance with AS 46.04.030(d).

10 (b) A proof of financial responsibility accepted under AS 30.25 may be
11 used to satisfy the requirements of AS 46.04.040 if the acceptance has not
12 expired before July 1, 1980; however, the acceptance expires in accordance
13 with AS 46.04.040(f) or on January 1, 1981, whichever occurs first.

14 * Sec. 14. This Act takes effect July 1, 1980.

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hb-205

February 13, 1979

The Honorable Terry Gardiner
Speaker of the House
Alaska State Legislature
Juneau, Alaska 99811

Dear Mr. Speaker:

Under the authority of art. III, sec. 18 of the Alaska Constitution, I am transmitting a bill to amend Alaska's laws pertaining to oil spill prevention and cleanup. These amendments have been prepared in response to a federal court order enjoining implementations of certain critical portions of existing law. As a result of the court's decision in Chevron v. Hammond (A-77-195) -- the so-called "tanker suit" -- this bill is of vital importance if the state is to continue to play a role in the control and prevention of oil spills.

In 1976, the legislature enacted the Alaska Oil Discharge Prevention and Pollution Control Act (ch. 266 SLA 1976). The Act provided for the creation of an oil spill cleanup fund composed of contributions from both oil tankers and terminal facilities. Contributions to the fund from oil tankers varied, under the law, according to the presence or absence of specific design or equipment features. After the enactment of that law, the United States Supreme Court ruled in Ray v. Atlantic Richfield Company, 435 U.S. 151 (1978) that, pursuant to what is now the Port and Tanker Safety Act of 1978 (P.L. 95-474), states could not regulate the construction or design of oil tankers. On the basis of that ruling, the U.S. District Court for the District of Alaska, in Chevron v. Hammond, ruled that the state's assessment scheme was unconstitutional.

At the same time, the court noted that a growing number of coastal states have created oil spill cleanup funds, and that these funds -- which do not possess the peculiar characteristics of Alaska's law -- constitute lawful exercises of the state's police power.

The rationale for state oil spill cleanup funds is self-evident. Without a mechanism to ensure adequate funding of state oil pollution control programs, and state-incurred cleanup costs, states, as a practical matter,