

LEGISLATIVE FINANCE-HOUSE/SENATE FINANCE COMM. FILES 8879

HB 220 cont. 492 83

(4)

ALL TANK OWNERS MUST

Notify designated State agency of tank installation, or closure.

Do proper tank closure; check for and report contamination.

UST REGULATIONS BASED ON
INDUSTRY CODES/STANDARDS

American Petroleum Institute; Petroleum Equipment Institute, etc. have had recommended practices for USTs installation and operation of for decades -- but widely unused. Now industry codes must be followed.

FINANCIAL ASSURANCE
REQUIREMENTS

\$1 million for petroleum marketers;

\$500,000 for non-marketers.

phased in over next two years:

1000 + USTs - January 1989

100 to 999 USTs - October 1989

13 to 99 USTs - April 1990

1 to 12 USTs - October 1990

Can use insurance coverage, guarantees, surety bonds, risk retention groups, private trust funds, state sponsored assurance program.

HOW EPA WILL ACHIEVE
COMPLIANCE

Education and technical assistance; information transfer to tank O/O's.

Helping States to develop programs.

Enforcing regulations until State's get enforcement authority.

MORE COMPLIANCE STRATEGIES
("THE STICK")

State of Maryland annually notifies all UST owners/operators of requirements.

California and Massachusetts require operating permits.

Many states (Maine, New York, Florida) are operating installer and tester certification programs.

Oregon requires all tanks have a license tag; bulk handlers can legally fill an UST only if it has the tag.

Many states target inspections, issue informal enforcement letters, often receiving quick results.



ALASKA STATE LEGISLATURE

REPRESENTATIVE CURT MENARD


165 E. Parks Hwy.
Wasilla, Alaska 99687
(907) 373-2878

P.O. Box V
Juneau, Alaska 99811
(907) 465-2679



MEMORANDUM

To: House Finance Committee

From: Rep. Menard 

Date: April 14, 1989

Re: HB 220, Petroleum and Chemical Storage Tanks

HB 220 addresses the serious problem of contamination of soils and groundwater due to leaking underground and above ground petroleum and chemical storage tanks. In Alaska, there are already 72 occurrences of ground water contamination caused by petroleum products. According to national statistics 25% of underground storage tanks may now be leaking.

The U.S. Environmental Protection Agency recently adopted regulations which require underground tank owners to upgrade tanks to meet specific engineering standards including leak detection and monitoring, spill overfill prevention and tank corrosion protection. The regulations also require tank owners to obtain \$1 million worth of pollution liability insurance.

HB 220 gives the Department of Environmental Conservation the authority to prevent contamination associated with storage tanks through a regulatory, educational, and financial assistance program. The bill provides educational assistance to tank owners to help them understand and comply with the EPA regulations. It provides grants for tank owners to upgrade their tanks to the EPA specifications. HB 220 also creates an account within the Hazardous Substance Release Response Fund to provide funds for clean up of petroleum and chemical storage tank releases. The bill is designed to make insurance companies more willing to insure tank owners by providing that tank owners who report spills by July 1, 1994 and meet certain criteria will be eligible for partial reimbursement of clean up costs and grants to upgrade underground storage tanks.

A biennial storage tank registration fee of 2 cents per gallon based on the capacity of the tank plus a 2 cent increase on the motor fuels tax provide a potential revenue source for the Petroleum and Chemical Storage Tank Account. The average cost to a consumer would be approximately \$15.00 a year, a small price to pay for the protection of our drinking water.

Representing the
Matanuska-Susitna Borough



Co-Chair
House Resources Committee
Member
State Affairs Committee
Budget Subcommittee

UNDERGROUND STORAGE TANK FACT SHEET

- * Nationwide, there are an estimated two (2) million regulated underground storage tanks (USTs) at over 700,000 facilities;
- * Seventy-five percent (75%) of existing UST systems are made of bare steel;
- * The US Environmental Protection Agency estimates that a leak of one gallon of gasoline can contaminate the water supply of a city of 50,000 people (1);
- * State of Alaska trial courts have ruled that the storage of large quantities of gasoline in underground tanks in close proximity to private residences is an ultra-hazardous activity (2);
- * With a similar ruling, the United States District Court of Colorado awarded seven million dollars in damages, including the purchase of 44 residential homes (3);
- * The EPA estimates that "approximately twenty-five percent (25%) of existing UST systems are non-tight [leaking] when tested using current methods" (4);
- * Nationwide, 130,000 to 260,000 motor fuel tanks (18 - 35% of the total) are estimated leaking (5);
- * As of 1986, state regulatory agencies have reports of 12,444 leaks on file:
 - 65% of the incidents were from retail gasoline stations;
 - 95% involved operating as opposed to abandoned facilities;
 - 81% of leaking tanks were steel and 19% were fiberglass ((6);

1. Italiano, Michael L., Liability for Underground Storage Tanks, Practising Law Institute, New York, 1977, p.3.

2. Personal communication, State of Alaska Office of Attorney General.

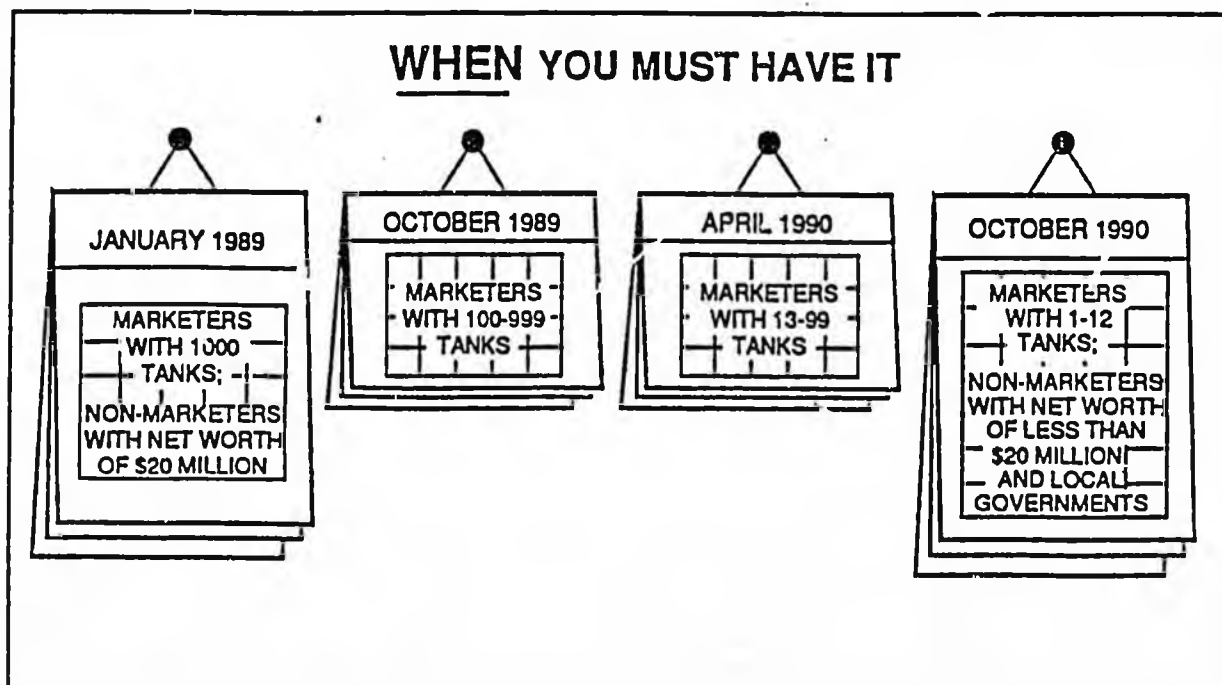
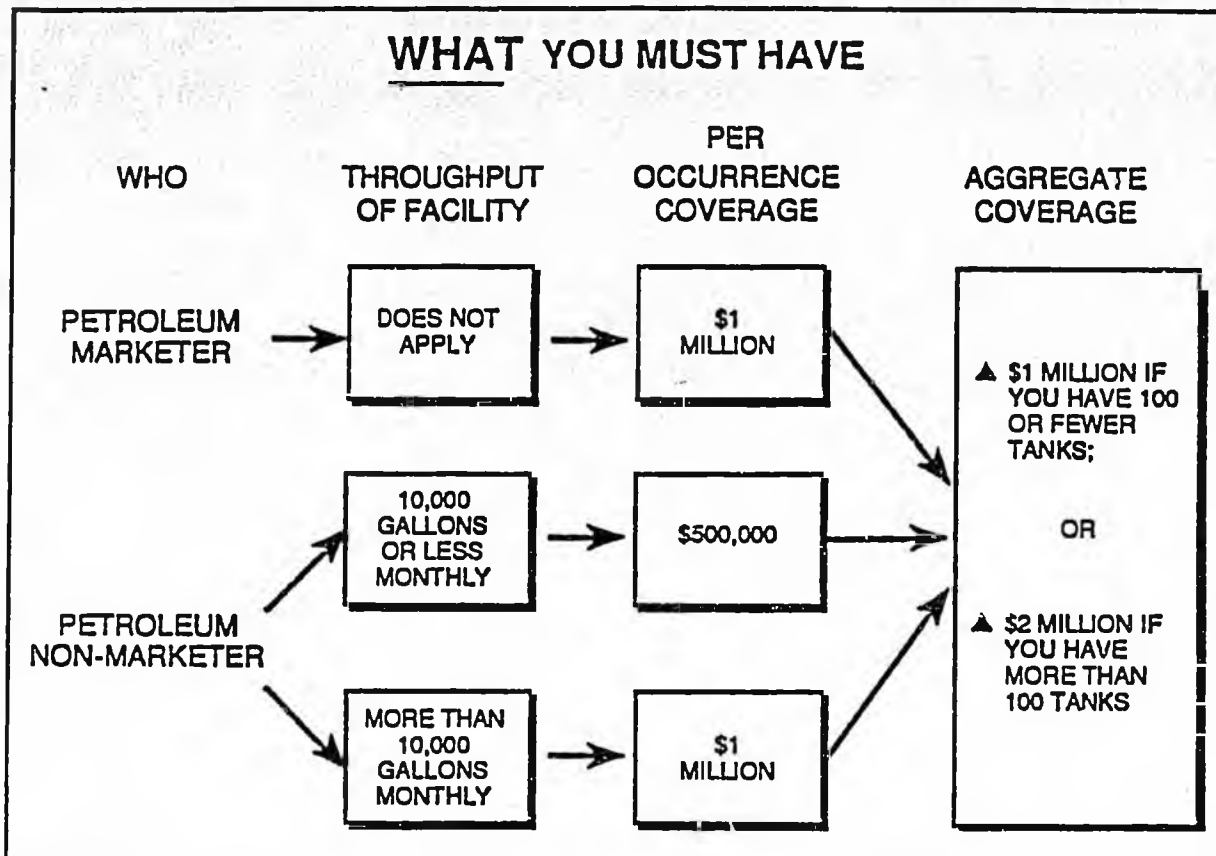
3. ibid., p.71.

4. 40 CFR 280 September 23, 1988, p.37086.

5. EPA, Underground Motor Fuel Storage Tanks: A National Survey 1986.

6. ibid., from EPA, State Incidence Report - Summary of State Reports on Releases from Underground Storage Tanks, 1986.

IMPORTANT REQUIREMENTS AND MINIMUM DEADLINES FOR YOUR FINANCIAL RESPONSIBILITY



WHEN DO YOU HAVE TO ACT? Important Deadlines

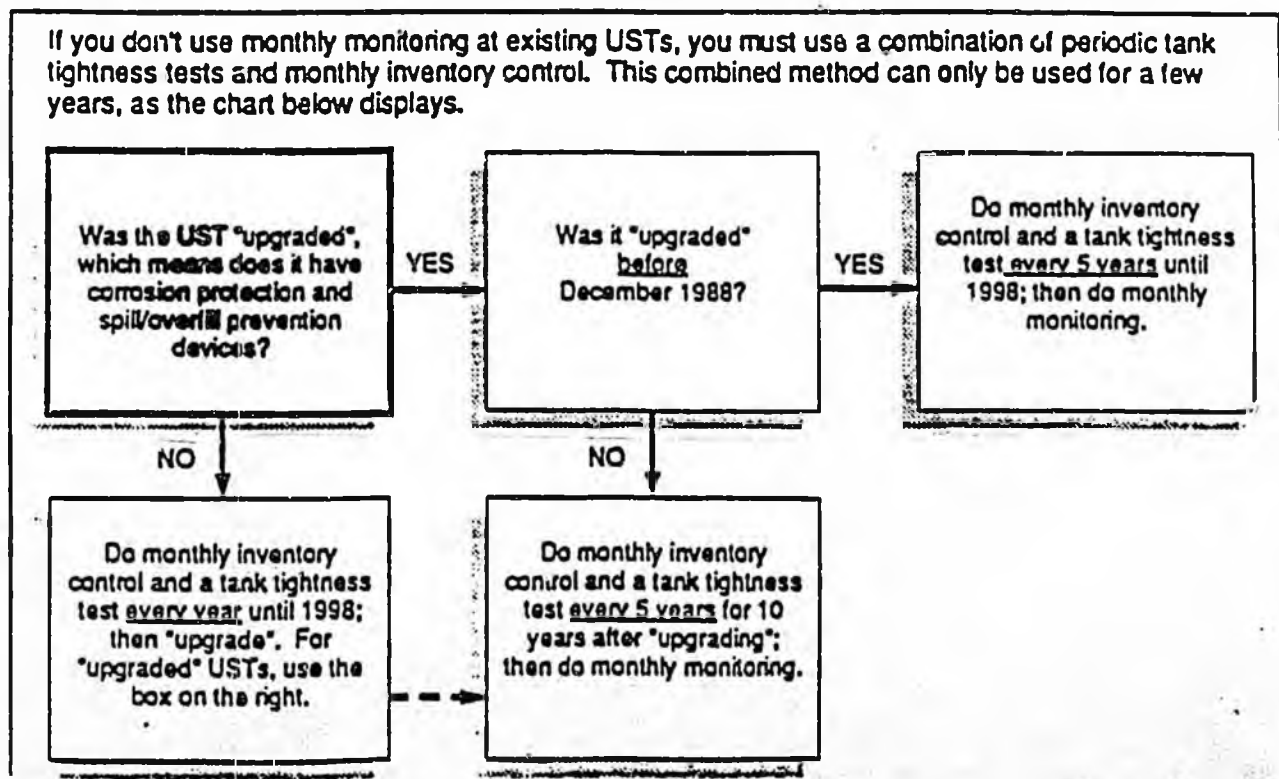
← For WHAT you have to do, see the chart on the left.

TYPE OF TANK & PIPING	LEAK DETECTION	CORROSION PROTECTION	SPILL / OVERFILL PREVENTION
New Tanks and Piping*	At installation	At installation	At installation
Existing Tanks** 25+ or unknown age 20 - 24 years 15 - 19 years 10 - 14 years Under 10 years	December 1989 December 1990 December 1991 December 1992 December 1993	} December 1998	} December 1998
Existing Piping** Pressurized Suction	December 1990 Same as existing tanks	December 1998 December 1998	Does not apply Does not apply

* New tanks and piping are those installed after December 1988
 ** Existing tanks and piping are those installed before December 1988

IF YOU CHOOSE TANK TIGHTNESS TESTING AT EXISTING USTs . . .

If you don't use monthly monitoring at existing USTs, you must use a combination of periodic tank tightness tests and monthly inventory control. This combined method can only be used for a few years, as the chart below displays.



FROM PRE-PUBLICATION COPY OF "MUSTS FOR USTS"; FINAL PAMPHLET AVAILABLE OCT. 1989

WHAT DO YOU HAVE TO DO? Minimum Requirements

You must have Leak Detection, Corrosion Protection, and Spill/Overfill Prevention.

For **WHEN** you have to add these to your tank system, see the chart on the right. 

LEAK DETECTION	
NEW TANKS <i>2 Choices</i>	<ul style="list-style-type: none"> ● Monthly Monitoring* ● Monthly Inventory Control and Tank Tightness Testing Every 5 Years (You can only use this choice for 10 years after installation.)
EXISTING TANKS <i>3 Choices</i> <i>The chart at the bottom of the next page displays these choices.</i>	<ul style="list-style-type: none"> ● Monthly Monitoring* ● Monthly Inventory Control and Annual Tank Tightness Testing (This choice can only be used until December 1998.) ● Monthly Inventory Control and Tank Tightness Testing Every 5 Years (This choice can only be used for 10 years after adding corrosion protection and spill/overfill prevention or until December 1998, whichever date is later.)
NEW & EXISTING PRESSURIZED PIPING <i>Choice of one from each set</i>	<ul style="list-style-type: none"> ● Automatic Flow Restrictor ● Automatic Shutoff Device -and- ● Continuous Alarm System ● Annual Line Testing ● Monthly Monitoring* (except automatic tank gauging)
NEW & EXISTING SUCTION PIPING <i>3 Choices</i>	<ul style="list-style-type: none"> ● Monthly Monitoring* (except automatic tank gauging) ● Line Testing Every 3 Years ● No Requirements (if the system has the characteristics described in the final regulations)
CORROSION PROTECTION	
NEW TANKS <i>3 Choices</i>	<ul style="list-style-type: none"> ● Coated and Cathodically Protected Steel ● Fiberglass ● Steel Tank clad with Fiberglass
EXISTING TANKS <i>4 Choices</i>	<ul style="list-style-type: none"> ● Same Options as for New Tanks ● Add Cathodic Protection System ● Interior Lining ● Interior Lining and Cathodic Protection
NEW PIPING <i>2 Choices</i>	<ul style="list-style-type: none"> ● Coated and Cathodically Protected Steel ● Fiberglass
EXISTING PIPING <i>2 Choices</i>	<ul style="list-style-type: none"> ● Same Options as for New Piping ● Cathodically Protected Steel
SPILL / OVERFILL PREVENTION	
ALL TANKS	<ul style="list-style-type: none"> ● Catchment Basins -and- ● Automatic Shutoff Devices -or- ● Overfill Alarms -or- ● Ball Float Valves
<p>* Monthly Monitoring includes: Automatic Tank Gauging Ground-Water Monitoring Vapor Monitoring Other Approved Methods Interstitial Monitoring</p>	

Notification for Underground Storage Tanks

FORM APPROVED
OSHA NO. 2020-0049
APPROVAL EXPIRES 6-30-88

FOR
TANKS
IN
AK

RETURN
COMPLETED
FORM
TO

Department of Environmental Conservation
P.O. BOX 0
Juneau, AK 99811

(907) 465-2653

I.D. Number

STATE USE ONLY

Date Received

GENERAL INFORMATION

Notification is required by Federal law for all underground tanks that have been used to store regulated substances since January 1, 1974, that are in the ground as of May 8, 1986, or that are brought into use after May 8, 1986. The information requested is required by Section 9002 of the Resource Conservation and Recovery Act, (RCRA), as amended.

The primary purpose of this notification program is to locate and evaluate underground tanks that store or have stored petroleum or hazardous substances. It is expected that the information you provide will be based on reasonably available records, or, in the absence of such records, your knowledge, belief, or recollection.

Who Must Notify? Section 9002 of RCRA, as amended, requires that, unless exempted, owners of underground tanks that store regulated substances must notify designated State or local agencies of the existence of their tanks. Owner means —

(a) in the case of an underground storage tank in use on November 8, 1984, or brought into use after that date, any person who owns an underground storage tank used for the storage, use, or dispensing of regulated substances; and

(b) in the case of any underground storage tank in use before November 8, 1984, but no longer in use on that date, any person who owned such tank immediately before the discontinuation of its use.

What Tanks Are Included? Underground storage tank is defined as any one or combination of tanks that (1) is used to contain an accumulation of "regulated substances," and (2) whose volume (including connected underground piping) is 10% or more beneath the ground. Some examples are underground tanks storing: 1. gasoline, used oil, or diesel fuel, and 2. industrial solvents, pesticides, herbicides or fumigants.

What Tanks Are Excluded? Tanks removed from the ground are not subject to notification. Other tanks excluded from notification are:

1. farm or residential tanks of 1,100 gallons or less capacity used for storing motor fuel for noncommercial purposes;
2. tanks used for storing heating oil for consumptive use on the premises where stored;
3. septic tanks;

4. pipeline facilities (including gathering lines) regulated under the Natural Gas Pipeline Safety Act of 1968, or the Hazardous Liquid Pipeline Safety Act of 1979 or which is an interstate pipeline facility regulated under State laws.

5. surface impoundments, pits, ponds, or lagoons;

6. storm water or waste water collection systems;

7. flow-through process tanks;

8. liquid traps or associated gathering lines directly related to oil or gas production and gathering operations;

9. storage tanks situated in an underground area (such as a basement, cellar, mine, shaft, drift, shaft, or tunnel) if the storage tank is situated upon or above the surface of the floor.

What Substances Are Covered? The notification requirements apply to underground storage tanks that contain regulated substances. This includes any substance defined as hazardous in section 101 (14) of the Comprehensive Environmental Response, Compensation and Liability Act of 1980 (CERCLA), with the exception of those substances regulated as hazardous waste under Subtitle C of RCRA. It also includes petroleum, e.g., crude oil or any fraction thereof which is liquid at standard conditions of temperature and pressure (60 degrees Fahrenheit and 14.7 pounds per square inch absolute).

Where To Notify? Completed notification forms should be sent to the address given at the top of this page.

When To Notify? 1. Owners of underground storage tanks in use or that have been taken out of operation after January 1, 1974, but still in the ground, must notify by May 8, 1986. 2. Owners who bring underground storage tanks into use after May 8, 1986, must notify within 30 days of bringing the tanks into use.

Penalties: Any owner who knowingly fails to notify or submits false information shall be subject to a civil penalty not to exceed \$10,000 for each tank for which notification is not given or for which false information is submitted.

INSTRUCTIONS

Please type or print in ink all items except "signature" in Section V. This form must be completed for each location containing underground storage tanks. If more than 5 tanks are owned at this location, photocopy the reverse side, and staple continuation sheets to this form.

Indicate number of continuation sheets attached

I. OWNERSHIP OF TANK(S)

Owner Name (Corporation, Individual, Public Agency, or Other Entity)

Street Address

County

City

State

ZIP Code

Area Code

Phone Number

Type of Owner (Mark all that apply)

Current

State or Local Gov't

Private or Corporate

Former

Federal Gov't (GSA facility I.D. no. _____)

Ownership uncertain

II. LOCATION OF TANK(S)

(If same as Section I, mark box here)

Facility Name or Company Site Identifier, as applicable

Street Address or State Road, as applicable

County

City (nearest)

State

ZIP Code

Indicate number of tanks at this location

Mark box here if tank(s) are located on land within an Indian reservation or on other Indian trust lands

III. CONTACT PERSON AT TANK LOCATION

Name (If same as Section I, mark box here)

Job Title

Area Code

Phone Number

IV. TYPE OF NOTIFICATION

Mark box here only if this is an amended or subsequent notification for this location.

V. CERTIFICATION (Read and sign after completing Section VI.)

I certify under penalty of law that I have personally examined and am familiar with the information submitted in this and all attached documents, and that based on my inquiry of those individuals immediately responsible for obtaining the information, I believe that the submitted information is true, accurate, and complete.

Name and official title of owner or owner's authorized representative

Signature

Date Signed

U.S. ENVIRONMENTAL PROTECTION AGENCY



ALASKA OPERATIONS OFFICE
Room E535, Federal Building
701 C Street, Box 19
Anchorage, Alaska 99513
Phone (907) 271-5083

RECEIVED JAN 26 1989

January 24, 1989

The Honorable Curt Menard
House of Representatives
P.O. Box V, Room 110
Juneau, Alaska 99811

Dear Representative Menard:

On December 22nd of 1988, new Environmental Protection Agency (EPA) Regulations designed to protect groundwater from leaking petroleum underground tanks went into effect. Because these regulations will effect over 1800 facilities in Alaska, I want to update you on their content and make my staff available for further detailed briefings, if you so desire.

The Underground Storage Tanks (UST) regulations follow a 1984 mandate from Congress in Subtitle I of the Resource Conservation and Recovery Act. In Subtitle I, Congress directed EPA to develop a petroleum products UST Program. Congress was responding to an increasing number of cases in which drinking water aquifers were contaminated from leaking underground storage tanks (LUST). Complimenting the UST regulations, Congress designated a LUST Trust Fund in which Federal gasoline tax money is allocated for the clean-up of the most threatening spills. In Alaska alone, over two million dollars have been appropriated to the Department of Environmental Conservation for clean-ups since 1987.

Congress required that all tank owners and operators notify an EPA designated agency of their tank by May of 1986, or at the time of instaliation (See attachment 1). Congress also required that all new tanks installed have corrosion protection, and meet other basic engineering standards until the time the final regulations were promulgated. The UST program has been widely anticipated since 1984, and the EPA Alaska Operations Office has conducted a number of public outreach activities, including information meetings and technical assistance seminars.

The Technical Requirements of the UST program are found in the September 23, 1988 Federal Register (40 CFR Parts 280 and 281). Important exceptions that you should be aware of include farm and residential tanks of 1100 gallons or less, heating-oil tanks, and a number of other non-petroleum tank-like structures.

The Technical Requirements identify tank hardware and deadlines for the installation of the hardware (see attachment 2). Basically, all new tanks that go into the ground are required to have corrosion protection, spill/overflow preventive devices, and leak detection systems installed. UST systems in the ground are required to be upgraded on a phased basis, so all tanks meet leak detection requirements by 1993, and are otherwise protected by 1998.

Congress also mandated that tank owners and operators have adequate liability coverage in case water or soil clean-ups are needed. One million dollars of coverage was required by Congress since it is not unusual for clean-up costs to approach this amount in the case of catastrophic spills. These new Financial Responsibility Requirements will be phased in over the next two years (see attachment 3).

My staff and I are available at your request to discuss the implementation of this program in Alaska. Please feel free to contact me or Mr. Kevin Keeler, State UST Coordinator (271-5083), if you have questions or if you are interested in a detailed briefing. Additionally, if there are other environmental matters which arise during this legislative session for which EPA can provide information or assistance, please don't hesitate to call me or Steve Torok (located in my Juneau office) at 586-7619.

Sincerely,



Alvin L. Ewing
Assistant Regional Administrator

Attachment(s)

SOLDOTNA TESORO
John T. Stubblefield
P. O. Box 773
Soldotna, Alaska 99669

February 9, 1989

To Alaskan Senators and Representatives:

Due to the E.P.A. regulations that are now enforce, the owners and leasors of gas stations are in a financial situation that will be impossible to absorb. Most owners cannot afford to replace and upgrade their tank systems. The insurance will run most of us out of business and if that doesn't the clean up of contaminated ground will.

By E.P.A. standards, there is probably no station in the state that can comply 100% with the new regulations. E.P.A. has put the burden of all liability on the current owners regardless of the consequences. Has no one taken the time to consider what the effects will be on small businesses and also the economy? If we go under it will also mean job losses for an average of three employees per station.

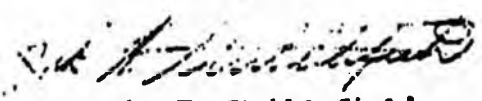
We find ourselves desperately in need of help. The regulations are necessary, as is the clean up and protection of our water and soil. But we cannot comply. We do not have the funds to do this. Where is it to come from? Are you just going to close us down? Sell our stations off to the oil companies for pennies on the dollar? The only ones that will come out on top of this are the large oil companies and corporations like Seven-Eleven. They will be the only ones able to afford the insurance and the upgrading.

The small independent service station owner is an endangered species. Do we as Americans and part of the human race have any less rights than any other endangered species?

I have been in Alaska for 30 years. I have all my lifes work tied up in my station. Along with many other station owners, I stand to loose it all if we cannot get some assistance from the State.

If ever there was a need for the representatives of the State to pull together and help a group of businesses and hard working people, this is the time to do it. Are we any less important than three whales trapped in the ice? Will someone come to our aid?

Sincerely,


John T. Stubblefield
SOLDOTNA TESORO

form the study.

Gas stations need help

A serious problem came to light in a recent hearing on new regulations by the Environmental Protection Agency for underground fuel tanks.

The regulations that went into effect in December require owners of commercial tanks that hold more than 1,100 gallons to get \$1 million in insurance and follow a stringent monitoring program to make sure their tanks do not leak.

Gas station owners testified that the new rules may present insurmountable problems. An owner in Fairbanks said it would cost up to \$300,000 to clean up his site and qualify for insurance. Others said insurance wasn't even available against leakage problems.

Most of the gas stations in the Fairbanks area were built without corrosion protection around their tanks. It is not unreasonable to expect that leakage problems from underground tanks are fairly common in our area.

Our community cannot afford to have its water table contaminated. To the extent that the new EPA regulations serve to identify sources of contamination and remove them, they are desirable.

But in many instances, gas station owners cannot afford the cost of complying with the regulations. They have appealed to the Legislature for help.

Where problems with fuel tanks exist, they have developed over many years, perhaps before the present owners bought them. A great public interest exists in cleaning them up. The Legislature should give close attention to the plight of the gas station owners and do what it can to help them.



Wright

Pay raise

WASHINGTON—James Madison is in his grave, but a constitutional amendment he sponsored in 1789 goes marching on. The event went almost wholly unreported in the news, but on Feb. 7, Iowa became the 26th state to ratify the "put off the pay raise" amendment.

This is beginning to get exciting. To recapitulate a story that most of the country knows nothing about, Congress in September 1789 approved 12 proposed amendments to the Constitution. By 1791, 10 of them had been ratified by the states; we know them as the Bill of Rights. Two of the proposals failed of ratification at that time. One dealt with apportionment of the House of Representatives and is of no current interest.

This was the forgotten 12th: "No law varying the compensation for the services of the senators and representatives shall take effect until an election of representatives shall have intervened."

It is marvelously simple, is it not? Thirty states have similar provisions affecting their own state

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Today's Thought . . .

In his book, "The Sound of Laughter," the late Bennett Cerf tells about a small-town editor who had repeatedly instructed his enthusiastic new reporter, "Always remember that names make news." The reporter's next assignment was about a fire and his account began: "Fire last night destroyed farmer Alvin Heimerdinger's barn, claiming the lives of three cows named Bossy, Bessie, and Gertrude."



By Rev. Paul Osumi

Should

BOSTON—The protestors are gone now. The legal hit team has wandered off in search of another target. The television crews have moved to other sites and other stories.

The people who surround Nancy Klein these days are those who care about her. Not as a case study or a political focal point, but as a wife, a daughter, a mother. Her husband Martin visits with her as he has every day since the 32-year-old woman went into a coma. He tells her the simple things, how his day went, what he did, what their 3-year-old daughter did.

If some spark leads Nancy Klein out of the shadows of her coma, her

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FAIRBANKS

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An Independent Newspaper

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C. W. SNEDDEN
Board Chairman and Publisher

See next page



Why Industry Is Focusing On Financial Responsibility

Not long after issuing the technical standards for underground storage tanks, the Environmental Protection Agency's Lee Thomas signed the final rules for financial responsibility requirements Oct. 26, 1988.

The federal regs will be phased-in over a two-year period depending on the number of tanks owned. The phase-in schedule is designed to give marketers additional time to come up with affordable pollution liability coverage or any one of the "mechanisms" approved by the EPA. These mechanisms for demonstrating financial responsibility include private insurance, self-insurance (subject to specific conditions), state funds, group trust funds and any other state-approved methods.

Marketers must show they are financially able to pay the cleanup from an underground storage tank system leak or spill, which not only includes cleaning up the petroleum leak, but also correcting environmental damage and compensating third parties for personal injury or property damage.

The final rules require that petroleum producers, refiners and marketers who own or operate USTs, demonstrate that at least \$1-million per occurrence (the amount of money available to pay the costs resulting from a leak) and an annual aggregate (total amount available to cover all releases in one year) of \$1-million or \$2-million, depending on the number of tanks owned. The aggregate breakdown is:

1-100 tanks:	\$1-million
101 or more tanks:	\$2-million

For example, if a marketer owns or operates five stations and has a total of 15 tanks, he must have \$1-million per occurrence and \$1-million per annual aggregate. Thus, if another marketer has 150 tanks at 50

stations, he must show \$1-million per occurrence and \$2-million annual aggregate. However, the minimum amount of financial responsibility that must be shown does not limit a marketer's total liability for damages caused by a leak or spill from a tank system.

Tanks that are not used in petroleum production, refining and marketing, and have only a monthly throughput of 10,000-gal. or less, must show financial assurance of at least \$500,000 per occurrence and \$1-million annual aggregate.

The phase-in schedule

The EPA has classified the 24-month phase-in of the regulations into the following four categories:

- All petroleum companies owning 1,000 or more USTs, and any other UST owners reporting a "tangible" net worth of \$20-million or more to the U.S. Security and Exchange Commission (SEC), Dun and Bradstreet or the Energy Information Administration, had to show financial responsibility by Jan. 24, 1989, the day the rules became effective.
- Marketers owning 100-999 USTs must assure they are financially capable of paying for the costs of a petroleum release by Oct. 26, 1989.
- Tank owners of 13-99 USTs at more than one facility must show financial responsibility by April 26, 1990.
- And lastly, marketers owning 1-12 tanks, or owning only one facility with fewer than 100 USTs, must meet financial responsibility requirements by Oct. 26, 1990.

Certifying coverage

Even though tank owners have a variety of options for demonstrating financial responsibility, finding someone to provide

that assurance is not readily available.

When a tank owner determines what mechanism or combination of mechanisms he intends to use, he must maintain a "Certification of Financial Responsibility," outlining the method of financial responsibility used and certifying that this method complies with EPA regs.

Large jobbers, independents and major oil companies will most likely self-insure their tanks. Because these companies are solvent enough to meet the financial responsibility requirements without obtaining pollution liability insurance, the EPA is allowing them to self-insure only if they pass one of the following two financial tests:

- The company: has a net worth of at least \$10-million; has a tangible net worth of at least 10 times the amount of the aggregate coverage; filed annual financial statements with the SEC, EIA, or the Rural Electrification Administration; reported an annual net worth to Dun and Bradstreet and received a rating of 4A or 5A; and files a letter from the chief financial officer, (see *Federal Register* for outline). In addition, the audited financial statements cannot have an adverse auditor's opinion or disclaimer of opinion.
- The company: has a net worth of \$10-million; has at least a tangible net worth of six times the aggregate coverage needed; has U.S. assets that are at least 90% of total assets; has working capital at least six times the required aggregate; files a letter from the chief financial officer *Federal Register* for outline); and has a bond rating of AAA, AA, A or BBB from Standard and Poor's, Aaa, Aa, A or Baa from Moody's; and has audited financial statements which do not contain an adverse auditor's opinion or disclaimer of opinion.

Tank owners can also obtain a guarantee

to satisfy the financial responsibility requirements. The company providing the guarantee must: possess a controlling interest in the tank owning firm and/or property; control ownership through stock by a common parent company which possesses a controlling interest in the owning or operating firm; issue a guarantee as an act incident to the business relationship. This guarantee must meet one of the previously mentioned financial tests (see *Federal Register* for more details). Also, marketers can obtain a surety bond or a letter of credit for the amount required to meet the financial responsibility requirements.

Where smaller companies can't afford to self-insure or do not have someone to give a guarantee, they must show that they meet the regs' stipulations through a qualified insurer or risk retention group.

Tank owners are required to obtain a guarantee for the amount that is required from the insurer, but the insurance company also must pass the previously described financial tests. Marketers must maintain a certificate of insurance from the pollution liability provider at the tank site or place of business.

The EPA is allowing marketers to rely on state cleanup funds to help meet financial responsibility requirements. However, insurance companies warn marketers to be prepared for the situation where state funds are not sufficient. The federal government is also allowing marketers to use any method approved by their respective states or to establish a fully-funded trust fund to cover the requirement or to use a combination of a trust fund with any of the other previously mentioned options.

Under the new federal standards a pollution liability insurer may only cancel insurance coverage after a marketer has received a certified letter stating the cancellation and has been given 60 days to find another insurer. Surety bonds or letters of credit must give 120 days notice. If a tank owner can't find insurance within the 60 days, he must notify the state regulatory agency.

Information on financial responsibility must be reported to the state regulatory agency in the following cases: installation of new tank systems, confirmation that a tank system is leaking, when insurance coverage is canceled and the marketer is unable to get other coverage, and/or upon request by the EPA or state regulatory agency. However, if financial responsibility cannot be found, the statute allows the implementing agency to suspend enforcement, but only in specific cases.

The regulatory agency will only suspend enforcement in the following circumstances: (1.) Methods of financial responsibility are not generally available for USTs in the class or category; and (2.) Steps are being taken to establish a RRG (risk retention group) for that class of tanks or the state is taking steps to establish a corrective action and compensation fund under the Reauthorization Act. Suspension of enforcement may not exceed 180 days.

False security

Insuring your home, your car and even your life is a fairly easy task. It's unfortunate that marketers can't say the same when trying to track down pollution liability insurance.

In fact, the task has been so burdensome that some tank owners are either bailing out of the industry or they are planning to "run naked" and hope they don't get caught.

So far, pollution liability coverage has failed to become widely available; and where it is available, it's too costly for most smaller marketers. "Nobody's going to be able to get insurance; only those who really don't need it will be able to afford it," says Max Clay, Petromark manager.

Some insurance companies are attempting to enter the market, but very few meet the EPA's requirements. Currently, only two insurance companies have announced that they are complying with the EPA regulations.

On top of the pressure to find an affordable pollution liability package, marketers are now being advised to beware of insurance companies making "false claims." Some insurers are warning marketers not to be fooled by companies who claim to be meeting EPA standards, but in reality are not.

Here are a few suggestions from various insurance agents about what to look for when purchasing pollution liability coverage:

- Ask if the company meets the federal regs and have them put a statement to that effect in writing. If they don't meet the standards yet, get an endorsement from the company that they will bring the policy up to EPA standards.

- Start making inquiries of insurance companies. Find out what they offer, how much it costs and what it covers; i.e., on-site, off-site, third party and legal defense. Jim Ward, with R.W. Troxell & Co., Springfield, Ill., advises marketers to check their auto policies. "Pollution liability for truck spills and turn overs is no longer covered in most auto policies," says Ward. He recommends

making sure the auto policy has an endorsement to provide pollution coverage.

- Because financial responsibility regs are almost impossible to understand, ask a legal expert from your state or national association for advice. Ask the attorney to recommend an insurance company or for criteria a marketer should look for when selecting an insurer.

- Check the background of the insurance company. Find out how long it has been in business and how sound it is financially.

Insurance companies are also advising marketers to be wary of state cleanup funds. Even though many states have adopted state funds for cleaning up underground storage tank leaks, marketers shouldn't assume the fund will alleviate their financial requirements as set forth by the EPA, industry sources say.

In fact, many lawmakers, insurance companies and lawyers are instructing marketers not to let their pollution liability coverage lapse because of a "false security" they might have about state funds.

"These funds are not foolproof and there are a lot of problems with them," says Petromark's Clay.

Insurance agents say the state funds will help shave premiums, but marketers should be cognizant of state finances and on guard in case the state runs out of money. Agents are leery about who will pay for the clean up and what will happen if a tank leak exceeds the \$1-million maximum provided by state funds, especially since the Leaking Underground Storage Tank (LUST) fund does not automatically kick in.

Currently, 23 states have already adopted cleanup funds and the remainder are drafting legislation or intend to introduce bills in this year's legislative sessions. Also, many of the state funds require the marketer to pay the initial costs or deductibles first and then the fund will pay the balance up to a designated limit. However, some states, like Tennessee, pay the first dollar and then the marketer reimburses the state for the deductible.

Florida is one example of a state relying too heavily on state funds. The state established a cleanup fund two years ago, but only activated the fund in May 1988. Since December 1987, the fund has paid for the clean up of only one spill, according to state officials.

Part of Florida's problem is the reimbursement process, which some marketers say is not yet running smoothly, plus a lack of funds. State officials admit that money to cover the fund is only trickling in and there are more leaks than the fund can cover at this time.

Underground Tanks

STATES DRAFTING UST REGULATORY PROGRAMS
TO MEET EPA TECHNICAL, FINANCIAL STANDARDS

Virtually all the states are developing or are considering financial assurance programs to cover the liability insurance for damage caused by underground petroleum tank leaks, sources in the insurance industry and the Environmental Protection Agency told BNA Feb. 14.

In addition, most states have begun preparing regulations to comply with new federal technical standards that, along with new financial requirements, were part of a package of underground storage tank regulations issued last fall, an EPA official told BNA.

However, an insurance industry official and an attorney with an environmental organization discussed potential problems with the program even at these early stages of development.

The federal rules were required under the Resource Conservation and Recovery Act. Technical standards were issued by the agency Sept. 23, 1988, and financial assurance requirements were issued Oct. 18, 1988.

The technical rules will require two million storage tanks to be retrofitted within 10 years through a state-run compliance program that must be approved by EPA (19 ER 1116).

The financial assurance rules require most owners and operators of underground petroleum storage tanks to show that they have at least \$1 million available to cover damages from tank leaks—enough to pay for cleanups of leaked products, environmental damage remedies, cleanups of drinking water supplies, and personal injury or property damage suffered by third parties. The agency stressed that a wide variety of instruments, ranging from insurance to state-funded trust programs, can be used to demonstrate financial assurance (19 ER 1236).

An insurance industry official who has watched as states develop financial assurance proposals warned that the wide differences among state programs may make it difficult for insurance companies to get involved even peripherally in writing policies for owners and operators of companies with petroleum tanks. The official, who wished to remain anonymous, also warned that states may find themselves shouldering more of the legal and financial responsibilities for poorly operating tank facilities than their newly created trust funds can cover.

The official also said it was too early in the process to draw many conclusions, noting that the agency recently had extended the time allowed states to develop and certify alternative financial assurance requirements (19 ER 2134).

No State Has EPA-Approved Program

Among the many states that are developing regulations, Illinois issued rules Feb. 2 "identical in substance" to the

CURRENT DEVELOPMENTS

recently released federal underground tank rules, according to documents from the state Pollution Control Board. The proposed rules cover both new financial assurance requirements and technical standards.

According to Mark Waiwada, an EPA underground storage tank program staff member in charge of state implementation, Illinois is one of many states working on writing new or modifying old state tank regulations. However, Waiwada said no state has gained EPA approval yet of its technical regulatory program to comply with the new rules.

He estimated that some 42 states have UST statutes on the books and 30 have UST-specific regulations, but these regulations in most cases are not in complete compliance with the new federal rules, Waiwada said.

But he added, "It is a little too early to know what states have put together now, since it's only been three or four months since the regulations were issued."

Kathie A. Stein, an attorney with the Environmental Defense Fund, told BNA that EPA was "too anxious to dump the program on the states" with the result that there may be too little federal oversight. She said the process for approving a state program had been "boiled down" to an examination by EPA of eight general categories rather than a detailed approval of all sections of a state's program.

For example, she said the states were allowed too much discretion in selecting the type of leak detection systems that may be used by a tank owner or operator in complying with the federal rules. She also cited variances in the phased-in schedule for adding leak detection systems for older tanks which, she said, left too much choice to the states.

"States will be under tremendous pressure from the oil industry to water down the program," Stein warned, adding they may cave in to industry demands.

Stein said, however, that EDF was not considering a legal challenge to EPA's interpretation of the rules, but instead would scrutinize each state program as it comes up for public comment.

Yampa carries away 1,000 gallons of gas

by C. PATRICK CLEARY

More than 1,000 gallons of regular gasoline, from a leak at Stremel's Quick Mart at the corner of Lincoln Avenue and Third Street, flowed down the Yampa River during the past two weeks.

And now state environmental officials are conducting an engineering report, which includes both soil and water samples, to determine what must be done to remove the petroleum-saturated soil beneath the Texaco gas station.

While Routt County Environmental Health official Mike Zopf, on Feb. 27, said he believes the river probably received "no significant damage," he did confirm that over 1,000 gallons of gasoline went down the river in the last 10 days.

The Environmental Health Department was notified of a strong odor of gasoline and a sheen on the river by residents of Westland Trailer Park last week.

Health Department official Rick Barlow said the leak has probably been going on for quite some time.

Please see GAS page 8A



Routt County Environmental Health Department official Mike Zopf adjusts a polyethylene absorbent pad where Spring Creek joins the Yampa River. The pads absorb hydrocarbons.

8A THE STEAMBOAT PILOT, Steamboat Springs, Colo., Thursday, March 2, 1989

GAS from 1A

"It's no secret underground storage tanks leak," he said.

Quick Mart owners Bob and Wally Ralston refused to comment.

Zopf indicated the gas probably seeped into the soil and made its way to the river through the Spring Creek culvert which crosses U.S. Highway 40 between the U.S. Post Office and the Steamboat Springs Health and Recreation Center, then goes beneath the Quick Mart before dumping into the river on the other side of Westland.

As of Tuesday, a strong odor of gasoline still lingered in the culvert.

On Monday, Steve Michels of Kubart Equipment and Service Co., Denver, was installing two 90-degree elbows on the gas line of the underground regular-gas tank. He said that line didn't have "swing joints," which allow the pipe to move with shifts in the soil. Apparently the threads had

worn out inside the existing elbow joint and the line may have broken during the recent cold spell, Michels said.

State Health Department regulations require that a pressure test be conducted to search for additional leaks in the tanks. The Denver firm was still conducting the test at press time Tuesday.

Zopf said he also notified the Colorado Division of Wildlife about the spill. Local DOW officers were unavailable for comment as of press time.

Assisted by the fire department, crews dredged the outlet of the culvert and placed polyethylene absorbent pads on the surface of the stream to curb any additional product that may continue to seep out of the soil and into the stream.

The pads are waterproof but pick up any hydrocarbons on the water's surface.

Zopf said once the regular pumps were shut off last week he felt that no new product was get-

ting into the soil. "We just have to deal with what is there," he said.

The Steamboat Springs Police Department received a report of the hazardous-materials spill on Feb. 23.

Police Chief Roger Jensen said gas station manager Richard Stremel was "devastated" that he had caused this incident. (He) did everything possible to reduce the leak immediately."

Scott Pieratt, a geologist with the Colorado Department of Health's Hazardous Materials and Waste Management Division, said his office, when notified of the incident, made some recommendations as to how to clean up what's left of the spill.

His office and the State Water Quality Division are overseeing any further testing and will determine what action must be taken to take care of any remaining petroleum product in the soil.

He estimated that the average cost for hazardous materials cleanup is \$50,000-\$75,000.

Under current Colorado law, the owners must foot the entire bill for such cleanups, Pieratt said.

Petroleum legislation pending in statehouse

by C. PATRICK CLEARY

In 1984, the U.S. Congress passed legislation to develop a program to regulate underground storage tanks and adjoining piping in an effort to begin to deal with the growing concern of hazardous-materials spills.

And on Dec. 22, 1988 further federal legislation calling for the regulation of corrosion, overfill and leak detection of underground tanks came on the books. The new law, however, called for the states themselves to implement the programs.

Colorado finds itself in an enforcement dilemma when it comes to that legislation, Colorado Health Department official Scott Pieratt said.

In order to get those federal regulations on the state books, the state governing body is trying for the third year to implement legislation to set up the framework to adopt those federal rules, said Pieratt, a geologist with the Health Department's Hazardous Materials and Waste Management Division.

Those federal rules call for strict adherence to federal corrosion, overfill and leak-control standards by any new underground-tank installation.

And for existing tanks, depending on their age, owners have up until 1993 to implement those controls, he said.

While many of the control measures may be expensive, Pieratt said costs of hazardous-materials cleanup range anywhere from \$50,000 to \$300,000. "When groundwater contamination is involved, it's not an easy thing to clean up," he said.

The state seeks to handle the program independently of the Environmental Protection Agency. Currently, the EPA legally is required to make decisions and handle enforcement. But when calls about the program are placed to the EPA, it refers questions to the state, Pieratt said.

Colorado H.B. 1299 passed the Transportation and Energy Committee but still must go before the Appropriations Committee before the House rules on it, Pieratt said.

He said that piece of legislation would set up a state cleanup fund with \$10,000-deductible insurance for owners who incur spills. The cleanup fund would be financed through some sort of fee.

A phase-in program would take tank-owners up to 18 months to install federal controls.

Pieratt said the legislation did not pass in past years because the state body didn't feel it was appropriate to adopt its legislation before the new federal law was on the books. "We're breathing a little easier this year," Pieratt said.



Kubalt Equipment and Service Company employee Terry Michels installs elbow joints in the submerged pump hole at Stremel's Quick Mart at the corner of Third and Lincoln Ave.

FISCAL NOTE

REQUEST:

Revision Date: _____
Title: An Act Relating to Motor Fuels and storage tanks and containment and cleanup of oil and hazardous substances; and providing for an effective date.

Agency Affected: Environmental Conservation
BRU: Environmental Conservation
Components: Environmental Conservation

SPONSOR: House Resources Committee

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 89	FY 90	FY 91	FY 92	FY 93	FY 94
PERSONAL SERVICES		492.0	756.3	756.3	756.3	
TRAVEL		51.5	93.8	93.8	93.8	
CONTRACTUAL		405.0	454.0	454.0	454.0	
SUPPLIES		30.5	46.3	46.3	46.3	
EQUIPMENT		102.0	141.3	141.3	141.3	
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING		1081.0	1491.7	1491.7	1491.7	

CAPITAL		-0-	-0-	-0-	-0-	
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REVENUE						
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FUNDING: (Thousands of Dollars)

GENERAL FUND						
FEDERAL FUNDS						
OTHER		1081.0	1491.7	1491.7	1491.7	
TOTAL						

POSITIONS:

FULL-TIME		13.0	18.25	18.25	18.25	
PART-TIME						
TEMPORARY						

ANALYSIS : (Attach a separate page if necessary)

Prepared by: Dan Easton Phone: 465-2610
Division: Environmental Quality Date: 04/07/89
Approved by Commissioner: *R.D. Hylleberg* Date: 4/7/89
Agency: DEC (1)

Distribution (by preparer):
Legislative Finance
Legislative Sponsor
Requester
Office of Management and Budget
Impacted Agency(ies)

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APR 11 1989

Dan Easton

The following is a summary of the main tasks under the proposed legislation and an explanation of the necessary services.

Revenue is expected from two sources as a result of this legislation; a tank registration fee and a gasoline tax.

1. Storage Tank Program Development

During FY 90, three FTEs will be needed in this program. One professional position will manage to contract to develop an automated database of above and underground storage tanks, investigate financial responsibility options and program funding mechanisms, and prepare draft regulations in conjunction with an Advisory Panel. This position will manage these items once completed. One professional position will collect data, provide technical assistance to facility owner/operators, and assist with development of technical portions of the regulations. One clerical position will provide typing, filing, data entry, and assist with scheduling and administrative tasks associated with the Advisory Panel. Underground storage tank regulations will be completed in FY 90. Above ground regulations will be completed in FY 91.

FY 91 and ongoing tasks will include completion and implementation of regulations. Also required will be two additional professional positions and one additional clerical position. Major field tasks include: inspection of tank/piping and associated structures, installation and abandonment procedures, review of facility records for maintenance and operation activities, and technical assistance. The Department will examine means of contracting out functions.

2. Registration/Notification Program.

During FY 90, three and one-half FTEs are estimated to be needed in this program. One-half professional position will oversee the development of the program, special databases, and associated procedures, and develop contracts and forms. One-half clerical position will provide needed assistance. One fiscal position will justify accounts and revenues. One and one-half clerical/administrative positions will receive forms, enter data, develop and send mailouts and perform followups. A consultant will be hired to set up a computer program and develop guidelines; the contractual line item includes \$40.0 for this. Extra funds (\$3.5) are included in supplies to cover materials and postage for mass mailouts. The equipment line includes \$17.0 for specialized computer equipment to gain access to AKSAS and to print mass mailouts and labels.

FY 91 and ongoing tasks will include sending out notices of renewal, contacting new establishments, receiving payments and upgrading the database to meet new needs. No additional positions will be needed for FY 91 and subsequent years. It may be possible to reduce staffing once the program is in place.

3. Public Information Program

During FY 90, one professional and one-half clerical FTEs will be needed in this program. One professional position, with the help of one-half clerical position, will identify and provide information and assistance to tank owners and will plan and conduct public information activities. Development of the program will be contracted out to assist tank owner/operators and the public directly through presentations and workshops. Contractual funds (\$15.0) are included for document development and printing costs, and \$6.0 is included for supplies, mailout materials and software.

These tasks will continue during FY 91 as the regulations are completed and program implementation begins. No additional positions for FY 91 are anticipated at this time.

4. Loan or Grant Program

During FY 90, one-half FTE will be needed in this program. This one-half professional position will assist the Department of Commerce and Economic Development in setting up a loan guarantee program, and approve the use of funds from the Underground Storage Tank Account (case by case) to guarantee a loan.

FY 91 and ongoing tasks will include continued approval of all loan guarantees or grants during the 10-year period that underground tanks have to upgrade. Additional one quarter FTE will be needed for this ongoing task.

5. Underground Storage Tank Account Cleanup Program

During FY 90, four and one-half FTEs will be needed in this program. Two professional positions and one-half clerical position will develop guidelines and review reported leaks, document leaks on computer, determine the extent of investigation, cleanup, and necessary upgrades to current facility equipment, and oversee cleanup contracts. One-half position in the fiscal section will help set up, receive, and deposit payments received. One administrative position will track costs, and justify that payments are correct and adequate. One-half professional position in the Solid Waste Program will develop permits for disposal of soils contaminated from releases. Additional contractual funds (\$21.0) are included for development and printing of forms, and medical monitoring physicals for the two staff involved in field work. The supplies line includes \$5.0 for postage and mailout supplies. The equipment line includes personal protective equipment (\$5.0) for two staff persons.

FY 91 and ongoing tasks will involve a considerable increase in the regional office efforts to monitor contracts for cleanup,

determine adequacy of cleanup, and assure appropriate tank upgrades following cleanup. Additionally, requests for contaminated soil disposal permits will begin. Three professional and one clerical FTE will be required for these purposes.

STATE OF ALASKA
1989 LEGISLATIVE SESSION

BILL VERSION: CS HB 220 (RES)
PUBLISH DATE: 4/10/89

FISCAL NOTE

REQUEST:

Revision Date: _____
Title: An Act relating to Motor Fuels

Agency Affected: Revenue
BRU: Income & Excise Audit

Sponsor: Menard, etc.
Requestor: Resources and Finance

Components: Operating

EXPENDITURES/REVENUES: (Thousands of Dollars)

	FY 90	FY 91	FY 92	FY 93	FY 94	FY 95
OPERATING						
PERSONAL SERVICES	0	0	0	0	0	0
TRAVEL	0	0	0	0	0	0
CONTRACTUAL	25.0	0	0	0	0	0
SUPPLIES	0	0	0	0	0	0
EQUIPMENT	0	0	0	0	0	0
LANDS & STRUCTURES	0	0	0	0	0	0
GRANTS, CLAIMS	0	0	0	0	0	0
MISCELLANEOUS	0	0	0	0	0	0
TOTAL OPERATING	25.0	0	0	0	0	0
CAPITAL	0	0	0	0	0	0
REVENUE	16755.1	16755.1	16755.1	16755.1	16755.1	16755.1

FUNDING: (Thousands of Dollars)

GENERAL FUND	25.0	0	0	0	0	0
FEDERAL FUNDS	0	0	0	0	0	0
OTHER	0	0	0	0	0	0
TOTAL	25.0	0	0	0	0	0

POSITIONS:

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

ANALYSIS: (Attach a separate page if necessary)

Prepared By: Steven E. Kettel *Steven E. Kettel* Phone: (907) 465-2320
Division: Income and Excise Audit Date: April 11, 1989

Approved by Commissioner: Hugh Malone *Hugh Malone* Date: April 11, 1989
Agency: Department of Revenue

Distribution (by preparer):
Legislative Finance
Legislative Sponsor
Requestor
Office of Management and Budget
Impacted Agency(ies)

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APR 12 1989

page 1 of 2

LEGISLATIVE FINANCE

MB 210
M. C. J.

HB 220
Prepared by: Steven E. Kettel
March 21, 1989

REVENUE PROJECTION

Under Section 2 of this bill a surcharge of 2¢ per gallon is levied on all motor fuel subject to tax under AS 43.40.010. Total gross taxable fuel sold or delivered in Alaska for FY 88 amounted to 951,923,460 gallons. No increase or decrease in consumption was estimated for future use.

Total Gross Gallons taxable under AS 43.40.010	837,755,216*
Tax Rate	<u>.02</u>
Total Revenue	<u>\$16,788,104</u>

* Includes refund gallonage under current law.

FISCAL IMPACT \$25.0 CONTRACTUAL

One time cost for forms design, development, publication, postage and industry training. Additional costs for accounting of the proceeds from the surcharge will include data processing system upgrade and related equipment acquisitions.

**STATE OF ALASKA
1989 LEGISLATIVE SESSION**

**BILL VERSION: CS HB 220
PUBLISH DATE: 4/10/89**

REQUEST: FISCAL NOTE

Revision Date: _____ Agency Affected: DOT&PF
 Title: An Act relating to motor fuels, petroleum and BRU: Engineering & Operations
 chemical storage tanks, and investigation, ... Standards
 Sponsor: Menard, M. Davis, Brown, et al. Components:
 Requestor: House Finance

EXPENDITURES/REVENUES: (THOUSANDS OF DOLLARS)

OPERATING	FY 90	FY 91	FY 92	FY 93	FY 94	FY 95
PERSONAL SERVICES	0	0	0	0	0	0
TRAVEL	0	0	0	0	0	0
CONTRACTURAL	60.0	30.0	30.0	30.0	30.0	30.0
SUPPLIES	0	0	0	0	0	0
EQUIPMENT	0	0	0	0	0	0
LAND & STRUCTURES	0	0	0	0	0	0
GRANTS, CLAIMS	0	0	0	0	0	0
MISCELLANEOUS	0	0	0	0	0	0
TOTAL OPERATING	60.0	30.0	30.0	30.0	30.0	30.0

CAPITAL	65.0	65.0	65.0	65.0	65.0	65.0
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REVENUE	0	0	0	0	0	0
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FUNDING: (THOUSANDS OF DOLLARS)

GENERAL FUND	60.0	30.0	30.0	30.0	30.0	30.0
FEDERAL FUNDS	65.0	65.0	65.0	65.0	65.0	65.0
OTHER	0	0	0	0	0	0
TOTAL	125.0	95.0	95.0	95.0	95.0	95.0

POSITIONS:

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

ANALYSIS: The bill would require registration of most storage tanks operated by the department. An biennial fee of 2¢ per gallon of storage is to be charged. The department has approximately 800 tanks storing 3,000,000 throughout the state. This yields an biennial cost of \$60,000. In addition, there will be costs on construction projects for the "registration fees" for temporary tank installations and in the higher fuel costs borne by contractors. This is estimated to cost another \$40,000 in registration fees and \$25,000 in fuel surcharge fees. The majority of these construction related costs would occur on federal-aid construction.

Prepared by: Jeffery C. Ottesen, Director *Jeffery C. Ottesen* Phone: 465-2951
 Division: Engineering and Operations Standards Date: April 17, 1989

Approved by Mark S. Hickey, Commissioner: *Mark S. Hickey* Date: 4/17/89
 Agency: Department of Transportation and Public Facilities

Distribution (by preparer):
 Legislative Finance
 Legislative Sponsor
 Requestor
 Office of Management and Budget
 Impacted Agency(ies)

Basis of Estimate
Fiscal Note: CS HB 220
Department of Transportation and Public Facilities

Tank Registration Fee:

Component	# of tanks
Highway & Aviation Maintenance Facilities	400
Equipment Fleet Tanks	100
International Airports	25
Harbors	75
Buildings	200
Total number of tanks	800
Total gallons of storage = 3,000,000	

At 2¢ per gallon =	\$60,000 first year
Every year thereafter =	\$30,000

Note: After the first year the department would pay one-half the registration early so that the amount required within the budget is constant after FY '90.

Construction Related Tank Registration

Estimate 50 projects per year with 4 tanks per project at 10,000 gallons per tank (average) =	
50 * 4 * 10,000 * 2¢ per gallon storage =	\$40,000

Construction Fuel Surcharge

Estimate 50 projects per year with 50,000 gallons average = 2,500,000 gallons fuel	
At 2¢ per gallon =	\$50,000
Less estimated allowance for fuel tax refunds (AS 43.40.030) @ 50%	\$25,000

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SENATE COMMITTEE REPORT

FURTHER

5/8/89

DATE TURNED INTO OFFICE 5/3/90

Mr. President:

FINANCE Committee considered CSHB 220 (FIN) am

motor fuels, petroleum and chemical storage tanks, and investigation, containment, and cleanup of oil and hazardous substances; efd

and recommended

replace with S CS CSHB 220 (Fin) same title
 or adopt _____ CS _____ new title
 attached amendment(s) and technical title change (HB only)
 _____ letter of intent adopted

do pass

do not pass

no recommendation

individual recommendations

further referral to _____

1-DEC 1,053.1 5/3/90
2-DC&ED 25.7 5/2/90
3-SFC/DEC 10mil 5/2/90

FISCAL NOTE(S) zero fiscal impact appropriation no FN
 new updated previous
 same as previous fiscal note(s) published _____

MEMBERS SIGNING DO PASS

OTHER RECOMMENDATIONS

[Signature]

[Signature]

[Signature] - no Rec
[Signature] - no rec
[Signature] - No Rec

[Signature] **DO PASS**
Chairman signature and recommendation

Committee Backup attached

STATE OF ALASKA
1990 LEGISLATIVE SESSION

BILL VERSION: SCSHB220 (Finance)

PUBLISH DATE: 4/29/90

FISCAL NOTE

REQUEST:

Revision Date: _____
Title: An Act relating to motor fuels,
petroleum and chemical storage tanks...
Sponsor: Rep. Menard, M. Davis, Brown, et al
Requestor: Senate Finance

Agency Affected: Environ. Conservation
BRU: Environmental Quality
Components: Environmental Quality

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 91	FY 92	FY 93	FY 94	FY 95	FY 96
PERSONAL SERVICES	421.0	657.0	606.0	606.0	606.0	606.0
TRAVEL	71.1	70.1	65.1	65.1	65.1	65.1
CONTRACTUAL	502.0	152.0	144.0	144.0	144.0	144.0
SUPPLIES	14.0	19.0	18.0	18.0	18.0	18.0
EQUIPMENT	45.0	70.0	65.0	65.0	65.0	65.0
LAND&STRUCTURES	0.0	0.0	0.0	0.0	0.0	0.0
GRANTS,CLAIMS	0.0	0.0	0.0	0.0	0.0	0.0
MISCELLANEOUS	0.0	0.0	0.0	0.0	0.0	0.0
TOTAL OPERATING	1,053.1	968.1	898.1	898.1	898.1	898.1

CAPITAL	0.0	0.0	0.0	0.0	0.0	0.0
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REVENUE	1,568.0	1,541.0	1,487.0	1,379.0	1,164.0	732.0
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FUNDING: (Thousands of Dollars)

GENERAL FUND	1,053.1	968.1	898.1	898.1	898.1	898.1
FEDERAL FUNDS	0.0	0.0	0.0	0.0	0.0	0.0
OTHER	0.0	0.0	0.0	0.0	0.0	0.0
TOTAL	1,053.1	968.1	898.1	898.1	898.1	898.1

POSITIONS:

FULL-TIME	8.0	13.0	13.0	13.0	13.0	13.0
PART-TIME	0.0	0.0	0.0	0.0	0.0	0.0
TEMPORARY	2.0	2.0	0.0	0.0	0.0	0.0

ANALYSIS: (Attach a separate page if necessary)

See attached.

Prepared by: Lynn Kent
Division: Environmental Quality

Phone: 465-2630
Date: 5/2/90

Approved by Commissioner: A. D. Kyle
Agency: Environmental Conservation

Date: 5/3/90

Distribution (by preparer) :
Legislative Finance
Legislative Sponsor
Requestor
Office of Management and Budget
Impacted Agency(ies)

Adopted

Senate CS for House Bill 220
Department of Environmental Conservation
Fiscal Analysis
4/29/90 Version

Section 1, 3, 4, 5, 7, 8

There is no fiscal impact to the Department from these sections.

Section 2 46.03.360 Board of Storage Tank Assistance

Section 46.03.360 establishes the Board of Storage Tank Assistance. The Board will employ a full-time Director (Ecologist III). One additional employee will serve as staff for the board. This position will be funded under an existing federal grant. Therefore, no new position or funding is shown in this fiscal note for this position.

Travel for board members is estimated at six trips per year for the seven members. Airfare (\$300 per trip) and seven days per diem (\$80 per day) has been included for a total of \$36.1. The number of times that the board needs to meet will be reduced to four times per year after the first year, for periods of three days. This reduces the cost to \$15.1 for the board from FY 92 on.

The Board is directed to develop underground storage tank program regulations, Tank Cleanup Program regulations, and Storage Tank Workers Certification regulations. These tasks will be contracted by the board during FY 91 at an estimated \$385.0.

Under Section 46.03.363 the Board is required to submit to the legislature an annual report covering personal and property damage, recommendations for regulations, information on loan availability for system upgrades, information on availability of insurance, summary of disputes, and recommendations for amendments or additions to AS 46.03.360 - 46.03.450. Section 46.03.410 (c) directs the commissioner to submit to each session of the legislature a report detailing monies received and expended from the Storage Tank Assistance Fund. Contractual funds (\$25.0) are included for the preparation of these reports.

After the regulations are developed by the Board, the Department will need additional staff in all of the regional offices to implement and enforce regulations and procedures developed by the Storage Tank Assistance Board for the various aspects of the underground storage tank program. This will include monitoring contracts for cleanup, determining the adequacy of the cleanup, assuring appropriate tank upgrades following cleanup, as well as permitting of contaminated soil disposal. Four professional and one clerical position will be required for these purposes beginning in FY 92.

FY 91

Position	100	200	300	400	500	Total
Ecologist III	51.0	5.0	8.0	1.0	5.0	70.0
Travel (Board)		36.1				36.1
Contractual (Regs)			410.0			410.0
TOTAL	51.1	41.1	418.0	1.0	5.0	516.1

FY 92 and following years:

Position	100	200	300	400	500	Total
Ecologist III	51.0	5.0	8.0	1.0	5.0	70.0
Env. Field Offi. (4 positions)	204.0	20.0	32.0	4.0	20.0	280.0
Clerk Typist	32.0		8.0	1.0	5.0	46.0
Travel		15.1				15.1
Contractual			25.0			25.0
TOTAL	287.0	40.1	73.0	6.0	30.0	461.1

46.03.370 Educational Assistance

The legislation requires the Department to develop a two phase public information program to assist tank owners and operators and the general public.

Central office staff (one half-time Public Information Officer) will be needed to plan public information activities, provide technical assistance to owners and operators and respond to public inquiries, prepare presentations to organizations, develop brochures, newsletters and other materials, and participate in workshops. \$15.0 in contractual funds will be used for development and printing of public information documents. Additional supply costs of \$5.0 would include materials for mass mailings and display materials.

FY 91 and following years:

Position	100	200	300	400	500	Total
.5 Information Officer	25.5	2.5	4.0	.5	2.5	35.0
Contractual			15.0			15.0
Supplies				5.0		5.0
TOTAL	25.5	2.5	19.0	5.5	2.5	55.0

46.03.375 Certification of Storage Tank Workers

The legislation requires the Board to develop requirements, including education, experience, training, a written test, and other appropriate measures, for persons who install, repair and test tanks.

\$35.0 was included in the FY 91 Storage Tank Assistance Board budget under contractual services to cover development of regulations and test materials for the Storage Tank Workers Certification Program.

46.03.380 Registration of Tanks and Tank Systems

Under this legislation all owners/operators of existing underground storage tanks subject to regulation will be required to register their tanks with the Department within six months of the effective date of the statute.

To establish the registration/notification system the Department would need one Ecologist. This position will come from a current federal grant. No new position or dollars are included in the fiscal note for this position. One Accounting Technician is included in the fiscal note. These two positions will ensure that all facilities receive and understand the registration forms, review registration forms submitted, provide accounting services for the registration fees, and conduct follow up for delinquent payments. Contractual costs in the amount of \$5.0 will be needed to develop, print and mail the registration forms.

The Department estimates that the revenue from the tank registration fee would total \$1,568.0 during FY 91 and gradually decrease as facilities are upgraded and become eligible for lower registration fees.

FY 91:

<u>Position</u>	<u>100</u>	<u>200</u>	<u>300</u>	<u>400</u>	<u>500</u>	<u>Total</u>
Accounting Tech.	51.0	5.0	8.0	1.0	5.0	70.0
Contractual			5.0			5.0
TOTAL	51.0	5.0	13.0	1.0	5.0	75.0

FY 92:

<u>Position</u>	<u>100</u>	<u>200</u>	<u>300</u>	<u>400</u>	<u>500</u>	<u>Total</u>
Accounting Tech.	51.0	5.0	8.0	1.0	5.0	70.0
TOTAL	51.0	5.0	8.0	1.0	5.0	70.0

46.03.415 Tank Tightness and Site Assessment Incentive Program

Under this section the Department will be reimbursing tank owners for tank tightness testing and site assessment work. One half Ecologist is included for conducting a technical evaluation of the completed work to determine eligibility for reimbursement.

FY 91 and following years:

<u>Position</u>	<u>100</u>	<u>200</u>	<u>300</u>	<u>400</u>	<u>500</u>	<u>Total</u>
.5 Ecologist	25.5	2.5	4.0	.5	2.5	35.0

46.03.420 Tank Cleanup Program

During FY 91 the Department will need 3 positions to develop and begin implementation of the Underground Storage Tank Account Cleanup Program (2 Ecologists and one Accounting Technician). Leak reports will need to be reviewed and evaluated to determine if they meet appropriate guidelines. The Department will also need to evaluate information regarding the extent of investigation, cleanup, and facility upgrades to meet current facility requirements. Oversight of cleanup contracts will also be required. The Accounting Technician will deposit payments received, track costs, and justify that payments are correct and adequate.

FY 91 and following years:

<u>Position</u>	<u>100</u>	<u>200</u>	<u>300</u>	<u>400</u>	<u>500</u>	<u>Total</u>
Ecologist	51.0	5.0	8.0	1.0	5.0	70.0
Ecologist	51.0	5.0	8.0	1.0	5.0	70.0
Accounting Tech.	51.0	5.0	8.0	1.0	5.0	70.0
TOTAL	153.0	15.0	24.0	3.0	15.0	210.0

Section 6

Reimbursement Program

The legislation provides for the administration of a reimbursement program to help pay the costs of cleanup and closure of leaking tanks, and upgrades to meet state and federal regulations.

All requests for reimbursement must be made with the initial tank registration. Staff in this program would consist of 2 positions (Ecologist and an Accounting Technician). These positions are funded in the fiscal note for the second half of FY 91 (6 months)

and the first half of FY 92 (6 months) only, during the time when initial registration forms are received. These positions will evaluate the requests for reimbursement during FY 91 and FY 92, and prioritize them for later payment as funding is available.

FY 91, 92:

<u>Position</u>	<u>100</u>	<u>200</u>	<u>300</u>	<u>400</u>	<u>500</u>	<u>Total</u>
Ecologist	25.5	2.5	4.0	.5	2.5	35.0
Accounting Tech.	25.5	2.5	4.0	.5	2.5	35.0
TOTAL	51.0	5.0	8.0	1.0	5.0	70.0

Two clerical staff would be necessary to support the Board and the program staff.

FY 91 and following years:

<u>Position</u>	<u>100</u>	<u>200</u>	<u>300</u>	<u>400</u>	<u>500</u>	<u>Total</u>
Clerk Typist	32.0	0.0	8.0	1.0	5.0	46.0
Clerk Typist	32.0	0.0	8.0	1.0	5.0	46.0
TOTAL	64.0	0.0	16.0	2.0	10.0	92.0

FISCAL SUMMARY

FY 91:

<u>Position</u>	<u>100</u>	<u>200</u>	<u>300</u>	<u>400</u>	<u>500</u>	<u>Total</u>
Prof. Staff 7 FTE	357.0	35.0	56.0	7.0	35.0	490.0
Clerical 2 FTE	64.0		16.0	2.0	10.0	92.0
Travel		36.1				36.1
Contractual			430.0			430.0
Supplies				5.0		5.0
Total	421.0	71.1	502.0	14.0	45.0	1,053.1

FY 92

<u>Position</u>	<u>100</u>	<u>200</u>	<u>300</u>	<u>400</u>	<u>500</u>	<u>Total</u>
Prof. Staff 11 FTE	561.0	55.0	88.0	11.0	55.0	770.0
Clerical 3 FTE	96.0		24.0	3.0	15.0	138.0
Travel		15.1				15.1
Contractual			40.0			40.0
Supplies				5.0		5.0
Total	657.0	70.1	152.0	19.0	70.0	968.1

FY 93, 94, 95, 96:

<u>Position</u>	<u>100</u>	<u>200</u>	<u>300</u>	<u>400</u>	<u>500</u>	<u>Total</u>
Prof. Staff 10 FTE	510.0	50.0	80.0	10.0	50.0	700.0
Clerical 3 FTE	96.0		24.0	3.0	15.0	138.0
Travel		15.1				15.1
Contractual			40.0			40.0
Supplies				5.0		5.0
Total	606.0	65.1	144.0	18.0	65.0	898.1

FISCAL NOTE

REQUEST:

Revision Date: _____
Title: An Act relating to motor fuels
petroleum and chemical storage tanks, and investigation
Sponsor: Rep. Menard, et al.
Requestor: Senate Finance

Agency Affected: Commerce & Econ. Dev.
BRU: Occupational Licensing
Components: Administration

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 91	FY 92	FY 93	FY 94	FY 95	FY 96
PERSONAL SERVICES	6.3	2.0	2.0	2.0	2.0	2.0
TRAVEL	3.2	1.5	1.5	1.5	1.5	1.5
CONTRACTUAL	16.2	4.0	4.0	4.0	4.0	4.0
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	25.7	7.5	7.5	7.5	7.5	7.5

CAPITAL						
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REVENUE	25.0	5.0	5.0	5.0	5.0	5.0
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FUNDING: (Thousands of Dollars)

GENERAL FUND						
FEDERAL FUNDS						
OTHER (GF/PR)	25.7	7.5	7.5	7.5	7.5	7.5
TOTAL	25.7	7.5	7.5	7.5	7.5	7.5

POSITIONS:

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

ANALYSIS : (Attach a separate page if necessary)

The bill requires individuals who install, test, repair, close or significantly change the configuration of an underground petroleum storage tank or tank system to first obtain certification to perform the appropriate activity.

(CONTINUED ON ATTACHED)

Prepared by: Jennifer Strickler, Administrative Officer
Division: Occupational Licensing

Phone: 465-2144

Date: May 2, 1990

Approved by Commissioner: Larry Merculieff
Agency: Commerce and Economic Development

Date: 5/2/90

Distribution (by preparer):

Legislative Finance
Legislative Sponsor
Requestor
Office of Management and Budget
Impacted Agency(ies)

Adopted

CONTINUATION OF FISCAL NOTE ANALYSIS

SCS CSHB 220(Fin)

Unlike other licensing areas administered by the Division of Occupational Licensing, the responsibility given to the division under this bill relate only to certification, not licensure or registration, of storage tank workers. This means that division activities will be related to providing opportunities for training to meet the certification requirements established by the Board of Storage Tank Assistance (created by HB 220) and the Department of Environmental Conservation (DEC), rather than the division's usual examination, licensing, and renewal of licensing and continued competency activities.

We view the certification process described in HB 220 as a "one-time" event (i.e., once an individual has received the proper training, passed an exam, and been certified, there is no continuing responsibility of the division). Rather, we read the legislation to require the establishment and maintenance of a registry of persons who have completed the education and testing necessary for certification. Once on this list, any entity seeking to have a storage tank installed, tested, closed, repaired, or significantly reconfigured may only employ a person who is listed on the registry as having been certified to perform such work.

The costs involved in administering this certification program focus, then, on:

- 1) organizing or arranging for training courses that meet the Storage Tank Assistance Board's certification standards;
- 2) "assist[ing] residents of isolated communities who request assistance in becoming certified" (see Sec. 46.03.375(a); and
- 3) general operational costs.

It is difficult to estimate the potential number of persons who will seek certification as a storage tank worker under HB 220. However, DEC has suggested that at least fifty persons will seek initial certification. We further believe that a minimum number of persons will need to seek certification each year, in order for the state to offer the training program at a reasonable cost. The legislation provides that the division may contract with the University of Alaska, a vocational/technical school, or a regional nonprofit organization to provide the education and testing necessary for certification. Contracting is certainly the division's preferred approach.

In addition, we believe that language mandating the division to assist residents in isolated communities who request assistance in becoming certified storage tank workers requires the provision of financial assistance to those qualified residents, through the payment of travel costs, for example, or the presentation of courses in regional locations where there is local access to the training.

Finally, the requirement that a person be certified as a storage tank worker takes effect one year from the date the Board of Storage Tank Assistance and DEC together have promulgated regulations establishing certification standards, giving the division time to contract for and implement the necessary training and testing programs.

This fiscal note reflects the cost considerations discussed above. The personal services costs are based on a percentage of the division's total projected personal services costs in FY 91. The estimated number of persons (50) who will seek storage tank worker certification in FY 92 (the expected first year of operation) is compared to all of the division's licensees (25,140), thereby budgeting personal services costs at \$6.3 per year.

Travel costs reflect an estimate of the number of residents (7) of isolated communities who may seek assistance to attend certification training courses in the first year of operation. We selected isolated communities across Alaska in determining the travel costs. These funds can either be issued as assistance grants to trainees or made available to training staff to provide the program in rural locations, whichever is the more effective use of the available training dollars.

The contractual costs reflect the funds necessary to contract for the training and testing necessary to meet the board's requirements, plus funding for public notices for training sessions, printing of certification applications and public information about the program, and communication and miscellaneous (e.g., telephone, photocopying) office costs. We estimate a contract cost of at least \$300 per person for the training and testing program (\$15,000), based on an average cost of \$95.00 per day (cost estimates provided by the U of A's continuing education division).

Revenues are based on the assumption that at least 50 applicants seeking certification will pay a one-time certification fee of \$500, which will include the cost of the training course, examination, and certification by the division. Although relatively expensive at the outset, because there is no additional certification fee (i.e., no renewal fees, no continuing education expenses, etc.), we do not think the initial certification fee is out-of-line with other occupations, given their continuing, biennial costs.

It is also difficult to estimate program costs after the first year. We believe a minimum of ten persons must seek certification each year in order for the program to be feasible. Given that we do not anticipate more than ten persons after the first year, all costs are reduced to reflect the drop in activity. We have assumed that three rural residents may seek an assistantship, and that the division will contract for a minimum of ten training slots.

FISCAL NOTE

REQUEST:

Revision Date: _____ Agency Affected: Dept. of Environmental
Title: Cleanup of oil and hazardous BRU: Conservation
substances/storage tanks
Sponsor: Rep. Menard, et al
Requestor: Senate Finance Components: Storage Tank Assistance
Fund

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 91	FY 92	FY 93	FY 94	FY 95	FY 96
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS	\$10 million	0	0	0	0	0
MISCELLANEOUS						
TOTAL OPERATING	\$10 million	0	0	0	0	0
CAPITAL	0	0	0	0	0	0
REVENUE	0	0	0	0	0	0

FUNDING: (Thousands of Dollars)

GENERAL FUND	\$10 million	0	0	0	0	0
FEDERAL FUNDS						
OTHER						
TOTAL	\$10 million	0	0	0	0	0

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

ANALYSIS : (Attach a separate page if necessary)

Prepared by: Senator Rick Uehling, Co-chairman Phone: 465-4821
Division: Senate Finance Committee Date: May 2, 1990

Approved by Commissioner: _____ Date: _____
Agency: _____

Distribution (by preparer):

- Legislative Finance
- Legislative Sponsor
- Requestor
- Office of Management and Budget
- Impacted Agency(ies)

Adopted

Adopted

Lauterbach
6-069311

Original sponsor(s): REP. MENARD, M. Davis, Brown, Larson, Navarre, Cato, Koponen, Gruenberg, Spohnholz, Goll, Ellis, Foster, Jacko, Boyer, Boucher, Swackhammer, Kubina

IN THE HOUSE

BY THE FINANCE COMMITTEE

SENATE CS FOR CS FOR HOUSE BILL NO. 220 (Finance)

IN THE LEGISLATURE OF THE STATE OF ALASKA

SIXTEENTH LEGISLATURE - SECOND SESSION

A BILL

For an Act entitled: "An Act relating to motor fuels, petroleum and chemical storage tanks, and investigation, containment, and cleanup of oil and hazardous substances; and providing for an effective date."

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

* Section 1. PURPOSE AND INTENT. (a) The purpose of this Act is to provide for

(1) establishment of technical assistance mechanisms that will assist the owners and operators of underground storage tank systems to comply with federal and state requirements governing their tank systems; and

(2) clean up of existing leaks and prevention of future leaks associated with underground petroleum storage tank systems in order to protect the public from contamination of drinking water and to protect the environment.

(b) The legislature recognizes that the regulations governing underground storage tank systems may not be easily understood and that some owners and operators will be faced with insurance requirements that they will not be able to satisfy because of contamination relating to their tank systems. It is the legislature's intent to help these owners and operators through educational, technical, and financial assistance, and to provide incentives for prompt compliance with the new requirements of this Act.

(c) It is the intent of the legislature that the owners and operators of underground petroleum storage tank systems train their employees in the

proper handling of petroleum products and the use of leak, spill, and overflow protection devices.

(d) It is also the intent of the legislature to develop a program for underground storage tank systems that will be approved by the federal government.

* Sec. 2. AS 46.03 is amended by adding new sections to read:

ARTICLE 6A. UNDERGROUND STORAGE TANK SYSTEMS.

Sec. 46.03.360. BOARD OF STORAGE TANK ASSISTANCE. (a) There is established the Board of Storage Tank Assistance. For administrative purposes, the board is located in the department. The board consists of the commissioners of environmental conservation and transportation and public facilities, or their designees, and the following persons who shall be appointed by the governor:

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

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

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

(4) a member of the insurance industry.

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

(c) Members of the board designated under (a)(1) - (4) of this section serve staggered four-year terms and may be removed by the governor only after notice and hearing for misconduct, incompetency,

or neglect of duty.

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

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

(f) The department shall implement and enforce the regulations adopted by the board.

Sec. 46.03.363. BOARD REPORT. The board shall submit a report to the legislature not later than the 10th day following the convening of each regular session of the legislature. The report may include information considered significant by the board but must include

(1) information about the extent to which releases associated with underground petroleum storage tank systems have caused bodily injury or property damages to persons other than the owner or operator of the system in the preceding fiscal year, and the extent to which insurance is available to cover that type of injury and damage;

(2) recommendations about whether there are specific areas where state regulations should be more stringent than the federal regulations for underground petroleum storage tank systems;

(3) information on the availability of private commercial loans and federal loans, loan guarantees, or grants for upgrading underground petroleum storage tank systems;

(4) information on the availability of insurance that would cover the costs of corrective actions made necessary by a release or threatened release from an underground petroleum storage tank system;

(5) a brief summary of disputes involving the board under AS 46.03.420(c)(3); and

(6) recommendations for amendments or additions to

AS 46.03.360 - 46.03.450.

Sec. 46.03.365. REGULATION OF UNDERGROUND PETROLEUM STORAGE TANK SYSTEMS. (a) The board shall develop a program to abate and prevent pollution from underground petroleum storage tank systems through the adoption of regulations under the Administrative Procedure Act (AS 44.62). Consistent with other provisions in AS 46.03.360 - 46.03.450, the regulations may govern

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

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

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

regulations.

(c) Except as provided in AS 46.03.420(c)(2)(A), when the regulations adopted under this section address areas governed by federal laws or regulations, the state regulations must be consistent with federal laws and regulations and may not be more stringent than the federal laws and regulations.

(d) The department may not adopt regulations that conflict with regulations adopted by the board.

Sec. 46.03.370. EDUCATIONAL ASSISTANCE. Under the regulations of the board, the department shall provide

(1) educational assistance to owners and operators of underground petroleum storage tank systems to help them comply with federal and state laws and regulations applicable to the tank systems, including the registration and notification requirements under AS 46.-03.380 - 46.03.400;

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

Sec. 46.03.375. CERTIFICATION OF STORAGE TANK WORKERS. (a) The board shall adopt regulations governing the certification of persons who install, test, close, repair, or significantly change the configuration of underground petroleum storage tanks and tank systems. The certification program shall be administered by the division of occupational licensing, Department of Commerce and Economic Development. Under the board's regulations and in consultation with the Department of Environmental Conservation, the division shall make every reasonable attempt to ensure that opportunities for obtaining certification under this section are available throughout the state. The division

shall organize presentation of national training courses that are available in the state and assist residents of isolated communities who request assistance in becoming certified. The division may contract with the University of Alaska, a vocational technical school, or a regional nonprofit organization to provide the education and testing necessary for certification.

(b) The division shall establish fees applicable to certification under this section in an amount necessary to cover the costs of the certification program. The fees shall be collected by the division. The commissioner of administration shall separately account for fees deposited in the general fund by the Department of Commerce and Economic Development under this subsection. The legislature may appropriate the annual estimated balance of the account to the Department of Commerce and Economic Development for operation of the certification program.

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

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

- (1) the person performs the work under the direct supervision of another who is certified for that work under this section;
- (2) the supervisor inspects the work performed; and
- (3) after inspection, the supervisor approves the work in writing.

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

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

(g) In this section,

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

(2) "division" means the division of occupational licensing in the Department of Commerce and Economic Development.

Sec. 46.03.380. REGISTRATION OF TANKS AND TANK SYSTEMS. (a) A person, including a governmental entity or institution, or a public corporation, who intends to install, have installed, return to operation, or acquire ownership of an underground petroleum storage tank or tank system shall, before the installation or return to operation, or 30 days after acquisition, register the tank or tank system with the department on a form provided by the department and pay the tank registration fee required under AS 46.03.385.

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

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

for tank tightness;

(2) an application for state assistance to fund part of the cost of a tank tightness test or site assessment; or

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

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

(B) if the tank or tank system did not perform satisfactorily during the test, or the site assessment showed evidence of contamination,

(i) a summary of the upgrading, repair, containment, or cleanup efforts that have been or will be used for the tank, tank system, or site; or

(ii) an application for state assistance under AS 46.03.420 - 46.03.430; if the applicant is determined to be ineligible for assistance under AS 46.03.420 - 46.03.430, the applicant shall comply with (i) of this subparagraph upon notification of ineligibility.

Sec. 46.03.385. REGISTRATION FEE. (a) At the time of registration under AS 46.03.380, and annually thereafter, the owner or operator shall pay to the department a registration fee for each tank registered unless the owner or operator has notified the department under AS 46.03.395 that the tank has been taken out of service. An underground storage tank that has leak detection, spill and overflow protection, and corrosion protection that meet requirements of the board is subject to a \$50 annual registration fee, regardless of tank capacity. An underground storage tank system that lacks any or all of

these features is subject to an annual registration fee of

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

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

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

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

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

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

(e) The commissioner of administration shall separately account for money deposited in the general fund by the department under this section. The legislature may appropriate the annual estimated balance of the account to the storage tank assistance fund established under AS 46.03.410.

Sec. 46.03.390. NOTIFICATION OF CHANGES IN TANK SYSTEMS. An owner or operator who intends to significantly change the configuration of an underground petroleum storage tank system shall notify the department before beginning work on the change by completing and returning to the department a notification form obtained from the

department.

Sec. 46.03.395. NOTIFICATION OF TANK SYSTEM CLOSURE. If an underground petroleum tank or storage tank system is taken out of operation, the owner or operator of the tank or tank system, or an agent on the owner's or operator's behalf, shall provide on forms obtained from the department

(1) notification of that fact to the department at least 15 days, but not more than 60 days, before the date the tank or tank system will be taken out of operation unless the tank or tank system is taken out of operation because of an emergency; in emergency situations, the owner or operator shall provide notification as promptly as possible under the circumstances; and

(2) evidence satisfactory to the department within 30 days after the tank or tank system is taken out of operation that the owner or operator has complied with applicable state and federal laws and regulations governing temporary or permanent tank closure.

Sec. 46.03.400. REGISTRATION FORMS. The registration forms required under AS 46.03.380 - 46.03.395 must require information about the geographical location of a tank or tank system, the estimated age of the tanks and tank system, the total capacity, type of construction, internal and external protection, and piping of the tanks and tank system, and the substance currently or proposed to be stored in the tank system. If the tank or tank system is newly installed, the owner or operator shall certify that the owner or operator has complied with installation, release detection, corrosion protection, and financial responsibility requirements of state and federal law.

Sec. 46.03.405. PROHIBITIONS. A person may not operate an underground petroleum storage tank or tank system unless

(1) the tank and tank system is registered with the

department as provided in AS 46.03.360 - 46.03.450 or other law; and

(2) except as provided in AS 46.03.420(c)(1)(D), the person has provided to the department proof of financial responsibility to the extent required under regulations adopted under AS 46.03.365 or proof of application for arrangements that would satisfy state financial responsibility requirements.

Sec. 46.03.410. STORAGE TANK ASSISTANCE FUND. (a) There is established the storage tank assistance fund. It consists of money appropriated to it by law. The commissioner of administration shall separately account for earnings on money in the fund that are deposited in the general fund by the department. The legislature may use the estimated balance in the account to make appropriations to the fund.

(b) The commissioner may use money in the fund to pay for

(1) tank tightness tests or site assessments under AS 46.-03.415;

(2) grants and loans under AS 46.03.420 for risk assessment, containment, corrective action, and cleanup costs; and

(3) grants under AS 46.03.430 for tank system upgrading and closure.

(c) The commissioner shall submit a report on the status of the storage tank assistance fund to the legislature not later than the 10th day following the convening of each regular session of the legislature. The report may include information considered significant by the commissioner but must include

(1) the amount and source of money received by the fund during the preceding fiscal year;

(2) the amount of money expended during the preceding fiscal year for each type of expense authorized under (b) of this

section;

(3) a detailed summary of department activities paid for from the fund during the preceding fiscal year, including how many requests for assistance have been made to the department to use the fund for grants or loans for testing, site assessment, risk assessment, upgrading, closure, containment, corrective action, and cleanup costs, and the number of requests funded in each activity area;

(4) the projected cost for the next fiscal year of monitoring, operating, and maintaining sites where department activities have been completed or are expected to start or be continued during the fiscal year;

(5) the priority list of tank system sites for which the department expects to provide financial assistance in the next fiscal year.

Sec. 46.03.415. TANK TIGHTNESS AND SITE ASSESSMENT INCENTIVE PROGRAM. (a) The owner or operator of an underground petroleum storage tank or tank system that was installed before the effective date of this Act and is operating on the effective date of this Act, other than the state or federal government, may request the department to use money from the storage tank assistance fund to reimburse the owner or operator for eligible costs of a tank tightness test or site assessment in order to determine if there has been a release of petroleum from the owner's or operator's tank system. The department shall reimburse up to 50 percent of the cost, not to exceed \$300 per tank for tightness tests up to a maximum of \$1,200 per facility, or \$800 per tank for site assessment up to a maximum of \$3,200 per facility.

(b) Under regulations adopted by the board, the department shall determine which costs of tightness testing and site assessment are eligible costs under this section.

(c) Notification of intent to request reimbursement under this section must be submitted to the department at the time of registration under AS 46.03.380(b). The activities for which reimbursement is requested must be completed within 12 months after registration is due under AS 46.03.380 unless the owner or operator demonstrates to the department's satisfaction that there is good cause for extending the deadline. Good cause may be demonstrated by a showing that a qualified site assessor or tank system tester was not available, seasonal climatic conditions render the appropriate activities unsafe or impracticable, or other justification acceptable to the department. If the department finds good cause for extending the deadline, the department may extend the deadline for completion of activities for which reimbursement is requested for a period of time specified by the department.

(d) The department shall make available, on request, lists of persons who have notified the department that they are available as site assessors and tank testers for purposes of this section.

Sec. 46.03.420. TANK CLEANUP PROGRAM. (a) Subject to (b) - (j) of this section, application may be made to the department by the owner or operator of an underground petroleum storage tank system, other than the state or federal government, for grants and loans from the storage tank assistance fund to pay for the costs of risk assessment, containment, corrective action, and cleanup resulting from a release of petroleum from or associated with an underground petroleum storage tank system. Applications for assistance under this section must be submitted to the department before July 1, 1994. The department shall rank requests under this section in order of priority, giving greatest priority to those tank systems that present the greatest threat or potential threat to human health. The board shall

review the priority list developed by the department.

(b) Grants made by the department under this section shall exclude a portion of the risk assessment, containment, corrective action, and cleanup costs. The portion of these costs not payable as a grant by the department under this section is 10 percent of total costs, up to a maximum of \$25,000 not payable by the department; this portion of the costs shall be loaned at no interest by the department to the owner or operator on request with repayment to be made according to a schedule agreed to by the parties. The department may require security or collateral for a loan made under this subsection and may charge a fee for a late loan repayment equal to five percent of the amount of the late payment. At the department's discretion, a loan or grant under this section may be disbursed in partial payments according to a schedule related to costs anticipated to be incurred during specified time periods.

(c) An owner or operator of an underground petroleum storage tank system is not eligible for a grant or loan under this section for activities related to a release unless the release occurs before December 22, 1993, and the owner or operator

(1) establishes the following to the department's reasonable satisfaction:

(A) the owner or operator reported the release to the department in compliance with state and federal law before July 1, 1994, for a release that the owner or operator establishes first occurred on or after the effective date of this section and before December 22, 1993;

(B) the owner or operator promptly reported the release to the department in compliance with applicable regulations;

(C) the tank or tank system from which the release occurred was installed before December 22, 1988;

(D) the owner and operator have, within six months after the effective date of this section, been in compliance with all state and federal laws applicable to underground petroleum storage tank systems and releases from them, including notification and registration laws, but excluding financial responsibility requirements;

(E) the release was not a result of the owner's or operator's gross negligence, recklessness, or intentional conduct;

(2) agrees to

(A) upgrade all underground petroleum storage tanks located at the facility from which the release occurred to the standards set by state and federal regulations according to a time line established by the department under regulations of the board; notwithstanding (g) of this section and AS 46.03.365(c), the board and the department may require upgrading under this subparagraph that is required earlier than that required under federal law; or

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

(3) agrees to submit a plan for risk assessment, containment, corrective action, and cleanup to the department for its review and approval; if the department and the owner or operator cannot reach

agreement on a plan or on later changes in the plan, the owner or operator may apply to the board to decide the dispute; the board may issue a decision in a dispute brought to it under this paragraph; the decision is binding on the owner, operator, and department if the owner or operator continues to request assistance under this section.

(d) The department may deny a request for a grant or loan under this section if the department determines that one or more of the following conditions exists:

(1) the fund established under AS 46.03.410 lacks sufficient money; if a request for a grant or loan is denied under this paragraph, it shall be granted, without the requirement of a new application, when money is next available, subject to the existence of higher-priority requests;

(2) other risk assessment, containment, corrective action, and cleanup activities for which money may be used under AS 46.03.410 constitute a higher priority for fund expenditures; if a request is initially denied under this paragraph, it shall be granted later without the necessity of a new application, subject to available funding and other higher priorities; or

(3) the owner or operator fails to meet the requirements set out in (c) of this section.

(e) A request for a grant under this section, and a grant payment made under this section, may not exceed \$1,000,000 per occurrence, less the amount not payable as a grant under (b) of this section.

(f) Under regulations adopted by the board, the department shall determine which costs of risk assessment, containment, corrective action, and cleanup are eligible for payment under this section.

(g) The board shall adopt regulations reasonably necessary to

enable the department to implement this section. The regulations must be consistent with federal law except as provided in (c)(2)(A) of this section.

(h) This section does not affect the liability under state or federal law of any person for the costs of risk management, containment, corrective action, and cleanup resulting from a release of petroleum. However, notwithstanding the provisions of AS 46.08.-070(a), the department may not seek reimbursement of a grant made under this section unless the department determines that the grant was requested under false pretenses or that other circumstances render the grant inconsistent with this section or with applicable regulations. This section does not affect the authority of the department to seek recovery from the owner or operator of costs other than grants and loans actually made to an owner or operator under this section.

(i) The commissioner of administration shall separately account for money deposited by the department under this section. The legislature may appropriate the annual estimated balance of the account to the fund established under AS 46.03.410.

Sec. 46.03.430. TANK UPGRADING AND CLOSURE PROGRAM. (a) The board shall, by regulation, establish a grant program to be administered by the department under which the owner or operator of an underground petroleum storage tank, other than the state or federal government, may, upon application, receive a grant for 60 percent of the eligible costs of tank upgrading or closure, subject to a maximum total grant of \$60,000 per facility.

(b) The regulations adopted under (a) of this section

(1) may limit the number of grants that may be awarded to an owner or operator during a calendar year;

(2) must include criteria for determining eligible costs

under this section.

(c) A grant may not be awarded under this section for upgrading or closure activities that do not meet the requirements of state and federal law.

(d) In this section,

(1) "closure" means to remove all petroleum and sludges from an underground petroleum storage tank and either fill the tank with inert solid material or properly dismantle, remove, and dispose of the tank;

(2) "upgrading" means to add or retrofit cathodic protection systems, lining, spill and overflow controls, or similar systems to improve the ability of an underground petroleum storage tank system to prevent a release.

Sec. 46.03.440. CONFIDENTIALITY OF FINANCIAL RECORDS. (a) Financial records submitted to the department or the board by the owner or operator of an underground petroleum storage tank system are confidential and not subject to inspection or copying under AS 09.25.-110 - 09.25.120. The department, in consultation with the affected owner or operator, shall determine which information is confidential under this subsection.

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

Sec. 46.03.450. DEFINITIONS. In AS 46.03.360 - 46.03.450

(1) "board" means the Board of Storage Tank Assistance established under AS 46.03.360;

(2) "chemical" means any substance defined in 42 U.S.C. 9601(14) (sec. 101(14) of the Comprehensive Environmental Response,

Compensation, and Liability Act of 1980), as amended, and any substance having the characteristics identified or listed under 42 U.S.C. 6921 (sec. 3001 of the Solid Waste Disposal Act), regardless of whether the substance is a solid waste;

(3) "containment and cleanup" has the meaning given in AS 46.08.900 except that it does not include incidental administrative costs;

(4) "corrective action" means action necessary to stop the migration, determine the extent, and undertake recovery of petroleum after its unpermitted release; clean up affected soil and groundwater; and stabilize the site of the release to prevent or remove hazards to public health or the environment;

(5) "facility" means contiguous land and structures on or in the land containing underground petroleum storage tanks owned by the same person;

(6) "farm" means a tract of land devoted to the production of crops or raising animals, including fish, and associated residences and improvements; "farm" includes fish hatcheries, rangelands, and nurseries with growing operations;

(7) "petroleum" means crude oil or any fraction of crude oil that is liquid at 60 degrees Fahrenheit and pressure of 14.7 pounds per square inch absolute; "petroleum" includes petroleum-based substances comprised of a complex blend of hydrocarbons derived from crude oil through processes of separation, conversion, upgrading, and finishing, such as motor fuels, jet fuels, distillate fuel oils, residual fuel oils, lubricants, petroleum solvents, and used oils;

(8) "release" has the meaning given in AS 46.08.900;

(9) "risk assessment" means a determination of potential health effects including effects of containment exposure through

inhalation, ingestion, dermal absorption, and other means, and the assessment of risk to human health and the environment from contaminants remaining in the land, air, or water as a result of a release:

(10) "site assessment" means investigation of suspected underground petroleum storage tank system leaks and source identification;

(11) "tank system" means an underground petroleum storage tank system;

(12) "underground storage tank" means one or a combination of stationary devices, including underground pipes connected to the devices, that is designed to contain an accumulation of petroleum, the volume of which, including the volume of underground pipes, is 10 percent or more beneath the surface of the ground, except that the term does not include a

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

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

(C) septic tank;

(D) pipeline facility, including gathering lines,

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

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

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

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

(F) storm water or waste water collection system;

(G) flow-through process tank;

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

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

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

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

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

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

* Sec. 3. LIMITED IMMUNITY FROM LIABILITY. (a) Notwithstanding AS 46.03.420(h), 46.03.758, 46.03.760, 46.03.780, 46.03.790, and 46.03.822, a person, including a municipal school district, regional educational attendance area, or municipality, is not civilly or criminally liable to the state under those sections for a discharge covered by those sections if the person demonstrates by a preponderance of the evidence that the person

(1) is the owner or operator of an underground petroleum storage tank or tank system, as defined in AS 46.03.450, enacted by sec. 2 of this Act, that was installed before December 22, 1988, and the discharge occurred from that tank or tank system before December 22, 1992;

(2) acted in good faith to report, assess, and mitigate damage

from the discharge and to undertake corrective action in accordance with applicable state and federal law and was in compliance with all applicable state and federal law before the discharge occurred;

(3) is receiving or has been approved for state funds under AS 46.03.420 - 46.03.430, enacted by sec. 2 of this Act; and

(4) did not intentionally cause the discharge.

(b) In this section, "corrective action" has the meaning given in AS 46.03.450, enacted by sec. 2 of this Act.

* Sec. 4. NOTIFICATION FOR TANK SYSTEMS NOT IN USE. The owner or operator of an underground petroleum storage tank or tank system whose tank or tank system was installed after January 1, 1974, but was taken out of use before the effective date of AS 46.03.380, enacted by sec. 2 of this Act, shall notify the department about the tank or tank system within six months after the effective date of this section by completing and returning to the department a form obtained from the department. The form must comply with AS 46.03.400, enacted by sec. 2 of this Act, and be similar to the notification form required under AS 46.03.395, enacted by sec. 2 of this Act.

* Sec. 5. The initial registration and information required under AS 46.03.380(b), enacted by sec. 2 of this Act, is due within six months after the effective date of AS 46.03.380, enacted by sec. 2 of this Act.

* Sec. 6. REIMBURSEMENT PROGRAM. (a) An owner or operator of an underground petroleum storage tank system, other than the state or federal government, who began risk assessment, containment, cleanup, corrective action, upgrading, or closure activities related to the tank system on or after December 22, 1988, but before the effective date of this section, may apply to the department for reimbursement of a portion of the eligible costs incurred by the owner or operator for those activities, as determined under (b) of this section. Application under this section must be

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submitted within six months after the effective date of this section. Payments made by the department shall be from the fund established under AS 46.03.410, enacted by sec. 2 of this Act.

(b) An applicant for reimbursement under this section shall submit evidence satisfactory to the department of the costs that are eligible for reimbursement under this section, as determined by the department under regulations of the board. The department shall, subject to the availability of funds, reimburse the applicant for 90 percent of the eligible costs of containment, cleanup, corrective action, and risk assessment and 60 percent of the eligible costs of upgrading or closure, subject to the following limitations:

(1) the department shall calculate the amount of costs reimbursable under this section after subtracting amounts the department determines are recoverable by the owner or operator from related insurance or other persons who are liable for the costs;

(2) total costs reimbursed under this section to an owner or operator may not exceed \$200,000.

(c) In addition to other requirements of this section, an owner or operator is not eligible for reimbursement under this section for costs of containment, cleanup, risk assessment, corrective action, upgrading, or closure related to a release unless the owner or operator establishes the following to the department's satisfaction:

(1) the release was promptly reported to state authorities in compliance with applicable regulations;

(2) the tank or tank system from which the release occurred was installed before December 22, 1988;

(3) other than the release, the tank or tank system has been in compliance with state and federal laws applicable to underground petroleum storage tank systems since December 22, 1988, including notification and

registration laws, but excluding financial responsibility requirements;

(4) the release was not a result of the owner's or operator's gross negligence, recklessness, or intentional conduct;

(5) all containment, cleanup, risk assessment, corrective action, upgrading, and closure activities have been performed in compliance with state and federal law.

(d) In addition to other requirements of this section, an owner or operator is not eligible for costs of risk assessment, upgrading, or closure unrelated to a release unless the owner or operator establishes the following to the department's satisfaction:

(1) the tank or tank system has been in compliance with state and federal laws applicable to underground petroleum storage tank systems since December 22, 1988, including notification and registration laws, but excluding financial responsibility requirements;

(2) all risk assessment, upgrading, and closure activities have been performed in compliance with state and federal laws.

(e) The department may deny all or a portion of a request for reimbursement under this section if

(1) it disapproves of a method used for the risk assessment, containment, cleanup, corrective action, upgrading, or closure; the owner or operator may appeal a denial of payment made under this paragraph to the Board of Storage Tank Assistance; the board may issue a decision on a dispute brought to it under this paragraph; the decision is binding on the owner, operator, and department;

(2) the fund established under AS 46.03.410, enacted by sec. 2 of this Act, lacks sufficient money; if a request for reimbursement is denied under this paragraph, it shall be granted without the requirement of a new application, when money is next available, subject to the existence of a higher priority for use of money in the storage tank assistance fund;

or

(3) requests under AS 46.03.415 - 46.03.430, enacted by sec. 2 of this Act, remain unfunded; when all eligible requests for funding under AS 46.03.415 - 46.03.430, enacted by sec. 2 of this Act, have been satisfied in a given fiscal year and a balance remains in the storage tank assistance fund, eligible requests under this section may be satisfied on a first-come, first-served basis without the requirement of a new application.

(f) If an owner or operator of an underground petroleum storage tank system, other than the state or federal government, began risk assessment, containment, cleanup, corrective action, upgrading, or closure activities related to the tank system on or after December 22, 1988, and before the effective date of this section, but those activities are not complete on the effective day of this section, the owner or operator may apply for reimbursement under this section for costs incurred before the effective date of this section; the owner or operator may apply for assistance under AS 46.03.420 - 46.03.430, enacted by sec. 2 of this Act, for costs incurred or anticipated after the effective date of this Act. A request for reimbursement under this subsection has the same low priority as other reimbursement requests under this section, but requests for assistance to complete activities begun before the effective date of this section shall be prioritized with other requests made under AS 46.03.420 - 46.03.430, enacted by sec. 2 of this Act, and are subject to the same requirements and maximum amounts established under those sections.

(g) In this section,

(1) "board," "containment and cleanup," "corrective action," "release," "risk assessment," "tank system," and "underground petroleum storage tank system" have the meanings given in AS 46.03.450, enacted by sec. 2 of this Act;

(2) "closure" and "upgrading" have the meanings given in AS 46.-03.430, enacted by sec. 2 of this Act.

* Sec. 7. NOTICE ABOUT REGULATIONS. The commissioner of environmental conservation shall notify the Alaska Legislative Council and the revisor of statutes in writing when regulations have been adopted under AS 46.03.-375(a), enacted by sec. 2 of this Act, for a specific activity for which certification is required under that section.

* Sec. 8. INITIAL APPOINTMENTS TO BOARD. The governor shall make initial appointments to the Board of Storage Tank Assistance required under AS 46.03.360, enacted by sec. 2 of this Act, within 45 days after the effective date of AS 46.03.360, enacted by sec. 2 of this Act.

* Sec. 9. (a) AS 46.03.375(c) and (d), enacted by sec. 2 of this Act, take effect for a specific activity for which certification is required under that section, one year after the effective date of regulations adopted under AS 46.03.375 governing certification for that activity.

(b) AS 46.03.405, enacted by sec. 2 of this Act, takes effect six months after the effective date of AS 46.03.380, enacted by sec. 2 of this Act.

* Sec. 10. Except as provided in sec. 9 of this Act, this Act takes effect immediately under AS 01.10.070(c).

5/3/90 pm
Janice
Adopted

AMENDMENT TO SCSHB220 (FIN)

#2

Page 5,

delete lines 7 - 15 and insert the following

(d) The department may not adopt regulations that conflict with regulations adopted by the Board.

6-0693IIc ✓
Lauterbach
5/3/90 pm
Janice
Adopted

A M E N D M E N T # 1

OFFERED IN THE SENATE

TO: SCS CSHB 220 (Finance)

Page 7, line 21, after "person":

Insert ", including a governmental entity or institution, or a public corporation,"

Page 10, lines 2 - 3:

Delete "A person"

Insert "An owner or operator"

Page 21, line 26, after "person":

Insert ", including a municipal school district, regional educational attendance area, or municipality,"

Page 23, line 3:

Delete "person"

Insert "owner or operator"

6-0693W
Lauterbach
5/9/89

Original sponsors: Menard, M.Davis,
Brown, et al.

1 IN THE HOUSE

BY THE FINANCE COMMITTEE

2 SENATE CS FOR CS FOR HOUSE BILL NO. 220 (Finance)

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 SIXTEENTH LEGISLATURE - FIRST SESSION

5 A BILL

6 For an Act entitled: "An Act relating to motor fuels, petroleum and chemi-
7 cal storage tanks, and investigation, containment,
8 and cleanup of oil and hazardous substances; and
9 providing for an effective date."

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

11 * Section 1. PURPOSE. The purpose of this Act is to authorize the
12 Department of Environmental Conservation to abate and prevent leaks associ-
13 ated with underground petroleum and chemical storage tanks in order to
14 protect the public from contamination of drinking water and the environment
15 and to establish mechanisms that will assist the owners of underground
16 petroleum and chemical storage tanks to comply with federal and state
17 requirements governing their tanks. The legislature recognizes that these
18 owners may be faced with expenses that they cannot immediately afford for
19 liability insurance, the costs of upgrading or replacing their tanks, and
20 the costs of cleaning up past contamination related to their tanks. The
21 legislature intends to help these owners through a combination of educa-
22 tional assistance, grants, and other financial assistance, but only if
23 these owners promptly comply with the new requirements of this Act. For
24 purposes of this Act, when priorities are established for financial
25 assistance, special consideration shall be given to small businesses and
26 owners of fewer than 10 underground storage tanks.

27 * Sec. 2. AS 46.03 is amended by adding new sections to read:

28 ARTICLE 6A. PETROLEUM AND CHEMICAL STORAGE TANKS.

29 Sec. 46.03.360. REGULATION OF UNDERGROUND PETROLEUM AND CHEMICAL

1 STORAGE TANKS. (a) The department shall assist owners and develop a
2 program to prevent and abate pollution from underground petroleum and
3 chemical storage tanks through the adoption of regulations. Consis-
4 tent with other provisions in AS 46.03.360 - 46.03.450, the regu-
5 lations may govern

- 6 (1) notification;
- 7 (2) licensing, certification, inspection, and record keep-
8 ing;
- 9 (3) contingency plans and financial responsibility;
- 10 (4) construction, installation, and performance;
- 11 (5) maintenance, operation, and repair;
- 12 (6) spill and overfill control, corrosion prevention, and
13 release detection and reporting;
- 14 (7) enforcement, corrective action, and damages and cost
15 recovery;
- 16 (8) administration of the grant program under AS 46.03.380;
- 17 (9) closure and abandonment; and
- 18 (10) prevention of spills, releases, or pollution, to pro-
19 tect the public health and environment.

20 (b) The department may distinguish among the sizes, types,
21 classes, and ages of underground petroleum and chemical storage tanks
22 in the regulations adopted under (a) of this section.

23 (c) The commissioner shall appoint a panel to assist the depart-
24 ment in developing regulations under this section. The panel must in-
25 clude public members and persons who will be governed by the regula-
26 tions, such as underground petroleum and chemical storage tank owners
27 and persons who install, repair, or test underground petroleum and
28 chemical storage tanks. Before a notice of proposed action may be
29 published under AS 44.62.190 for regulations required under this

1 section, the commissioner shall submit the proposed regulations to the
2 panel for review and comment. Before the commissioner adopts regula-
3 tions under this section, the commissioner shall consider the comments
4 of the panel. The members of the panel do not receive compensation
5 for their service on the panel but are entitled to per diem and travel
6 expenses authorized for boards and commissions under AS 39.20.180 when
7 performing their duties as panel members.

8 Sec. 46.03.370. EDUCATIONAL ASSISTANCE. The department shall
9 provide to persons who own or operate storage tanks educational assis-
10 tance to help them comply with federal and state laws and regulations
11 applicable to the tanks. The department shall also provide the public
12 with information to help the public understand the effects associated
13 with the release of petroleum and chemical products into the environ-
14 ment.

15 Sec. 46.03.380. GRANTS. (a) The department may issue a grant,
16 not to exceed \$100,000 per facility, to the owner of an underground
17 petroleum or chemical storage tank for the purpose of

18 (1) removing and properly disposing of all liquids and
19 sludges from the tank and either filling the tank with inert material
20 or properly dismantling, removing, and disposing of the tank; or

21 (2) retrofitting, repairing, or replacing the tank to meet
22 federal or state requirements.

23 (b) A grant under (a)(1) of this section may be for up to 75
24 percent of the costs approved by the department. A grant under (a)(2)
25 of this section may be for up to 60 percent of the costs approved by
26 the department.

27 Sec. 46.03.390. NOTIFICATION REQUIREMENTS. (a) A person who
28 intends to install, have installed, significantly change the config-
29 uration of, or transfer ownership of an underground petroleum or

1 chemical storage tank shall notify the department in writing at least
2 30 days before the installation, change, or transfer. The department
3 may waive the requirement of this subsection upon a showing of good
4 cause.

5 (b) If an underground petroleum or chemical storage tank is
6 taken out of operation, the owner of the tank, or an agent on the
7 owner's behalf, shall provide

8 (1) notification of that fact to the department within 30
9 days after the date the tank was taken out of operation; and

10 (2) evidence satisfactory to the department that

11 (A) all petroleum and chemical products and sludges
12 have been removed from the tank and properly disposed of;

13 (B) the tank has either been filled with inert materi-
14 al or been properly dismantled, removed, and disposed of.

15 (c) A person who owns a permanent aboveground petroleum or
16 chemical storage tank with a capacity of 1,100 gallons or more shall
17 notify the department within 60 days after installing the tank or
18 removing it from operation. A notification required under this sub-
19 section for installation of a tank must include information about the
20 tank's location, age if known, type of construction, capacity, and
21 contents.

22 Sec. 46.03.400. REGISTRATION REQUIREMENTS. (a) The owner of an
23 underground petroleum or chemical storage tank shall, within 30 days
24 after installing an underground petroleum or chemical storage tank,
25 register the tank with the department on a form provided by the de-
26 partment.

27 (b) The owner shall specify on the registration form required
28 under (a) of this section the location, size, type of construction,
29 and age of the tank.

1 Sec. 46.03.410. REGISTRATION FEE. (a) At the time of registra-
2 tion under AS 46.03.400, the owner shall pay to the department a
3 registration fee of \$.01 per gallon based on the capacity of the tank
4 being registered or a fee of \$100, whichever is lower. The department
5 shall deposit fees collected under this section in the general fund.
6 The commissioner of administration shall separately account for fees
7 deposited under this section. The legislature may appropriate the
8 annual estimated balance of the account to the petroleum and chemical
9 storage tank account established under AS 46.08.015.

10 (b) The registration fee imposed under (a) of this section does
11 not apply to an underground storage tank owned by the state. The
12 department may by regulation provide for other exemptions from the
13 registration fee imposed under (a) of this section.

14 Sec. 46.03.420. EXEMPTIONS. (a) AS 46.03.360 - 46.03.450 do
15 not apply to a storage tank with a capacity of 1,100 gallons or less
16 if the storage tank is used for storing marine, aviation, or motor
17 fuel that is not intended for resale.

18 (b) AS 46.03.360 - 46.03.450 do not apply to a storage tank used
19 for storing heating oil if the oil is held for consumptive use on the
20 premises where it is stored.

21 (c) AS 46.03.360 - 46.03.450 do not apply to the storage of
22 hazardous waste that is being managed under 42 U.S.C. 6901 - 6991i
23 (the Solid Waste Disposal Act).

24 (d) The department may by regulation provide for other exemp-
25 tions as necessary.

26 Sec. 46.03.450. DEFINITIONS. In AS 46.03.360 - 46.03.450

27 (1) "chemical" means any substance defined in 42 U.S.C.
28 9601(14) (sec. 101(14) of the Comprehensive Environmental Response,
29 Compensation, and Liability Act of 1980), as amended, and any

1 substance having the characteristics identified or listed under 42
2 U.S.C. 6921 (sec. 3001 of the Solid Waste Disposal Act), regardless of
3 whether the substance is a solid waste;

4 (2) "facility" means contiguous land and structures on or
5 in the land containing petroleum and chemical storage tanks owned by
6 the same person;

7 (3) "farm" means a tract of land devoted to the production
8 of crops or raising animals, including fish, and associated residences
9 and improvements; "farm" includes fish hatcheries, rangelands, and
10 nurseries with growing operations;

11 (4) "petroleum" means crude oil or any fraction of crude
12 oil that is liquid at 60 degrees Fahrenheit and pressure of 14.7
13 pounds per square inch absolute; "petroleum" includes petroleum-based
14 substances comprised of a complex blend of hydrocarbons derived from
15 crude oil through processes of separation, conversion, upgrading, and
16 finishing, such as motor fuels, jet fuels, distillate fuel oils,
17 residual fuel oils, lubricants, petroleum solvents, and used oils;

18 (5) "storage tank" means one or a combination of stationary
19 devices that are designed to contain an accumulation of at least 110
20 gallons of petroleum or chemicals; are constructed of nonearthen
21 materials such as concrete, steel, or plastic; and provide structural
22 support; "storage tank" includes pipes or piping connected to the
23 storage tank;

24 (6) "underground storage tank" means a storage tank de-
25 signed to contain an accumulation of petroleum or chemicals, the
26 volume of which, including the volume of underground pipes connected
27 to it, is 10 percent or more beneath the surface of the ground.

28 * Sec. 3. AS 46.08.010(c) is amended to read:

29 (c) Except as provided in AS 46.08.015, the [THE] fund shall be

1 used for actual expenses incurred under AS 46.08.040. Except as
2 provided in AS 46.08.015, the [THE] fund may not be used for capital
3 improvements.

4 * Sec. 4. AS 46.08 is amended by adding a new section to read:

5 Sec. 46.08.015. PETROLEUM AND CHEMICAL STORAGE TANK ACCOUNT.

6 (a) There is established in the fund a petroleum and chemical storage
7 tank account. The account consists of money appropriated to it.

8 (b) The commissioner may use money in the petroleum and chemical
9 storage tank account to pay for

10 (1) the costs of investigation, containment, and cleanup of
11 a release or threatened release of petroleum or chemicals from an
12 underground petroleum or chemical storage tank or from uses related to
13 the storage tank; payments under this paragraph may not exceed
14 \$1,000,000 per investigation, containment, and cleanup action; and

15 (2) grants under AS 46.03.380.

16 (c) When using funds from the petroleum and chemical storage
17 tank account, the commissioner shall place a priority on those inves-
18 tigation, containments, and cleanups of a release or threatened
19 release of petroleum or chemicals from an underground petroleum or
20 chemical storage tank or from uses related to the storage tank based
21 on the potential affect on drinking water and groundwater aquifer
22 contamination.

23 (d) In this section, "chemical," "petroleum," and "underground
24 storage tank" have the meanings given in AS 46.03.450.

25 * Sec. 5. AS 46.08.060(a) is amended to read:

26 (a) The commissioner shall submit a report to the legislature
27 not later than the 10th day following the convening of each regular
28 session of the legislature. The report may include information con-
29 sidered significant by the commissioner but must include:

1 (1) the amount of money expended under AS 46.08.015 and
2 46.08.040 during the preceding fiscal year;

3 (2) the amount and source of money received and money re-
4 covered during the preceding fiscal year as specified in AS 46.08.020;

5 (3) a summary of municipal participation in responses
6 funded by the fund;

7 (4) a detailed summary of department activities in re-
8 sponses funded by the fund and the petroleum and chemical storage tank
9 account during the preceding fiscal year, including response and
10 descriptions and statements outlining the nature of the threat; the
11 report must separately describe how many requests for assistance have
12 been made to the department to use the petroleum and chemical storage
13 tank account to respond to a release or threatened release from a
14 storage tank, the estimated cost of containment and cleanup related to
15 those requests, and a separate description of associated administra-
16 tive costs;

17 (5) the projected cost for the next fiscal year of monitor-
18 ing, operating, and maintaining sites where response has been com-
19 pleted or is expected to be continued during the fiscal year.

20 * Sec. 6. (a) Notwithstanding AS 46.03.400, enacted by sec. 2 of this
21 Act, the registration required under AS 46.03.400, enacted by sec. 2 of
22 this Act, is due December 1, 1989, for an underground storage tank in-
23 stalled before July 1, 1989, that is in use on July 1, 1989.

24 (b) The owner of an underground petroleum or chemical storage tank
25 governed by AS 46.03.360 - 46.03.450, enacted by sec. 2 of this Act, whose
26 tank was taken out of use before July 1, 1989, but whose tank is still in
27 place on July 1, 1989, shall notify the Department of Environmental Conser-
28 vation of the location of the tank by January 1, 1990.

29 (c) Notwithstanding AS 46.03.390(c), as enacted by sec. 2 of this
SCS CSHB 220(Fin)

Act, notification required under that subsection for a permanent aboveground petroleum or chemical storage tank with a capacity of 1,100 gallons or more in existence on July 1, 1989, is due by January 1, 1990.

* Sec. 7. AS 46.03.380 and AS 46.08.015(b)(2) are repealed September 30, 1994.

* Sec. 8. (a) Subject to (b) - (i) of this section, the owner of an underground petroleum or chemical storage tank may request the department to use funds from the account established under AS 46.08.015, enacted in sec. 4 of this Act, to pay the costs of investigation, containment, and cleanup resulting from a release of petroleum or chemical from, or associated with, an underground petroleum or chemical storage tank.

(b) Payments made by the department under this section shall exclude a portion of the investigation, containment, and cleanup costs. The portion of costs not payable by the department under this section shall be based upon the total number of whole gallons of petroleum or chemicals stored by the owner in all underground petroleum and chemical storage tanks during the 12-month period preceding the date the owner reported the release to the department, as follows:

Total number of gallons of petroleum and chemicals stored by the owner in the 12 months before the report date:	Amount of investigation, containment, and cleanup costs not payable by the department under this section:
0 - 1,000,000	\$ 5,000
1,000,001 - 5,000,000.....	10,000
5,000,001 - 10,000,000.....	15,000
10,000,001 - 15,000,000.....	20,000
15,000,001 - 30,000,000.....	40,000
Over 30,000,000.....	50,000.

(c) Information released to the department under (b) of this section

1 shall remain confidential.

2 (d) An owner of an underground petroleum or chemical storage tank is
3 not eligible to request payment under this section unless the owner estab-
4 lishes the following to the department's reasonable satisfaction:

5 (1) the owner reported the release to the department before

6 (A) July 1, 1990, for a release that the owner establishes
7 first occurred before July 1, 1989;

8 (B) July 1, 1994, for a release that the owner establishes
9 first occurred on or after July 1, 1989, and before December 22, 1993;

10 (2) the tank from which the release occurred was installed
11 before December 22, 1988;

12 (3) the tank from which the release occurred was registered with
13 the department as provided in sec. 6(a) of this Act by December 1, 1989, or
14 was a tank for which notification was given to the department under
15 sec. 6(b) of this Act by January 1, 1990;

16 (4) the owner has, after December 1, 1989, been in compliance
17 with all state and federal laws applicable to underground petroleum and
18 chemical storage tanks;

19 (5) the owner, upon demand by the department, pays the full
20 amount of costs not payable under this section as set out in (b) of this
21 section;

22 (6) the release was not a result of the owner's gross negli-
23 gence, recklessness, or intentional conduct; and

24 (7) the owner agrees to

25 (A) upgrade all underground storage tank systems located at
26 the facility from which the release occurred to the standards set by
27 federal regulations; or

28 (B) remove and properly dispose of all liquids and sludges
29 from the underground storage tank systems located at the facility from

1 which the release occurred and either fill the tanks with inert mate-
2 rial or properly dismantle, remove, and dispose of the tanks.

3 (e) The department may deny a request for payment made under this
4 section if the department determines that one or more of the following
5 conditions exists:

6 (1) the account established under AS 46.08.015, enacted by
7 sec. 4 of this Act, lacks sufficient funds; if a request for payment is
8 denied under this paragraph, it shall be granted when funds are next avail-
9 able, subject to the priorities established under (h) of this section;

10 (2) other investigation, containment, and cleanup activities for
11 which account funds may be used constitute a higher priority for account
12 fund expenditures; or

13 (3) the owner fails to meet the requirements set out in (d) of
14 this section.

15 (f) A request for funding under this section, and a payment made
16 under this section, may not exceed \$1,000,000 per facility.

17 (g) The department shall determine which costs of investigation,
18 containment, and cleanup are eligible for payment under this section. The
19 department shall give higher priority to investigation, containment, and
20 cleanup under this section than to grants under AS 46.03.380, enacted by
21 sec. 2 of this Act.

22 (h) The department may adopt regulations reasonably necessary to
23 implement this section. The regulations must be consistent with federal
24 law. The department may adopt regulations that will be used for determin-
25 ing priorities for responding to a release or threatened release reported
26 under this section. The panel review process established under AS 46.03.-
27 360(c), enacted by sec. 2 of this Act, is applicable to regulations adopted
28 under this subsection. In addition, the panel shall make recommendations
29 to the department on the priorities to be established in the regulations.

1 (i) This section does not affect the liability under state or federal
2 law of any person for the costs of investigation, containment, and cleanup
3 resulting from a release of petroleum or chemicals. However, the depart-
4 ment may not seek reimbursement of a payment made under this section unless
5 the department determines that the payment was requested under false pre-
6 tenses or that other circumstances render the payment inconsistent with
7 this section or with department regulations. This section does not affect
8 the authority of the department to seek recovery of costs other than pay-
9 ments actually made to an owner under this section.

10 (j) In this section,

11 (1) "department" means the Department of Environmental Conserva-
12 tion;

13 (2) "facility" has the meaning given in AS 46.03.450, as enacted
14 by sec. 2 of this Act;

15 (3) "chemical," "petroleum," and "underground storage tank" have
16 the meanings given in AS 46.03.450, as enacted by sec. 2 of this Act, but
17 "underground storage tank" does not include storage tanks that are exempt
18 under AS 46.03.420, enacted by sec. 2 of this Act, or regulations adopted
19 under that section;

20 (4) "underground storage tank system" has the meaning given to
21 the term "UST system" in 40 C.F.R. 280.12, as amended.

22 * Sec. 9. This Act takes effect July 1, 1989.

WORK DRAFT

6-0693K

Lauterbach

5/9/89

10¹⁰ pm

Original sponsors: Menard, M. Davis,
Brown, et al.

1 IN THE HOUSE

BY THE FINANCE COMMITTEE

2 SENATE CS FOR CS FOR HOUSE BILL NO. 220 (Finance)

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 SIXTEENTH LEGISLATURE - FIRST SESSION

5 A BILL

6 For an Act entitled: "An Act relating to motor fuels, petroleum and chemi-
7 cal storage tanks, and investigation, containment,
8 and cleanup of oil and hazardous substances; and
9 providing for an effective date."

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

11 * Section 1. PURPOSE. The purpose of this Act is to authorize the
12 Department of Environmental Conservation to abate and prevent leaks associ-
13 ated with underground petroleum and chemical storage tanks in order to
14 protect the public from contamination of drinking water and the environment
15 and to establish mechanisms that will assist the owners of underground
16 petroleum and chemical storage tanks to comply with federal and state
17 requirements governing their tanks. The legislature recognizes that these
18 owners may be faced with expenses that they cannot immediately afford for
19 liability insurance, the costs of upgrading or replacing their tanks, and
20 the costs of cleaning up past contamination related to their tanks. The
21 legislature intends to help these owners through a combination of educa-
22 tional assistance, grants, and other financial assistance, but only if
23 these owners promptly comply with the new requirements of this Act. For
24 purposes of this Act, when priorities are established for financial
25 assistance, special consideration shall be given to small businesses and
26 owners of fewer than 10 underground storag tanks.

27 * Sec. 2. AS 46.03 is amended by adding new sections to read:

28 ARTICLE 6A. PETROLEUM AND CHEMICAL STORAGE TANKS.

29 Sec. 46.03.360. REGULATION OF UNDERGROUND PETROLEUM AND CHEMICAL

1 STORAGE TANKS. (a) The department shall assist owners and develop a
2 program to prevent and abate pollution from underground petroleum and
3 chemical storage tanks through the adoption of regulations. Consis-
4 tent with other provisions in AS 46.03.360 - 46.03.450, the regu-
5 lations may govern

- 6 (1) notification;
- 7 (2) licensing, certification, inspection, and record keep-
8 ing;
- 9 (3) contingency plans and financial responsibility;
- 10 (4) construction, installation, and performance;
- 11 (5) maintenance, operation, and repair;
- 12 (6) spill and overfill control, corrosion prevention, and
13 release detection and reporting;
- 14 (7) enforcement, corrective action, and damages and cost
15 recovery;
- 16 (8) administration of the grant program under AS 46.03.380;
- 17 (9) closure and abandonment; and
- 18 (10) prevention of spills, releases, or pollution, to pro-
19 tect the public health and environment.

20 (b) The department may distinguish among the sizes, types,
21 classes, and ages of underground petroleum and chemical storage tanks
22 in the regulations adopted under (a) of this section.

23 (c) The commissioner shall appoint a panel to assist the depart-
24 ment in developing regulations under this section. The panel must in-
25 clude public members and persons who will be governed by the regula-
26 tions, such as underground petroleum and chemical storage tank owners
27 and persons who install, repair, or test underground petroleum and
28 chemical storage tanks. Before a notice of proposed action may be
29 published under AS 44.62.190 for regulations required under this

1 section, the commissioner shall submit the proposed regulations to the
2 panel for review and comment. Before the commissioner adopts regula-
3 tions under this section, the commissioner shall consider the comments
4 of the panel. The members of the panel do not receive compensation
5 for their service on the panel but are entitled to per diem and travel
6 expenses authorized for boards and commissions under AS 39.20.180 when
7 performing their duties as panel members.

8 Sec. 46.03.370. EDUCATIONAL ASSISTANCE. The department shall
9 provide to persons who own or operate storage tanks educational assis-
10 tance to help them comply with federal and state laws and regulations
11 applicable to the tanks. The department shall also provide the public
12 with information to help the public understand the effects associated
13 with the release of petroleum and chemical products into the environ-
14 ment.

15 Sec. 46.03.380. GRANTS. (a) The department may issue a grant,
16 not to exceed \$100,000 per facility, to the owner of an underground
17 petroleum or chemical storage tank for the purpose of

18 (1) removing and properly disposing of all liquids and
19 sludges from the tank and either filling the tank with inert material
20 or properly dismantling, removing, and disposing of the tank; or

21 (2) retrofitting, repairing, or replacing the tank to meet
22 federal or state requirements.

23 (b) A grant under (a)(1) of this section may be for up to 75
24 percent of the costs approved by the department. A grant under (a)(2)
25 of this section may be for up to 60 percent of the costs approved by
26 the department.

27 Sec. 46.03.390. NOTIFICATION REQUIREMENTS. (a) A person who
28 intends to install, have installed, significantly change the config-
29 uration of, or transfer ownership of an underground petroleum or

1 chemical storage tank shall notify the department in writing at least
2 30 days before the installation, change, or transfer. The department
3 may waive the requirement of this subsection upon a showing of good
4 cause.

5 (b) If an underground petroleum or chemical storage tank is
6 taken out of operation, the owner of the tank, or an agent on the
7 owner's behalf, shall provide

8 (1) notification of that fact to the department within 30
9 days after the date the tank was taken out of operation; and

10 (2) evidence satisfactory to the department that

11 (A) all petroleum and chemical products and sludges
12 have been removed from the tank and properly disposed of;

13 (B) the tank has either been filled with inert materi-
14 al or been properly dismantled, removed, and disposed of.

15 (c) A person who owns a permanent aboveground petroleum or
16 chemical storage tank with a capacity of 1,100 gallons or more shall
17 notify the department within 60 days after installing the tank or
18 removing it from operation. A notification required under this sub-
19 section for installation of a tank must include information about the
20 tank's location, age if known, type of construction, capacity, and
21 contents.

22 Sec. 46.03.400. REGISTRATION REQUIREMENTS. (a) The owner of an
23 underground petroleum or chemical storage tank shall, within 30 days
24 after installing an underground petroleum or chemical storage tank,
25 register the tank with the department on a form provided by the de-
26 partment.

27 (b) The owner shall specify on the registration form required
28 under (a) of this section the location, size, type of construction,
29 and age of the tank.

1 Sec. 46.03.410. REGISTRATION FEE. (a) At the time of registra-
2 tion under AS 46.03.400, the owner shall pay to the department a
3 registration fee of \$.01 per gallon based on the capacity of the tank
4 being registered or a fee of \$100, whichever is lower. The department
5 shall deposit fees collected under this section in the general fund.
6 The commissioner of administration shall separately account for fees
7 deposited under this section. The legislature may appropriate the
8 annual estimated balance of the account to the petroleum and chemical
9 storage tank account established under AS 46.08.015.

10 (b) The registration fee imposed under (a) of this section does
11 not apply to an underground storage tank owned by the state. The
12 department may by regulation provide for other exemptions from the
13 registration fee imposed under (a) of this section.

14 Sec. 46.03.420. EXEMPTIONS. (a) AS 46.03.360 - 46.03.450 do
15 not apply to a storage tank with a capacity of 1,100 gallons or less
16 if the storage tank is used for storing marine, aviation, or motor
17 fuel that is not intended for resale.

18 (b) AS 46.03.360 - 46.03.450 do not apply to a storage tank used
19 for storing heating oil if the oil is held for consumptive use on the
20 premises where it is stored.

21 (c) AS 46.03.360 - 46.03.450 do not apply to the storage of
22 hazardous waste that is being managed under 42 U.S.C. 6901 - 6991i
23 (the Solid Waste Disposal Act).

24 (d) The department may by regulation provide for other exemp-
25 tions as necessary.

26 Sec. 46.03.450. DEFINITIONS. In AS 46.03.360 - 46.03.450

27 (1) "chemical" means any substance defined in 42 U.S.C.
28 9601(14) (sec. 101(14) of the Comprehensive Environmental Response,
29 Compensation, and Liability Act of 1980), as amended, and any

1 substance having the characteristics identified or listed under 42
2 U.S.C. 6921 (sec. 3001 of the Solid Waste Disposal Act), regardless of
3 whether the substance is a solid waste;

4 (2) "facility" means contiguous land and structures on or
5 in the land containing petroleum and chemical storage tanks owned by
6 the same person;

7 (3) "farm" means a tract of land devoted to the production
8 of crops or raising animals, including fish, and associated residences
9 and improvements; "farm" includes fish hatcheries, rangelands, and
10 nurseries with growing operations;

11 (4) "petroleum" means crude oil or any fraction of crude
12 oil that is liquid at 60 degrees Fahrenheit and pressure of 14.7
13 pounds per square inch absolute; "petroleum" includes petroleum-based
14 substances comprised of a complex blend of hydrocarbons derived from
15 crude oil through processes of separation, conversion, upgrading, and
16 finishing, such as motor fuels, jet fuels, distillate fuel oils,
17 residual fuel oils, lubricants, petroleum solvents, and used oils;

18 (5) "storage tank" means one or a combination of stationary
19 devices that are designed to contain an accumulation of at least 110
20 gallons of petroleum or chemicals; are constructed of nonearthen
21 materials such as concrete, steel, or plastic; and provide structural
22 support; "storage tank" includes pipes or piping connected to the
23 storage tank;

24 (6) "underground storage tank" means a storage tank de-
25 signed to contain an accumulation of petroleum or chemicals, the
26 volume of which, including the volume of underground pipes connected
27 to it, is 10 percent or more beneath the surface of the ground.

28 * Sec. 3. AS 46.08.010(c) is amended to read:

29 (c) Except as provided in AS 46.08.015, the [THE] fund shall be

1 used for actual expenses incurred under AS 46.08.040. Except as
2 provided in AS 46.08.015, the [THE] fund may not be used for capital
3 improvements.

4 * Sec. 4. AS 46.08 is amended by adding a new section to read:

5 Sec. 46.08.015. PETROLEUM AND CHEMICAL STORAGE TANK ACCOUNT.

6 (a) There is established in the fund a petroleum and chemical storage
7 tank account. The account consists of money appropriated to it.

8 (b) The commissioner may use money in the petroleum and chemical
9 storage tank account to pay for

10 (1) the costs of investigation, containment, and cleanup of
11 a release or threatened release of petroleum or chemicals from an
12 underground petroleum or chemical storage tank or from uses related to
13 the storage tank; payments under this paragraph may not exceed
14 \$1,000,000 per investigation, containment, and cleanup action; and

15 (2) grants under AS 46.03.380;

16 (3) the costs of administering AS 46.03.360 - 46.03.450, up
17 to a maximum of 10 percent of the balance of the account.

18 (c) When using funds from the petroleum and chemical storage
19 tank account, the commissioner shall place a priority on those inves-
20 tigation, containments, and cleanups of a release or threatened
21 release of petroleum or chemicals from an underground petroleum or
22 chemical storage tank or from uses related to the storage tank based
23 on the potential effect on drinking water and groundwater aquifer
24 contamination.

25 (d) In this section, "chemical," "petroleum," and "underground
26 storage tank" have the meanings given in AS 46.03.450.

27 * Sec. 5. AS 46.08.060(a) is amended to read:

28 (a) The commissioner shall submit a report to the legislature
29 not later than the 10th day following the convening of each regular

1 session of the legislature. The report may include information con-
2 sidered significant by the commissioner but must include:

3 (1) the amount of money expended under AS 46.08.015 and
4 46.08.040 during the preceding fiscal year;

5 (2) the amount and source of money received and money re-
6 covered during the preceding fiscal year as specified in AS 46.08.020;

7 (3) a summary of municipal participation in responses
8 funded by the fund;

9 (4) a detailed summary of department activities in re-
10 sponses funded by the fund and the petroleum and chemical storage tank
11 account during the preceding fiscal year, including response and
12 descriptions and statements outlining the nature of the threat; the
13 report must separately describe how many requests for assistance have
14 been made to the department to use the petroleum and chemical storage
15 tank account to respond to a release or threatened release from a
16 storage tank, the estimated cost of containment and cleanup related to
17 those requests, and a separate description of associated administra-
18 tive costs;

19 (5) the projected cost for the next fiscal year of monitor-
20 ing, operating, and main'aining sites where response has been com-
21 pleted or is expected to be continued during the fiscal year.

22 * Sec. 6. (a) Notwithstanding AS 46.03.400, enacted by sec. 2 of this
23 Act, the registration required under AS 46.03.400, enacted by sec. 2 of
24 this Act, is due December 1, 1989, for an underground storage tank in-
25 stalled before July 1, 1989, that is in use on July 1, 1989.

26 (b) The owner of an underground petroleum or chemical storage tank
27 governed by AS 46.03.360 - 46.03.450, enacted by sec. 2 of this Act, whose
28 tank was taken out of use before July 1, 1989, but whose tank is still in
29 place on July 1, 1989, shall notify the Department of Environmental

1 Conservation of the location of the tank by January 1, 1990.

2 (c) Notwithstanding AS 46.03.390(c), as enacted by sec. 2 of this
3 Act, notification required under that subsection for a permanent above-
4 ground petroleum or chemical storage tank with a capacity of 1,100 gallons
5 or more in existence on July 1, 1989, is due by January 1, 1990.

6 * Sec. 7. AS 46.03.380 and AS 46.08.015(b)(2) are repealed Septem-
7 ber 30, 1994.

8 * Sec. 8. (a) Subject to (b) - (i) of this section, the owner of an
9 underground petroleum or chemical storage tank may request the department
10 to use funds from the account established under AS 46.08.015, enacted in
11 sec. 4 of this Act, to pay the costs of investigation, containment, and
12 cleanup resulting from a release of petroleum or chemical from, or associ-
13 ated with, an underground petroleum or chemical storage tank.

14 (b) Payments made by the department under this section shall exclude
15 a portion of the investigation, containment, and cleanup costs. The por-
16 tion of costs not payable by the department under this section shall be
17 based upon the total number of whole gallons of petroleum or chemicals
18 stored by the owner in all underground petroleum and chemical storage tanks
19 during the 12-month period preceding the date the owner reported the re-
20 lease to the department, as follows:

Total number of gallons of petroleum and chemicals stored by the owner in the 12 months before the report date:	Amount of investigation, containment, and cleanup costs not payable by the department under this section:
0 - 1,000,000	\$ 5,000
1,000,001 - 5,000,000.....	10,000
5,000,001 - 10,000,000.....	15,000
10,000,001 - 15,000,000.....	20,000
15,000,001 - 30,000,000.....	40,000

1 Over 30,000,000..... 50,000.

2 (c) Information released to the department under (b) of this section
3 shall remain confidential.

4 (d) An owner of an underground petroleum or chemical storage tank is
5 not eligible to request payment under this section unless the owner estab-
6 lishes the following to the department's reasonable satisfaction:

7 (1) the owner reported the release to the department before

8 (A) July 1, 1990, for a release that the owner establishes
9 first occurred before July 1, 1989;

10 (B) July 1, 1994, for a release that the owner establishes
11 first occurred on or after July 1, 1989, and before December 22, 1993;

12 (2) the tank from which the release occurred was installed
13 before December 22, 1988;

14 (3) the tank from which the release occurred was registered with
15 the department as provided in sec. 6(a) of this Act by December 1, 1989, or
16 was a tank for which notification was given to the department under
17 sec. 6(b) of this Act by January 1, 1990;

18 (4) the owner has, after December 1, 1989, been in compliance
19 with all state and federal laws applicable to underground petroleum and
20 chemical storage tanks;

21 (5) the owner, upon demand by the department, pays the full
22 amount of costs not payable under this section as set out in (b) of this
23 section;

24 (6) the release was not a result of the owner's gross negli-
25 gence, recklessness, or intentional conduct; and

26 (7) the owner agrees to

27 (A) upgrade all underground storage tank systems located at
28 the facility from which the release occurred to the standards set by
29 federal regulations; or

1 (B) remove and properly dispose of all liquids and sludges
2 from the underground storage tank systems located at the facility from
3 which the release occurred and either fill the tanks with inert mate-
4 rial or properly dismantle, remove, and dispose of the tanks.

5 (e) The department may deny a request for payment made under this
6 section if the department determines that one or more of the following
7 conditions exists:

8 (1) the account established under AS 46.08.015, enacted by
9 sec. 4 of this Act, lacks sufficient funds; if a request for payment is
10 denied under this paragraph, it shall be granted when funds are next avail-
11 able, subject to the priorities established under (h) of this section;

12 (2) other investigation, containment, and cleanup activities for
13 which account funds may be used constitute a higher priority for account
14 fund expenditures; or

15 (3) the owner fails to meet the requirements set out in (d) of
16 this section.

17 (f) A request for funding under this section, and a payment made
18 under this section, may not exceed \$1,000,000 per facility.

19 (g) The department shall determine which costs of investigation,
20 containment, and cleanup are eligible for payment under this section. The
21 department shall give higher priority to investigation, containment, and
22 cleanup under this section than to grants under AS 46.03.380, enacted by
23 sec. 2 of this Act.

24 (h) The department may adopt regulations reasonably necessary to
25 implement this section. The regulations must be consistent with federal
26 law. The department may adopt regulations that will be used for determin-
27 ing priorities for responding to a release or threatened release reported
28 under this section. The panel review process established under AS 46.03.-
29 360(c), enacted by sec. 2 of this Act, is applicable to regulations adopted

1 under this subsection. In addition, the panel shall make recommendations
2 to the department on the priorities to be established in the regulations.

3 (i) This section does not affect the liability under state or federal
4 law of any person for the costs of investigation, containment, and cleanup
5 resulting from a release of petroleum or chemicals. However, the depart-
6 ment may not seek reimbursement of a payment made under this section unless
7 the department determines that the payment was requested under false pre-
8 tenses or that other circumstances render the payment inconsistent with
9 this section or with department regulations. This section does not affect
10 the authority of the department to seek recovery of costs other than pay-
11 ments actually made to an owner under this section.

12 (j) In this section,

13 (1) "department" means the Department of Environmental Conserva-
14 tion;

15 (2) "facility" has the meaning given in AS 46.03.450, as enacted
16 by sec. 2 of this Act;

17 (3) "chemical," "petroleum," and "underground storage tank" have
18 the meanings given in AS 46.03.450, as enacted by sec. 2 of this Act, but
19 "underground storage tank" does not include storage tanks that are exempt
20 under AS 46.03.420, enacted by sec. 2 of this Act, or regulations adopted
21 under that section;

22 (4) "underground storage tank system" has the meaning given to
23 the term "UST system" in 40 C.F.R. 280.12, as amended.

24 * Sec. 9. This Act takes effect July 1, 1989.
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