

LEGISLATIVE FINANCE-HOUSE / SENATE FINANCE COMM. FILES 8879

SB 268 cont. - SB 273 646 257

1 to pay bonds or notes or interest on bonds or notes and all other
2 costs or expenses of the bond bank authority incident to and necessary
3 or convenient to carry out its corporate purposes and powers.

4 * Sec. 10. This Act takes effect immediately under AS 01.10.070(c).
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4/22/89
ADOPTED

WOHLFORTH, ARGETSINGER, JOHNSON & BRECHT

PETER ARGETSINGER
JULIUS J. BRECHT
ROBERT M. JOHNSON
THOMAS F. KLINKNER
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April 21, 1989

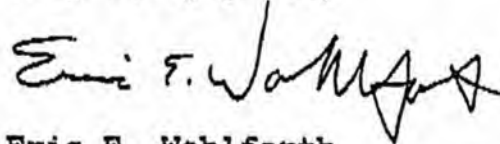
Senate Finance Committee
Alaska State Legislature

Dear Senator:

I set forth proposed amendments to CSSB 268 (L & C) as follows:

1. Page 2, line 20, after "nonnegotiable" insert "bonds,"
2. Page 2, line 22, after "A" insert "bond"
3. Page 2, line 29, after "debt" insert "Bonds,"
4. Page 5, line 13, after "or debt." insert "The notice shall be given in each instance of default."

Very truly yours,



Eric E. Wohlforth

EEW/jf

SF: Moved Am

No Ob

A205069

STATE OF ALASKA
THE LEGISLATURE

POUCH Y STATE CAPITOL
JUNEAU, ALASKA 99811
907 465 3800

LEGISLATIVE AFFAIRS AGENCY

MEMORANDUM

February 15, 1989

SUBJECT: Joint insurance arrangements
(Work Order No. 6-0814)

TO: Senator Steve Frank
Attn: Paul Pesika

FROM: Michael F. Ford *M.F.*
Legislative Counsel

You have asked for our review of legislation to allow municipalities involved in joint insurance arrangements to finance debt through the Alaska Municipal Bond Bank. As explained in this memo, it is our opinion that the legislation would violate Article IX, section 9, of the Alaska Constitution.

Under Article IX, section 9, municipalities are prohibited from contracting debt, unless the debt is authorized by the governing body for capital improvements and ratified by the voters. A "debt" in the context of this constitutional limitation, means an obligation secured by the full faith and credit of the municipality; it does not include an obligation payable from funds on hand or current revenue. 81A C.J.S. §§219,220. The proposed legislation would authorize a contractual pledge of money by a municipality through a joint insurance arrangement. This pledge of money is the type of "debt" that is prohibited by Article IX, section 9, unless the debt is for a capital improvement and is ratified by the voters. The use of notes, certificates of participation, or bonds to establish insurance reserves would clearly not constitute a "capital improvement." See City of Juneau v. Hixson, 373 P.2d 743 (Alaska 1962).

Under Sec. 21.76.120(c) of the proposed legislation, the debt incurred would "not be a general obligation of a municipality." This language is clearly an attempt to avoid the prohibition against debt contained in Article IX, section 9. I do not think that this language will effectly remove the constitutional problem. If a court considered this issue,

Senator Steve Frank
Page 2
February 15, 1989

it would certainly look at the substance of the pledge. Unless the pledge is limited to current revenues, the pledge amounts to creation of a prohibited obligation on future revenues of the municipal treasury. This same section also provides that a pledge may "not include revenues derived from taxes." Again this is an effort to avoid creating the kind of "debt" prohibited by the constitution. However the debt will still be payable from whatever other general revenues are available, probably state funding. So, by eliminating tax revenues in securing the pledge, the state may be faced with an increased "moral obligation" to make payments on these bonds as a practical matter. This is precisely the kind of future obligation that Article IX, section 9 was designed to avoid.

I should also mention that there is an exception to Article IX, section 9, contained in Article IX, section 11. But this exception does not apply to the suggested legislation as I interpret it. The only bonds mentioned in this proposal are those issued by the Alaska Municipal Bond Bank. The exception would not apply to debt undertaken by a municipality, to repay revenue bonds issued by the Alaska Municipal Bond Bank.

For the above reasons, it is our opinion that a municipality could not finance it's joint insurance arrangement in this manner, without serious risk of violating the state constitution. Because bond financing is a specialized area of the law it would be wise to have bond counsel review this proposal before introducing legislation on the subject. This kind of financing arrangement may also create marketing or other practical bonding problems that bond counsel could provide advice on.

MFF:kb
WKK2/007

STATE OF ALASKA

DEPARTMENT OF LAW

OFFICE OF THE ATTORNEY GENERAL

STEVE COWPER, GOVERNOR

REPLY TO:

1031 W 4th AVENUE
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ANCHORAGE, ALASKA 99501-1994
PHONE: (907) 276-3550

1st NATIONAL CENTER
100 CUSHMAN ST.
SUITE 400
FAIRBANKS, ALASKA 99701-4679

P.O. BOX K—STATE CAPITOL
JUNEAU, ALASKA 99811-0300
PHONE: (907) 465-3600

January 31, 1989

Hon. Ronald L. Larson
Alaska State Legislature
P.O. Box V
Juneau, AK 99811

Re: Debt financing for municipal
joint insurance pool

Dear Representative Larson:

At the request of Jay Hogan of your staff, I have reviewed a memorandum dated February 12, 1988 of the Alaska Municipal League relating to "debt financing for municipal liability exposures." I have also reviewed a draft bill dated January 24, 1989 attached to the memorandum. You ask our opinion whether it would be lawful under art. IX of the Alaska Constitution for an association of municipalities to finance an insurance pool through the issuance of revenue bonds. I believe that it is possible to finance an insurance enterprise through the issuance of revenue bonds. Of course, my opinion is conditioned on the financial feasibility of the enterprise and possible federal tax consequences which would affect the marketability of the bonds.

It must be made clear at the outset that we are not giving an opinion concerning the adequacy of the draft bill to accomplish the purpose of the municipal league. We believe that providing insurance coverage for municipal activities is a public purpose for which municipal funds may be expended. Under art. IX, sec. 11 of the Alaska Constitution, the prohibition against incurring debt does not apply to a public enterprise financed solely by revenues generated by the enterprise. The provision of insurance to an association of municipalities probably qualifies as an enterprise under sec. 11. Presently, the municipalities are presumably purchasing insurance from private carriers and we all know that they are not charitable institutions. Insurance premiums paid by municipalities would serve as the source of rev-

Hon. Ronald L. Larson
Alaska State Legislature
Re: Debt financing, municipal joint ins.

January 31, 1989
Page #2

enue to support the issuance of revenue bonds. These periodic premiums could be pledged by the public corporation operating the insurance enterprise to secure the repayment of the bonds.

Subject to authorization being granted by law, the Municipal Bond Bank Authority could operate the enterprise or it could be authorized to spin off a subsidiary public corporation for this purpose. It is also possible for municipalities to form an entity by cooperative agreement to jointly exercise the implied power to insure against risks without using the Municipal Bond Bank Authority. See Alaska Const. art. X, sec. 13 and AS 36.30.700 -- 36.30.790. However, it may be desirable to use the authority as the conduit for the financing because it is recognized by potential investors and, by virtue of that recognition, enjoys a favorable bond rating. Section 13 also allows cooperative agreements between municipalities and state agencies.

I have reviewed the memorandum dated January 30 prepared by legislative counsel on this matter and must respectfully disagree with his conclusions. Legislative counsel argues that a municipality would be barred from this financing technique because the municipality is not financing capital improvements. In support of his conclusion, counsel cites City of Juneau v. Hixson, 373 P.2d 743 (Alaska 1962). This financing arrangement could be distinguished from the method used in Hixson if the premiums paid by the municipalities are subject to annual appropriation. For this financing to work, there would need to be agreements between each municipality and the financing entity in which the payment of premiums is conditioned on the adoption of municipal appropriations. It is also likely that each municipality would need to acknowledge a moral obligation to make premium payments until the bonded indebtedness is retired. Because the debt incurred under this proposal is not for capital improvements, a municipality cannot unconditionally pledge general tax revenues. However, we believe there is no problem making premium payments from tax revenues generated by a municipality if, as explained above, the governing body of the municipality retains the discretion to appropriate amounts to pay the premiums.

I agree with legislative counsel that the committee should seek the advice of a qualified bond counsel before this bill is prepared for introduction. For example, without the concurrence of bond counsel, I would be hesitant to recommend that the bill allow the issuing entity to use negotiable or nonnegotiable instruments or certificates of participation.

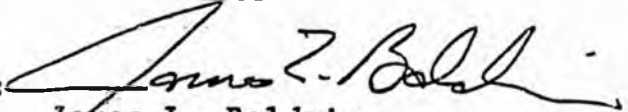
Hon. Ronald L. Larson
Alaska State Legislature
Re: Debt financing, municipal joint ins.

January 31, 1989
Page #3

I hope this memorandum will serve your purposes.

Sincerely yours,

GRACE BERG SCHAIBLE
ATTORNEY GENERAL

By: 
James L. Baldwin
Assistant Attorney General

JLB/pjg

cc: Michael Ford
Legislative Affairs Agency

Arthur H. Peterson
Department of Law

AML JIA

Alaska Municipal League Joint Insurance Association, Inc.

217 Second Street, Suite 200

Juneau, Alaska 99801

(907) 586-3222

FAX: (907) 463-5480

April 12, 1989

The Honorable Steve Frank
Alaska State Senate
State of Alaska
P. O. Box V
Juneau, Alaska 99811-3100

Re: AN ACT RELATING TO MUNICIPAL FINANCING
AND MUNICIPAL JOINT INSURANCE ARRANGEMENTS,
THE ALASKA MUNICIPAL BANK

Dear Senator Frank:

In 1986 the Alaska Legislature, under AS 21.76, gave Alaskan municipalities, city and school borough school districts authority to form joint insurance arrangements as an alternative to commercial property, liability and workers compensation insurances. This legislation was enacted to enable municipalities to cope with the adverse effects of constantly fluctuating insurance markets. Availability and cost of needed insurance coverages has been subject to wild swings which place a strain on the municipal budgeting process. These wild swings are best illustrated by the enclosed study published recently by the Insurance Services offices. These severe swings in profitability have caused large rate increases and restrictions of coverage for municipalities countrywide.

In recent years, many states including, California, New York, Texas, Louisiana, Arkansas, Michigan, Washington, Maryland, South Dakota, Montana, Kentucky and Illinois have passed enabling legislation allowing their public entities, municipalities, school districts, special districts, etc, to use alternative methods of financing the costs of their insurance risks. Such capital market financing methods as Bonds, Certificates of Participation and Letters of Credit, are now being used to augment, supplement, or replace commercial insurance. These alternative financing methods are also being used in private industry. Self insurance, risk retention groups and risk purchase groups are indications of the continuing trend towards alternative approaches to insurance in the financing of risk (costs of loss). It is estimated that by 1990, 35 to 40 per cent of commercial organizations, both public and private, will be using such alternative risk finance techniques. In the public sector there are currently over 200 public pools such as ours. In addition, most major cities, counties and states are

Joint Insurance Assn

self insured to some extent.

The purpose of this Act, then, is to allow municipalities and municipal joint insurance arrangements organized under AS 21.76 to utilize such alternative methods to finance the costs of establishing self funded reserves to cover their liabilities. Such funds would be used:

- * to create capital surplus on a pre-loss basis to fund to aggregate retention levels for multiple losses requiring payments in excess of retention level.
- * to fund large losses in excess of aggregate retentions on a post loss basis in lieu of assessments.
- * to augment, supplement or replace reinsurance or excess insurance.

The amount of funds needed to accomplish these goals would be determined by actuaries certified by the American Academy of Actuaries. The Alaska Bond Bank or other lender would have right of approval. They could either accept or reject our proposal based on their underwriting criteria.

Currently, the AML Joint Insurance Association self funds the first \$250,000 of its Property and Liability losses. The first \$350,000 of Workers Compensation loss is also self funded. This self funding is accomplished on a pooled basis using a portion of the member's premium contributions. This pooled loss fund is actuarially determined by certified actuaries, and along with reinsurance and administrative costs is reflected in the rates charged our members. Our reinsurance includes both an occurrence limit and aggregate retention limits as required by AS 21.76.

The requested legislation would provide us with a "tool" to use in better managing the financing of our risks. It could be used to reduce or replace reinsurance when its cost is expensive and to supplement our program with coverages not offered by commercial insurers. The fund could also be used to provide coverages for our members at more favorable costs than is now provided by insurers. Municipalities in other states have used this approach to provide necessary funds at substantially less cost than those of insurers when the market is "hard." The cost of insurance premiums can be likened to the cost of debt service on a capital instrument. If the cost of debt service is less than the cost of conventional insurance then certainly debt financing serves a legitimate public purpose. Financing of its costs of risk also gives municipalities greater control of their own destinies. These alternative financing arrangements would give us flexibility and clout when dealing with insurers. Flexibility in that we would purchase

Honorable Steve Frank
April 12, 1989


Page three

reinsurance in greater amounts when prices and coverage are The inexpensive, and lesser amounts when prices increase and coverage decreases. The clout comes from reinsurers knowing that we have an alternative to purchasing our coverage from them.

In summary, the requested legislation would give Alaskan municipalities and the AML Joint Insurance Association greater protection against the cyclical swings of the insurance industry. It would enable us to increase our financial strength while broadening our coverages and would give us a stronger bargaining position with reinsurers.

Your support is earnestly requested and will be deeply appreciated.

Sincerely,

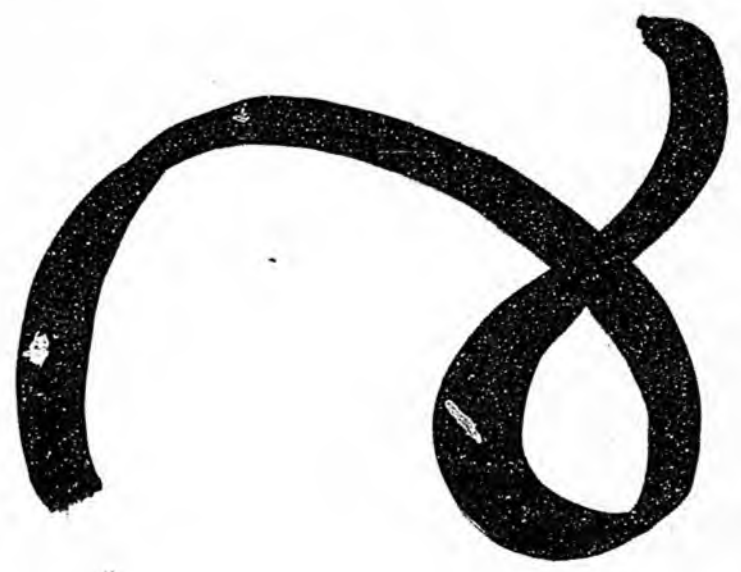
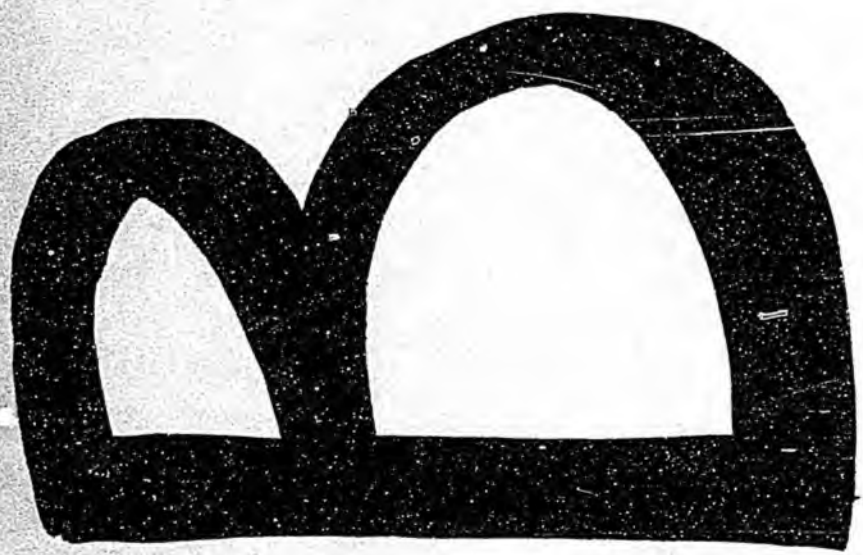

Robert F. Healey, CPCU, ARM, ALCM
Administrator

Enclosure

Copies to: Phil Younker, Chairman, Board of Trustees, AML/JIA
Members, Board of Trustees, AML/JIA

CURRENT PARTICIPATING MEMBERS OF THE AML/JIA

PARTICIPANTS	AUTHORIZED REPRESENTATIVES	RISK MANAGERS
Akutan	Jacob Stephin, Mayor	Erika Tritremmel, Administrator
Angoon	Cynthia Paul, City Clerk	Cynthia Paul, City Clerk
Barrow	Eben Hopson, Jr., Mayor	Eben Hopson, Jr., Mayor
Chuathbaluk	Terry Hoelferle, City Manager	Terry Hoelferle, City Manager
Cordova	Jack Ferrence, Finance Director	Jack Ferrence, Finance Director
Craig	Dave Palmer, Administrator	Dave Palmer, Administrator
Dillingham	Lyle Larson, City Manager	Lyle Larson, City Manager
Eagle	Jean Boone, City Clerk/Treasurer	Oscar Ingold
Elim	Luther Nagaruk, City Clerk	Luther Nagaruk, City Clerk
Emmonak	John Alder, City Manager	John Alder, City Manager
Golovin	Thomas Punguk, Mayor	Thomas Punguk, Mayor
Hooper Bay	Susie DeGrace, Administrative Assistant	Susie DeGrace
Huslia	Elsie Vent, Administrator	Elsie Vent, Administrator
King Cove	Wayne Marshall, City Manager	Wayne Marshall, City Manager
Kotlik	Peter F. Elachik, Sr.	Peter F. Elachik, Sr.
Kotzebue	Allen Jessup, Finance Director	Allen Jessup, Finance Director
Mountain Village	Joyce A. Brown, City Clerk	Robert H. Hall, VPSO
Nenana	Steve Bainbridge, City Manager	Steve Bainbridge, City Manager
Nikolai	Roger Jenkins, City Manager	Roger Jenkins, City Manager
Nome	Polly Prchal, City Manager	Polly Prchal, City Manager
Nunapitchuk	Eli J. Wassillie, Administrator	Eli J. Wassillie, Administrator
Ouzinkie	Debra Garner, City Clerk	Debra Garner, City Clerk
Palmer	David L. Soulak, City Manager	David L. Soulak, City Manager
Petersburg	Patricia Curtiss, Acting City Manager	Patricia Curtiss, City Clerk
Port Lions	David Wakefield, City Clerk	David Wakefield, City Clerk
Quinhagak	Larry Strunk, Administrator	Larry Strunk, Administrator
St. Mary's	Francis Thompson, Administrator	Francis Thompson, Administrator
Sand Point	Bob Juettner, Administrator	Bob Juettner, Administrator
Seward	Max Royle, City Manager	Max Royle, City Manager
Shishmaref	Morris Klyutelluk, Administrator	Morris Klyutelluk, Administrator
Skagway	Tom Healy, City Manager	Tom Healy, City Manager
Soldotna	Richard Underkoffler, City Manager	Richard Underkoffler, City Manager
Tenakee Springs	Janice Eagle, City Clerk	Janice Eagle, City Clerk
Thorne Bay	Ruth Anne Taylor	Ruth Anne Taylor
Unalakleet	Steve Kniseley, Administrator	Steve Kniseley, Administrator
Wainwright	Frances Hopson, Mayor	Frances Hopson, Mayor
Whittier	Cecil DePedro, Finance Director	Cecil DePedro, Finance Director



SENATE COMMITTEE REPORT

FURTHER

4/27/89

DATE TURNED INTO OFFICE

4/28/89

Mr. President:

Finance

Committee considered

SB 271

civil penalties for the unpermitted discharge of uncontaminated crude oil and for the failure to implement an oil discharge contingency plan in response to an unpermitted discharge of uncontaminated crude oil and recommended

- replace with _____ CS _____) same title
- or adopt _____ CS SB 271 (Res)) 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 _____

FISCAL NOTE(S) ^{DEC} zero fiscal impact appropriation no FN

new updated previous

same as previous fiscal note(s) published _____

MEMBERS SIGNING DO PASS

1 rue Roche

OTHER RECOMMENDATIONS

Landman No Rec

Chad F. Magoff No Rec

Don No Rec

Paul (No Rec)

Chair signature and recommendation

Committee Backup attached

R/0 JFC 4-28-89

STATE OF ALASKA
1989 LEGISLATIVE SESSION

BILL VERSION: CS 277 (Resources)
PUBLISH DATE: 4/27/89

FISCAL NOTE

REQUEST:

Revision Date: _____ Agency Affected: Environmental Conservation
Title: An Act relating to civil penalties BRU: Environmental Quality
for discharge of unpermitted contaminated crude oil and for failure to implement an
oil discharge contingency plan Components: Environmental Quality
Sponsor: Senate Special Committee on
Oil and Gas

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 89	FY 90	FY 91	FY 92	FY 93	FY 94
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING		-0-	-0-	-0-	-0-	-0-

CAPITAL						
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REVENUE						
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FUNDING: (Thousands of Dollars)

GENERAL FUND						
FEDERAL FUNDS						
OTHER						
TOTAL		-0-	-0-	-0-	-0-	-0-

POSITIONS:

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

ANALYSIS : (Attach a separate page if necessary)

Prepared by: Dan Easton Phone: 465-2640
Division: Environmental Quality Date: April 11, 1989

Approved by Commissioner: A D Knd Date: 4/13/89
Agency: Alaska Department of Environmental Conservation

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

*Changes in Re Resources CS
have no fiscal effect. This
fiscal note is appropriate. page 1 of 1
4/27/89
D Cousens*

Original sponsors: Senate Special
Committee on Oil and Gas

1 IN THE SENATE BY THE RESOURCES COMMITTEE

2 CS FOR SENATE BILL NO. 271 (Resources)

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 civil penalties for the unpermit-
7 ted discharge of oil and for the failure to implement
8 an oil discharge contingency plan in response to an
9 unpermitted discharge of crude oil; and removing a
10 maximum limit on civil penalties for discharges of
11 oil."

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

13 * Section 1. AS 46.03.758(e) is amended to read:

14 (e) If [AFTER APRIL 19, 1978, IF] a discharge of oil in excess
15 of 18,000 gallons not permitted under applicable state and federal law
16 occurs within the territorial jurisdiction of the state, or into or
17 upon the adjacent outer continental shelf of the state, the following
18 persons, in addition to the person causing or permitting the dis-
19 charge, are jointly and severally liable to the state, in a civil
20 action, for the full amount of penalties established in the regula-
21 tions adopted under this section: [, OR \$100,000,000, WHICHEVER IS
22 LESS,]

23 (1) if the discharge occurs from any commercial or indus-
24 trial facility other than a vessel or offshore platform, the owner,
25 lessee or permittee, and operator of the facility;

26 (2) if the discharge occurs from a vessel,

27 (A) the owner and operator of the vessel; and

28 (B) the owner of the oil carried as cargo on the
29 vessel at the time the vessel was loaded, if the loading occurred

1 within the territorial jurisdiction of the state, or at a deep-
2 water port or other offshore storage facility adjacent to the
3 state; however, if the owner of the oil temporarily transfers
4 ownership of the oil to another person, and the transfer has the
5 purpose or effect of evading the vicarious liability imposed by
6 this section, the transferor will be considered the owner of the
7 oil for the purposes of this subsection; and

8 (3) if the discharge occurs from an offshore platform, the
9 lessee or permittee of the tract or acreage upon which the platform is
10 situated, and the operator of the platform.

11 * Sec. 2. AS 46.03.758(1)(6) is amended to read:

12 (6) "oil" means petroleum [, CRUDE OIL,] and any substance
13 refined from petroleum, except uncontaminated [OR] crude oil;

14 * Sec. 3. AS 46.03 is amended by adding a new section to read:

15 Sec. 46.03.759. CIVIL PENALTIES FOR DISCHARGES OF CRUDE OIL.

16 (a) A person who is found to be liable under any other state law for
17 an unpermitted discharge of uncontaminated crude oil in excess of
18 18,000 gallons is, in addition to liability for any other penalties or
19 for damages or the cost of containment and cleanup, liable to the
20 state in a civil action for a civil penalty in the amount of

21 (1) \$5.83 per gallon of crude oil discharged for the first
22 420,000 gallons discharged; and

23 (2) \$10 per gallon of crude oil discharged for amounts
24 discharged in excess of 420,000 gallons.

25 (b) In determining how many gallons of crude oil have been dis-
26 charged for purposes of assessing a penalty under (a) of this section,
27 the court shall deduct the number of discharged gallons of crude oil
28 that the defendant proves were removed by the defendant from the
29 environment within the first 36 hours after the discharge as a result

1 of a cleanup operation undertaken in conformity with applicable state
2 and federal law. The dispersal of oil through the use of chemical
3 agents or other means is not considered removal for the purposes of
4 this subsection.

5 (c) In determining how many gallons of crude oil have been
6 discharged for purposes of assessing a penalty under (a) of this
7 section, the court may deduct 50 percent of the number of discharged
8 gallons of crude oil that the defendant proves were removed by the
9 defendant within the first 36 hours after the discharge through the
10 use of dispersing agents or other chemical agents approved by the
11 department for use under the defendant's oil discharge contingency
12 plan. The court may estimate the number of gallons removed under this
13 subsection.

14 (d) The court shall assess five times the penalty set out in (a)
15 of this section if the court finds

16 (1) the discharge was caused by the gross negligence or
17 intentional act of the defendant; or

18 (2) the defendant did not take reasonable measures to
19 contain and clean up the discharged oil.

20 (e) Notwithstanding AS 46.03.875, a person liable for civil
21 penalties under this section is not also liable for the discharge of
22 the crude oil under AS 46.03.760(a). A person causing or permitting a
23 discharge of uncontaminated crude oil of 18,000 gallons or less not
24 permitted under applicable state or federal law is liable for that
25 discharge under the penalty provisions of AS 46.03.760(a); however,
26 the court may impose a penalty of less than \$500 for the discharge.

27 (f) The court may reduce the penalty imposed under this section
28 if the defendant demonstrates, by a preponderance of the evidence,
29 that the discharge was caused solely by a negligent act of a third

1 person unless the third person is a person with whom the defendant was
2 found jointly and severally liable for the discharge under other state
3 law.

4 (g) In this section, "discharge" means entry of uncontaminated
5 crude oil into or upon the water or public land of the state, regard-
6 less of causation, except discharges into an enclosed and impervious
7 oil spill containment area.

8 * Sec. 4. AS 46.03.770 is amended to read:

9 Sec. 46.03.770. DETENTION OF VESSEL WITHOUT WARRANT AS SECURITY
10 FOR DAMAGES. A vessel that is used in or in aid of a violation of
11 AS 46.03.740 - 46.03.750 may be detained after a valid search by the
12 department, an agent of the department, a peace officer of the state,
13 or an authorized protection officer of the Department of Fish and
14 Game. Upon judgment of the court having jurisdiction that the vessel
15 was used in, or was the cause of, a violation of AS 46.03.740 - 46.-
16 03.750 with knowledge of its owner or under circumstances indicating
17 that the owner should reasonably have had this knowledge, the vessel
18 may be held as security for payment to the state of the amount of
19 damages assessed by the court under AS 46.03.758, 46.03.759, 46.03.-
20 760, [AND] 46.03.822, and AS 46.04.030(g). If the damages assessed
21 are not paid within 30 days after judgment or final determination of
22 an appeal, the vessel shall be sold at public auction, or as otherwise
23 directed by the court, and the damages paid from the proceeds. The
24 balance, if any, shall be paid by the court to the owner of the ves-
25 sel. The court shall permit the release of the vessel upon posting of
26 a bond set by the court in an amount not to exceed the maximum amount
27 of damages available under AS 46.03.758, 46.03.759, 46.03.760, [AND]
28 46.03.822, and AS 46.04.030(g). The damages received under this
29 section shall be transmitted to the proper state officer for deposit

1 in the general fund. A vessel seized under this section shall be
2 returned or the bond exonerated if no damages are assessed under
3 AS 46.03.758, 46.03.759, 46.03.760, [OR] 46.03.822, or AS 46.04.-
4 030(g).

5 * Sec. 5. AS 46.04.030(g) is amended to read:

6 (g) Failure of a holder of an approved oil discharge contingency
7 plan to have access to the quality or quantity of resources identified
8 in the plan and, in the event of a spill, to respond with those re-
9 sources within the shortest feasible time is a violation of this
10 chapter for purposes of AS 46.03.760(a), 46.03.765, 46.03.790, and any
11 other applicable law. If the holder of an approved oil discharge
12 contingency plan fails to respond to an unpermitted discharge of
13 uncontaminated crude oil with the quality and quantity of resources
14 identified in the plan and in a manner required under the plan, the
15 holder is strictly liable, jointly and severally, for the civil pen-
16 alty assessed under AS 46.03.759 against any other person for that
17 discharge.

18 * Sec. 6. AS 46.04.040(e) is amended to read:

19 (e) Financial responsibility may be demonstrated by self-insur-
20 ance, insurance, surety, or guarantee, under terms the department may
21 prescribe. An action brought under AS 46.03.758, 46.03.760(a) or (e),
22 [OR] 46.03.822, or AS 46.04.030(g) or to collect penalties imposed
23 under AS 46.03.759 may be brought in a state court directly against
24 the insurer or another person providing evidence of financial respon-
25 sibility. The applicant, and an insurer, surety, or guarantor shall
26 appoint an agent for service of process in the state. An insurer must
27 either be authorized by the Department of Commerce and Economic Devel-
28 opment to sell insurance in the state or be an unauthorized insurer
29 listed by the Department of Commerce and Economic Development as not


1 disapproved for use in the state.

2 * Sec. 7. AS 46.04.040(i) is amended to read:

3 (i) Financial responsibility under this section extends to a
4 loss compensable under AS 46.03.760(e) or 46.03.822 and an assessment
5 under AS 46.03.758, 46.03.759, [OR] 46.03.760(a), or AS 46.04.030(g).

SFC 4/28/89

TOVALOP & CRISTAL

A silhouette of an oil tanker ship is positioned behind the ampersand in the title. The ship is shown from a side profile, facing right, with its characteristic long deck and various structures.

A Guide to Oil Spill Compensation

A dark, wavy graphic element at the bottom of the page, resembling a stylized oil spill or a dark horizon line. It has a grainy, textured appearance and curves across the width of the page.

Produced by

**The International Tanker Owners Pollution Federation Limited
and
Cristal Limited**

INTRODUCTION

The Torrey Canyon incident in 1967 provided a major stimulus to the development of four international regimes (two voluntary plans and two international conventions) through which compensation for pollution damage and clean-up costs is available following oil spills from tankers. The two voluntary plans were set up as a result of the determination of the tanker and oil industries to take constructive action, both to encourage prompt and effective clean-up and to assure adequate and timely compensation, prior to the widespread ratification and acceptance of the two international conventions.

The voluntary plans are the Tanker Owners Voluntary Agreement concerning Liability for Oil Pollution (TOVALOP) and the Contract Regarding a Supplement to Tanker Liability for Oil Pollution (CRISTAL). It should be emphasised from the outset that whilst both TOVALOP and CRISTAL are described as voluntary plans, it is only the decision on whether or not to participate that is voluntary, since having become a party there is a contractual obligation to meet all the terms and conditions of the applicable agreement or contract.

This booklet provides a brief summary of TOVALOP and CRISTAL and their relation to the corresponding international conventions developed under the auspices of the International Maritime Organization (IMO), viz the International Convention on Civil Liability for Oil Pollution Damage, 1969 (CLC) and the International Convention on the Establishment of an International Fund for Compensation for Oil Pollution Damage, 1971 (Fund Convention).

Further details of both the voluntary compensation plans and the international conventions can be obtained from the organisations listed at the back of this booklet.

TANKER OWNERS VOLUNTARY AGREEMENT CONCERNING LIABILITY FOR OIL POLLUTION (TOVALOP)

■ SCOPE

TOVALOP is an agreement entered into by tanker owners and bareboat charterers under which the parties agree to assume certain obligations for which they might not otherwise be legally liable. For TOVALOP to apply it is not necessary to demonstrate that the owner or bareboat charterer was at fault and there are only a very limited number of circumstances in which a party will be totally free of any obligations under the agreement (e.g. if the incident resulted from an act of war). As a result, compensation can be obtained by claimants without recourse to legal proceedings which may prove lengthy, although the TOVALOP party does not thereby waive any rights of recovery from third parties whose fault may have caused, or at least contributed to, the incident. Thus TOVALOP facilitates the payment of compensation without in any way shifting the actual responsibility for the spill or prejudging the issue of ultimate liability.

The basis of TOVALOP is that when a participating tanker spills, or threatens to spill, persistent oil* (whether it be cargo or fuel), the owner or bareboat charterer will either take appropriate actions, or will reimburse governments and others who incur reasonable costs in responding to the incident or who suffer pollution damage. Measures taken in response to the incident include attempts to eliminate the threat, and actions to prevent or minimise pollution damage, for example, by using booms, skimmers and other clean-up techniques. Pollution damage itself is defined to cover loss or damage which results directly from the escape or discharge of the oil. Thus it can include such things as oiling of fishing boats and gear, and contamination of cultivated stocks of seaweed, shellfish or other marine products. However, damage to non-commercial natural resources or claims which are theoretical or speculative are not covered.

**"Persistent oil" is not strictly defined in any of the four compensation regimes. As a guide it can be taken to include crude oil, fuel oil, heavy diesel oil & lubricating oil.*

Since coming into effect in October, 1969, TOVALOP has been amended on a number of occasions. The most recent amendments, which came into effect on 20th February, 1987, resulted, amongst other things, in substantially higher limits of liability through the addition of a Supplement to the existing Agreement (now termed the Standing Agreement). However, the terms of the Supplement apply only to incidents where a participating tanker is carrying a cargo of persistent oil owned by a member of CRISTAL. In all other cases the terms and limits of the Standing Agreement alone remain applicable.

Whilst the Standing Agreement can only apply to incidents where no liability is imposed under the terms of the CLC (in order not to duplicate its similar limits and coverage), the TOVALOP Supplement is designed to apply worldwide whenever a CRISTAL-owned cargo is involved. This ensures that claimants in States that have ratified the CLC are also able to avail themselves of the extra compensation available under the TOVALOP Supplement. However, claimants in such States should first advance their claims according to legal procedures established in accordance with the CLC before seeking additional compensation under the terms of the TOVALOP Supplement.

 LIMITS OF LIABILITY (see figure 1)

Under the Standing Agreement, the maximum compensation for all claims arising out of any one incident is US\$160 per limitation ton (about US\$147 per gross ton) or US\$16.8 million, whichever is the less.

Under the terms of the TOVALOP Supplement the maximum limits of liability are:

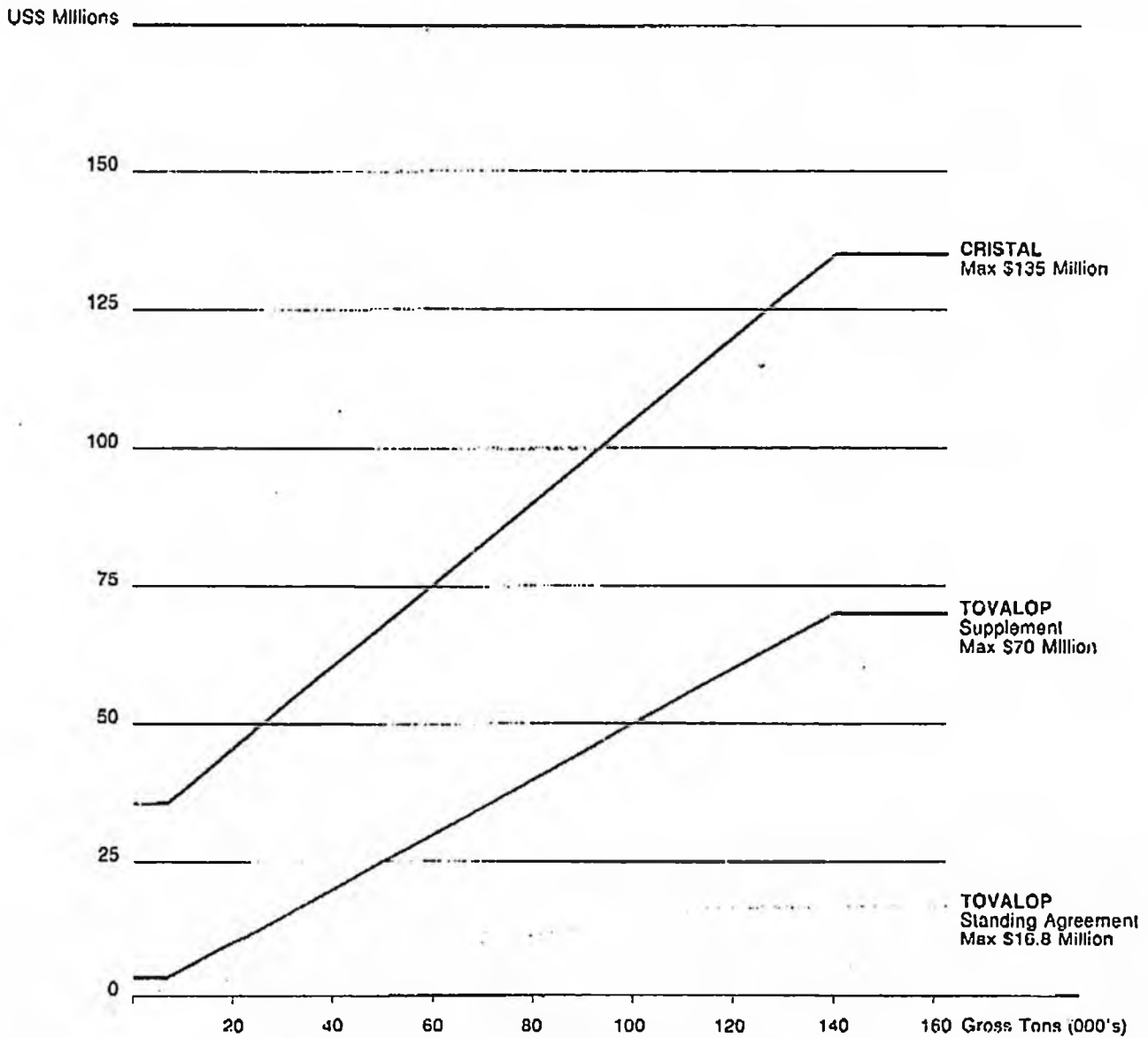
- for all tankers up to 5,000 gross tons, a set maximum of US\$3.5 million
- for vessels over 5,000 gross tons, US\$3.5 million, plus US\$493 for each gross ton in excess of 5,000 gross tons, up to a maximum of US\$70 million which corresponds to a tanker of about 140,000 gross tons.

Anyone with a claim under the Agreement must notify the participating owner in writing within two years of the date of the incident.

 OBLIGATIONS OF A PARTY TO TOVALOP

Virtually all the world's tanker tonnage is currently entered in TOVALOP. Since the settlement of any valid claims is the responsibility of the tanker owner or bareboat charterer who is a party to TOVALOP (and *not* the Federation which only administers the Agreement) particular importance is attached to the requirement that each party should be financially capable, to the satisfaction of the Federation, of fulfilling its obligations under the Agreement. This is normally done by arranging oil pollution insurance with one of the recognised mutual

FIGURE 1: LIMITS OF LIABILITY UNDER TOVALOP & CRISTAL



Protection and Indemnity Associations (P & I Clubs), that insure various third party risks of shipowners, or with the International Tanker Indemnity Association (ITIA) that was set up specifically to provide cover for oil pollution risks. Such insurance will almost invariably also cover an owner's potential liabilities under the CLC or national oil pollution legislation.

■ DURATION

It was originally proposed in 1969 that TOVALOP would last only five years or until the CLC had been ratified by a majority of maritime nations and was therefore widespread in its application. Although this has largely occurred, there remain significant gaps in the coverage of the CLC which TOVALOP continues to fill. The TOVALOP Supplement has a stated duration of five years from 20th February, 1987 although this could also be extended by a vote of the membership.

CONTRACT REGARDING A SUPPLEMENT TO TANKER LIABILITY FOR OIL POLLUTION (CRISTAL)

SCOPE

CRISTAL was devised originally to provide compensation supplementary to that available from tanker owners and bareboat charterers under TOVALOP. For this reason, many of the definitions and provisions, as well as its overall scope, are complementary. In common with TOVALOP, the Contract was amended with effect from 20th February, 1987, amongst other things, to increase substantially the amount of compensation available to those victims of oil pollution from tankers who would not be fully compensated under the terms of the TOVALOP Supplement, CLC or Fund Convention.

For CRISTAL to apply to an incident the tanker must be carrying a cargo of persistent oil that is owned, or deemed to be owned, by a party to the CRISTAL Contract, and the tanker owner must have paid compensation up to an amount equal to the vessel's TOVALOP Supplement limit. If these conditions are met, uncompensated pollution damage or costs incurred in responding to the incident would qualify for compensation under CRISTAL, up to the applicable limit (see below).

As with the TOVALOP Supplement, CRISTAL now applies worldwide. Thus claimants in States that have ratified the Fund Convention can also avail themselves of any additional compensation that may be available. In order to ensure that CRISTAL members in Fund States do not bear a disproportionate share of the costs of oil pollution settlements through having to contribute to both the voluntary and inter-governmental regimes, there is a reimbursement mechanism written into the TOVALOP Supplement and CRISTAL Contract. Through this mechanism, CRISTAL members who have been required to contribute to the Fund settlement of an incident involving a tanker carrying a cargo owned by a CRISTAL member would have those contributions reimbursed by the tanker owner (up to the applicable TOVALOP Supplement limit) and by fellow CRISTAL members. Whilst this is of no direct consequence to claimants, the reimbursement mechanism will result in oil companies resident

*Has Alaska
ratified?
Maybe only
international pilots*

in States party to the Fund Convention receiving contributions from tanker owners and other CRISTAL members for a significant proportion of their contributions to the International Oil Pollution Compensation Fund (IOPC Fund).

■ LIMITS OF LIABILITY (see figure 1)

Under the terms of the CRISTAL Contract, the following maximum limits of liability, determined by the gross tonnage of the tanker, can apply. In all cases, the stated amounts *include* compensation that would be payable by the tanker owner, as determined by the limits of liability in the TOVALOP Supplement.

- for all tankers up to 5,000 gross tons, a set maximum of US\$36 million
- for vessels over 5,000 gross tons, US\$36 million, plus US\$733 for each gross ton in excess of 5,000 gross tons up to a maximum of US\$135 million which corresponds to a tanker of about 140,000 gross tons.

Anyone with a claim under the Contract must notify Cristal Limited in writing within two years of the incident. The detailed claims procedure is set forth in the Rules of Cristal Limited.

■ OBLIGATIONS OF A PARTY TO CRISTAL

Any company engaged in the production, refining, marketing, storing or trading of oil, or which receives oil in bulk for its own consumption or use, can become a party to the CRISTAL Contract. As a result of this, major consumers such as power stations can become parties as well as oil companies and traders. It is currently estimated that some 80% of the total volume of oil transported by sea is owned by parties to CRISTAL.

Whereas a tanker owner's obligations under TOVALOP or CLC are normally met through individual insurance arrangements, CRISTAL itself maintains a fund of money from which claims are met. Parties to the Contract are called upon to make contributions to this fund in proportion to the quantities of crude and fuel oil that each receives by sea. The actual amount and frequency of calls depends upon claims settlements.

■ DURATION

The Contract will remain in force until 20th February, 1992, although, as with the TOVALOP Supplement, this time limit could be extended by a vote of the members.



RELATIONSHIP BETWEEN THE VOLUNTARY PLANS AND THE INTERNATIONAL CONVENTIONS

At 1st June, 1988, the CLC and Fund Convention were in force in 60 and 38 states respectively. In 1984 the IMO convened a Diplomatic Conference to discuss revisions to these two Conventions. The resulting Protocols which, amongst other things provide for a significant increase in the levels of compensation available to claimants, will not enter into force until they are ratified by a substantial number of States. This may not occur for a number of years during which time the voluntary plans will continue to play an important part in ensuring that adequate levels of compensation are available to claimants worldwide.

A basic comparison of the scope, provisions and levels of compensation provided by the voluntary plans and the international conventions is given in figures 2 and 3. To assist potential claimants to establish which regime or combination of regimes might apply to a particular incident, a simplified flow-chart is provided (Figure 4).

DISCLAIMER: THE INFORMATION CONTAINED HEREIN IS UNCLASSIFIED EXCEPT WHERE SHOWN OTHERWISE

FIGURE 2: LIMITS OF LIABILITY UNDER TOVALOP, CRISTAL, CLC & FUND CONVENTION

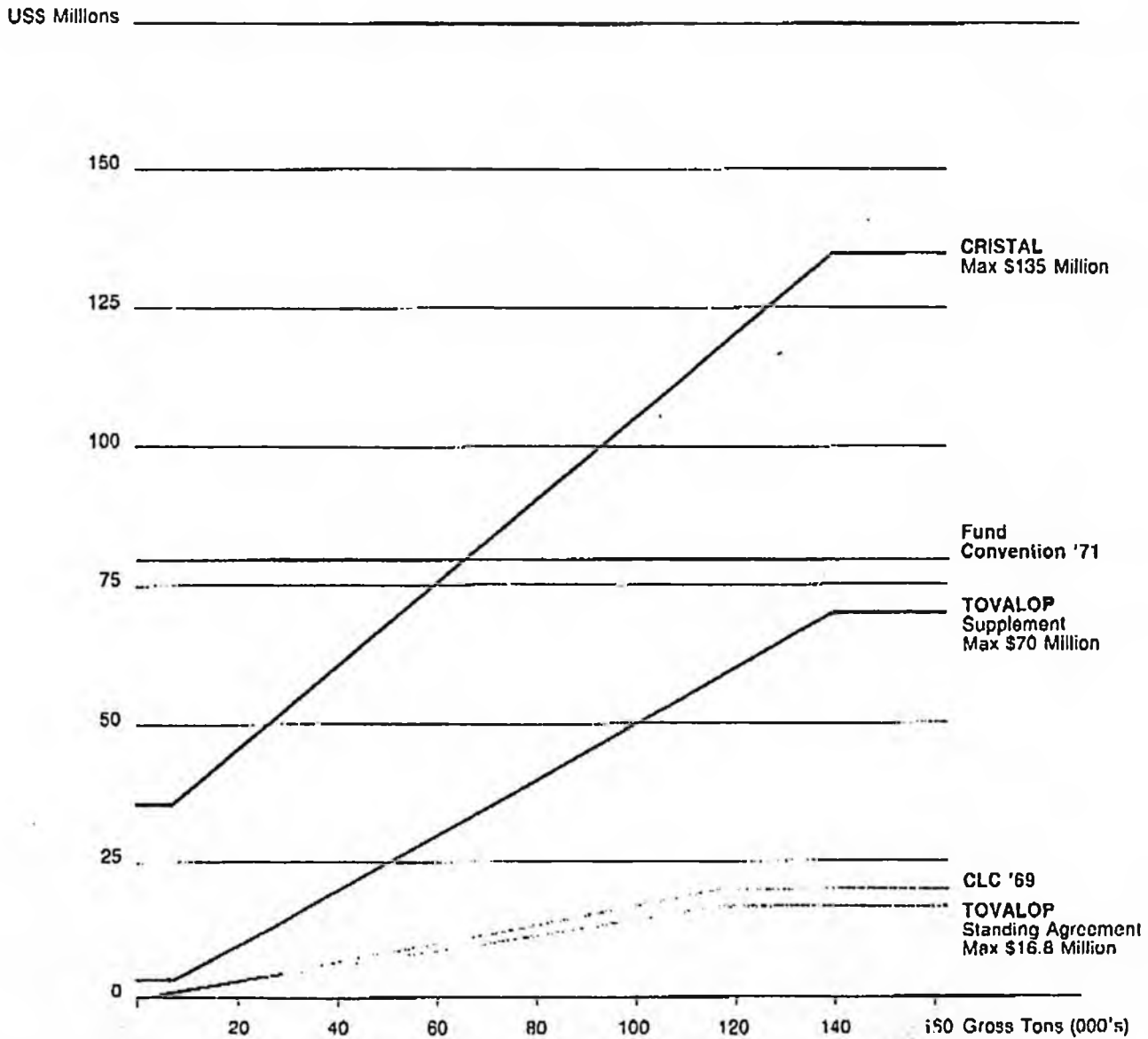


FIGURE 3: COMPENSATION FOR OIL SPILLS FROM TANKERS

	Primary Compensation provided by Shipowners			Supplementary Compensation provided by Cargo Owners	
	TOVALOP Standing Agreement	TOVALOP Supplement	CLC, 1969	CRISTAL	Fund Convention, 1971
Nature of regime	Voluntary plan	Voluntary plan	International convention	Voluntary plan	International convention
When does each apply?	When persistent oil threatens to escape or does escape from a participating tanker Tanker is not required to be loaded with cargo and no spill need occur	When persistent oil threatens to escape or does escape from a participating tanker Tanker must be loaded with CRISTAL-owned cargo although no spill of cargo need occur	When persistent oil escapes from a laden tanker No liability if tanker is unladen or if no oil is actually spilled	When persistent oil threatens to escape or does escape from a tanker Tanker must be loaded with CRISTAL-owned cargo and compensation paid by tanker owner up to TOVALOP Supplement limit	When persistent oil escapes from a laden tanker No liability if tanker is unladen or if no oil is actually spilled. Ownership of cargo irrelevant
Where can each apply?	Only when CLC, 1969 does not apply	Worldwide	In States party to CLC, 1969	Worldwide	In States party to CLC, 1969 and Fund Convention, 1971
Limits of Liability	US\$160 per limitation ton up to maximum of US\$16.8 million	US\$3.5 million for tankers up to 5,000 gross tons, rising to maximum of US\$70 million	US\$181 per limitation ton up to maximum of US\$19.1 million (see note 1)	US\$36 million for tankers up to 5,000 gross tons, rising to maximum of US\$135 million, including compensation paid by tanker owner	Total made up to US\$81.8 million, including any compensation paid by tanker owner under CLC, 1969 (see note 1)

Footnote 1: The limits of liability under the CLC, 1969 and Fund Convention, 1971 are based on specified units of account the US\$ equivalents of which vary depending upon exchange rates. Those shown above have been converted, to the nearest round figure, at the rate of conversion applying as at 1st June, 1988 (SDR - US\$1.364)

Tanker Incident

No compensation available under these regimes

No compensation available under these regimes

No further compensation available

No further compensation available

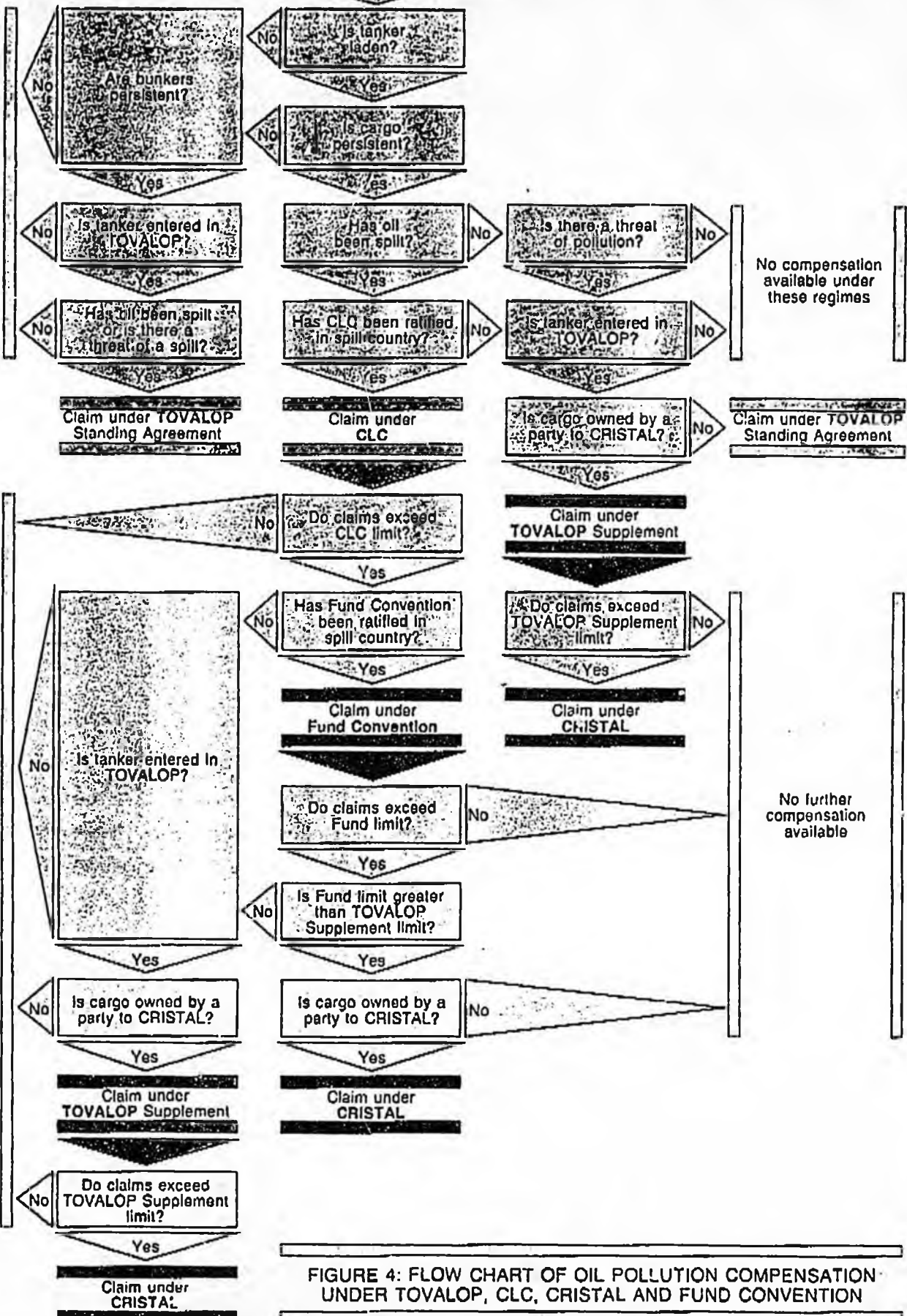


FIGURE 4: FLOW CHART OF OIL POLLUTION COMPENSATION UNDER TOVALOP, CLC, CRISTAL AND FUND CONVENTION

BT OIL COMMERCIAL MARINE TEL NO. 210 300 0142 npt 23.03 0.53 P.15

ADMINISTERING ORGANISATIONS

THE INTERNATIONAL TANKER OWNERS POLLUTION FEDERATION LIMITED (ITOPF)

Staple Hall
Stonehouse Court
87-90 Houndsditch
London EC3A 7AX

Tel: (01) 621 1255
Tx: 887514 TOVLOP G
Fax: (01) 621 1783

A tanker owner or bareboat charterer who becomes a party to TOVALOP also automatically becomes a member of the Federation. The Federation currently has some 3,200 members operating about 6,000 tankers. The Federation is a non-profit-making organisation and is financed by annual subscription. In general, this is paid by the oil pollution insurers on behalf of their members.

In administering TOVALOP, the Federation takes steps to ensure that parties to the Agreement meet their various obligations. After verifying that a tanker owner has adequate financial security, it issues TOVALOP Certificates to all participating vessels as evidence of membership and generally keeps the functioning of the Agreement under review.

Although the Federation was originally established to administer TOVALOP, most of its work is now of a technical nature. Its small staff of technical experts are at constant readiness to respond to marine oil spills anywhere in the world. This service is not limited to incidents where compensation may be sought under TOVALOP and is normally performed at the request of tanker owners and P & I Club insurers. Both CRISTAL and the IOPC Fund also usually call upon the technical services of the Federation for cases in which they are likely to be involved. Occasionally, the Federation responds, on a cost-recovering basis, to oil spills from other marine sources such as dry cargo vessels and offshore oil installations.

In addition to its oil spill response work, the Federation undertakes contingency planning, advisory and training assignments for industry and governments. It holds observer status with the IMO through which many advisory assignments are undertaken. It is also a source of comprehensive information on marine oil pollution and produces various books, newsletters, technical manuals and training videos.

■ CRISTAL LIMITED
c/o Cristal Services Limited
Staple Hall
Stonehouse Court
87-90 Houndsditch
London EC3A 7AB
Tel: (01) 621 1322
Tx: 888043 CRISTAL G
Fax: (01) 626 5913

A party to the CRISTAL Contract becomes a member of Cristal Limited, a Bermuda-registered company which administers the Contract. As at 1st June, 1988, Cristal Limited had some 700 members, comprising oil companies, oil refinery and terminal operators and oil traders, as well as a number of other companies consuming or using oil in bulk.

Cristal Limited, the International Group of P & I Clubs and the International Tanker Owners Pollution Federation have agreed guidelines covering co-operation between the organisations in the event of an oil spill in which all are, or are likely to be, involved. Letters of understanding have also been exchanged between Cristal Limited and the Director of the IOPC Fund.

■ INTERNATIONAL MARITIME ORGANIZATION (IMO)
4 Albert Embankment
London SE1 7SR
Tel: (01) 735 7611
Tx: 23588 IMOLDN G
Fax: (01) 587 3210

IMO is the specialised agency within the United Nations system with responsibility for maritime safety, and the prevention and control of marine pollution from ships and other related legal matters. With over 130 members, IMO considers and prepares international standards and regulations for safety of shipping and environmental protection in the form of conventions or other international instruments, as well as codes of practice and guidelines. Principally through its technical co-operation programme, it promotes the implementation of these regulations and standards on a global scale, placing particular emphasis on the training of maritime personnel. A number of international instruments

adopted under the auspices of IMO deal with liability and compensation for pollution damage, and the rights of a coastal State to intervene when threatened by pollution from a maritime incident. IMO, working closely with the United Nations Environment Programme (UNEP), encourages and assists in the establishment and operation of regional, sub-regional and national contingency arrangements for responding to major incidents involving oil and other harmful substances. It has also developed a comprehensive anti-pollution manual. IMO works in close association with the shipping and oil industries and in co-operation with other United Nations' agencies.

INTERNATIONAL OIL POLLUTION COMPENSATION FUND (IOPC FUND)

4 Albert Embankment
London SE1 7SR

Tel: (01) 582 2606

Tx: 23588 IMCOLN G

Fax: (01) 587 3210

The IOPC Fund was set up in October, 1978 pursuant to the coming into force of the Fund Convention. It consists of an Assembly, an Executive Committee and a small secretariat. The Assembly is the governing body, composed of representatives of the governments of Member States, and meets annually. The Executive Committee is elected by the Assembly and is composed of one-third of the Member States, or 15 members, whichever is the less. Its main function is to approve settlements of claims against the IOPC Fund.

The payments of compensation, as well as the administrative expenses of the IOPC Fund, are financed by contributions levied on any person in a Fund State receiving more than 150,000 tons of crude oil and heavy fuel oil by sea in a single calendar year. Annual contributions are levied to meet the anticipated payments of compensation and expenses during the coming year. The actual level of contributions varies from year to year depending upon claims settlements.

PROTECTION & INDEMNITY ASSOCIATIONS (P & I Clubs)

International Group of P & I Clubs

78 Fenchurch Street
London EC3M 4BT

Tel: (01) 702 9869

Tx: 884444 INTCP G

Fax: (01) 702 1646

The P & I Clubs are mutual, non-profit making associations which insure their members (ship owners, charterers, managers and operators) against third party liabilities, including pollution liabilities. Members are rated for contributions (known as 'calls'), in accordance with the risks they wish to cover, taking into

account past record and any deductible that they may be prepared to bear. They contribute in respect of each policy year only towards the amount required to meet the claims and expenses in that year.

All the major P & I Clubs are members of the International Group of P & I Clubs. Whilst each individual Club bears the first part of any claim, the concept of mutuality is extended by the 'pooling' of large claims by the members of the International Group. To safeguard members in the event of a catastrophic claim, excess reinsurance is placed on the world's insurance markets.

Each P & I Club has full-time managers who look after the day to day business of the Club and who are responsible to a Board of Directors drawn from their members. They are assisted by a worldwide network of both legal and commercial representatives (correspondents), some of whom deal exclusively with Club work. It is usually the local correspondents who look after the members' and insurers' interests on site when an incident occurs, assisted by such technical experts as are necessary.

BFC 4/26/89



Alaska State Legislature

SENATE

Committee on Finance

Official Business

P.O. Box V
State Capitol
Juneau, Alaska 99811

MEMORANDUM

TO: Co-Chairman John Binkley
Members of the Senate Committee on Finance

FROM: Co-Chairman Rick Uehling *RAU*

DATE: April 25, 1989

RE: Exxon Valdez Oil Spill

For the information of the members I am enclosing a listing of current investigations, congressional hearings and federal legislation concerning the Exxon Valdez oil spill.

Current Oil Spill Investigations

1. National Transportation Safety Board (investigative arm of the Dept. of Transportation which looks at accidents in all modes of transportation and files reports as to cause) NTSB investigators have been on the scene since March 26th. A public hearing is scheduled for May 16th in Anchorage.
2. Coast Guard investigation will focus on the propriety of actions taken by governmental personnel prior to and after spill and will examine its "vessel tracking system."
3. The State of Alaska is conducting a criminal investigation of Exxon and Captain Hazelwood.
4. The Federal Bureau of Investigation is conducting an investigation of possible criminal violations of the Clean Water Act.
5. The Department of Justice is investigating criminal misdemeanors allegedly committed by Exxon Valdez crew members.
6. President Bush has directed a review of oil spill contingency plans nationwide.

Committee Schedules Pending for this Measure:
Currently, none

All Specified Actions:

03/23/89 -- In The HOUSE

Introduced by JONES, WALTER (D-NC)

Joint referral to HOUSE COMMITTEE ON MERCHANT MARINE AND FISHERIES

Joint referral to HOUSE COMMITTEE ON INTERIOR AND INSULAR AFFAIRS

Extensions to Remarks by JONES, WALTER (D-NC) in "Congressional Record" (CR
Page E-955)

Existing Laws Cited in this Measure:

- Pub.L. 70-770 SEC. 2, 4, 6 -- Migratory Bird Conservation Act (Act of 2/18/29)
Pub.L. 73-121 SEC. 2 -- Fish and Wildlife Coordination Act (Act of 3/10/34)
Pub.L. 73-124 SEC. 4 -- Migratory Bird Hunting Stamp Act (Act of 3/16/34)
Pub.L. 74-148 SEC. 401 -- Migratory Bird Hunting Stamp Act, Amendment
(6/15/35); Refuge Revenue Sharing Act (Act of 6/15/35)
Pub.L. 89-669 SEC. 4 -- National Wildlife Refuge System Administration Act of
1966
Pub.L. 95-616 SEC. 3 -- Fish and Wildlife Improvement Act of 1978; Fish and
Wildlife Act of 1956, Amendment (11/8/78); Migratory Bird
Treaty Act, Amendment (11/8/78); Migratory Bird Hunting
Stamp Act, Amendment (11/8/78)
Pub.L. 96-487 SEC. 1003 -- Alaska National Interest Lands Conservation Act
(Act of 12/2/80)

No. 4 of 14-----

Measure, Sponsor and Short Title:

H.R.1935 by LIPINSKI (D-IL) -- Oilspill Bill

Official Title (caption):

A bill to amend the Internal Revenue Code of 1986, to disallow deductions
for costs in connection with oil and hazardous substance cleanup unless the
requirements of all applicable Federal laws concerning such cleanup are met,
and for other purposes.

Introduced on Thursday, April 13, 1989

Committee Referrals:

04/13/89 -- In The HOUSE

Joint referral to HOUSE COMMITTEE ON WAYS AND MEANS

Joint referral to HOUSE COMMITTEE ON PUBLIC WORKS AND TRANSPORTATION

Joint referral to HOUSE COMMITTEE ON ENERGY AND COMMERCE

Committee Schedules Pending for this Measure:

Currently, none

All Specified Actions:

04/13/89 -- In The HOUSE

Introduced by LIPINSKI (D-IL)

Joint referral to HOUSE COMMITTEE ON WAYS AND MEANS

Joint referral to HOUSE COMMITTEE ON PUBLIC WORKS AND TRANSPORTATION

Joint referral to HOUSE COMMITTEE ON ENERGY AND COMMERCE

04/13/89 -- In The SENATE

Remarks by REID (D-NV) in "Congressional Record" (CR Page S-3908)

①

Existing Laws Cited in this Measure:

Pub.L. 71-361 -- Tariff Act of 1930; Tariff Schedules of the United States
Pub.L. 83-591 SEC. 172 -- Internal Revenue Code of 1954
Pub.L. 99-514 -- Tax Reform Act of 1986; Internal Revenue Code of 1986

-----No. 5 of 14-----

Measure, Sponsor and Short Title:

2) H.R.2060 by SLAUGHTER, LOUISE (D-NY) -- Internal Revenue Code of 1986,
Amendment

Official Title (caption):

A bill to amend the Internal Revenue Code of 1986 to deny the deduction for any removal or liability cost attributable to an oil spill from a vessel in navigable waters.

Introduced on Tuesday, April 18, 1989

Committee Referrals:

04/18/89 -- In The HOUSE

Referred to HOUSE COMMITTEE ON WAYS AND MEANS

Committee Schedules Pending for this Measure:

Currently, none

All Specified Actions:

04/18/89 -- In The HOUSE

Introduced by SLAUGHTER, LOUISE (D-NY)

Referred to HOUSE COMMITTEE ON WAYS AND MEANS

Existing Laws Cited in this Measure:

Pub.L. 83-591 -- Internal Revenue Code of 1954

Pub.L. 99-514 -- Tax Reform Act of 1986; Internal Revenue Code of 1986

-----No. 5 of 14-----

Measure, Sponsor and Short Title:

3) H.R.2072 by WHITTEN (D-MS) -- Dire Emergency Supplemental Appropriations and Transfers, Urgent Supplementals, and Correcting Enrollment Errors Act of 1989

Official Title (caption):

A bill making dire emergency supplemental appropriations and transfers, urgent supplementals, and correcting enrollment errors for the fiscal year ending September 30, 1989, and for other purposes.

Introduced on Tuesday, April 18, 1989

Committee Referrals:

04/18/89 -- In The HOUSE

No committee referral on introduction

Committee Schedules Pending for this Measure:

04/25/89 11:00 AM

HOUSE COMMITTEE ON RULES

H-313 Capitol

Hearing OPEN TO THE PUBLIC

Existing Laws Cited in this Measure:
Currently none

-----No. 8 of 14-----
Measure, Sponsor and Short Title:

S.684 by JOHNSTON, BENNETT (D-LA) -- Arctic Coastal Plain Competitive Oil and Gas Leasing Act

Official Title (caption):

An original bill to authorize competitive oil and gas leasing and development on the Coastal Plain of the Arctic National Wildlife Refuge in a manner consistent with protection of the environment, and for other purposes.

Introduced on Wednesday, March 29, 1989

Committee Referrals:

03/29/89 -- In The SENATE
No committee referral on introduction

Committee Schedules Pending for this Measure:

Currently, none

All Specified Actions:

03/16/89 -- In The SENATE
Ordered reported by SENATE COMMITTEE ON ENERGY AND NATURAL RESOURCES

03/29/89 -- In The SENATE

Original measure (clean bill) reported by SENATE COMMITTEE ON ENERGY AND NATURAL RESOURCES
Report filed by SENATE COMMITTEE ON ENERGY AND NATURAL RESOURCES (S.Rept. 101-10)

Introduced by JOHNSTON, BENNETT (D-LA)

No committee referral on introduction
Placed on Senate Legislative Calendar (Order 34)
This measure replaces another measure (S. 406)

Existing Laws Cited in this Measure:
Currently none

-----No. 9 of 14-----
Measure, Sponsor and Short Title:

S.686 by MITCHELL, GEORGE (D-ME) -- Oil Pollution Liability and Compensation Act of 1989

Official Title (caption):

A bill to consolidate and improve laws providing compensation and establishing liability for oil spills.

Introduced on Tuesday, April 4, 1989

Committee Referrals:

04/04/89 -- In The SENATE
Referred to SENATE COMMITTEE ON ENVIRONMENT AND PUBLIC WORKS

Committee Schedules Pending for this Measure:
Currently, none

All Specified Actions:

04/04/89 -- In The SENATE

Introduced by MITCHELL, GEORGE (D-ME)

Referred to SENATE COMMITTEE ON ENVIRONMENT AND PUBLIC WORKS

Remarks by MITCHELL, GEORGE (D-ME) in "Congressional Record" (CR Page S-3239)

Full text of measure printed in "Congressional Record" (CR Page S-3241)

Remarks by BAUCUS (D-MT) in "Congressional Record" (CR Page S-3246)

04/10/89 -- In The SENATE

Remarks by DOLE (R-KS) in "Congressional Record" (CR Page S-3536)

Existing Laws Cited in this Measure:

Pub.L. 80-845 SEC. 311 -- Federal Water Pollution Control Act (Act of 6/30/48)

Pub.L. 92-500 SEC. 2 -- Federal Water Pollution Control Act Amendments of 1972

Pub.L. 93-153 SEC. 204 -- Trans-Alaska Pipeline Authorization Act (Act of 11/16/73); Mineral Lands Leasing Act, Amendment (11/16/73)

Pub.L. 93-248 SEC. 17 -- Intervention On the High Seas Act

Pub.L. 93-627 SEC. 4 -- Deepwater Port Act of 1974

Pub.L. 95-372 -- Outer Continental Shelf Lands Act Amendments of 1978

-----No. 10 of 14-----

Measure, Sponsor and Short Title:

⑤ S.687 by BAUCUS (D-MT) -- Federal Water Pollution Control Act, Amendment

Official Title (caption):

A bill to amend the Clean Water Act to expand authority for penalties for discharges of oil and hazardous substances to provide for an assessment of oil spill contingency plans.

Introduced on Tuesday, April 4, 1989

Committee Referrals:

04/04/89 -- In The SENATE

Referred to SENATE COMMITTEE ON ENVIRONMENT AND PUBLIC WORKS

Committee Schedules Pending for this Measure:

Currently, none

All Specified Actions:

04/04/89 -- In The SENATE

Introduced by BAUCUS (D-MT)

Referred to SENATE COMMITTEE ON ENVIRONMENT AND PUBLIC WORKS

Remarks by MITCHELL, GEORGE (D-ME) in "Congressional Record" (CR Page S-3239)

Remarks by BAUCUS (D-MT) in "Congressional Record" (CR Page S-3246)

Full text of measure printed in "Congressional Record" (CR Page S-3247)

Existing Laws Cited in this Measure:

Pub.L. 80-845 SEC. 311 -- Federal Water Pollution Control Act (Act of 6/30/48)

Pub.L. 92-500 SEC. 2 -- Federal Water Pollution Control Act Amendments of 1972

-----No. 11 of 14-----

Measure, Sponsor and Short Title:
S.771 by REID (D-NV) -- Oilspill Bill

COMPLIMENTS OF
ALASKA STATE LIBRARY

Official Title (caption):

A bill to amend the Internal Revenue Code of 1986 to disallow deductions for costs in connection with oil and hazardous substances cleanup unless the requirements of all applicable Federal laws concerning such cleanup are met, and for other purposes.

Introduced on Thursday, April 13, 1989

Committee Referrals:

04/13/89 -- In The SENATE

Referred to SENATE COMMITTEE ON FINANCE

Committee Schedules Pending for this Measure:

Currently, none

All Specified Actions:

04/07/89 -- In The SENATE

Remarks by REID (D-NV) in "Congressional Record" (CR Page S-3496)

04/13/89 -- In The SENATE

Introduced by REID (D-NV)

Referred to SENATE COMMITTEE ON FINANCE

Remarks by REID (D-NV) in "Congressional Record" (CR Page S-3908)

Full text of measure printed in "Congressional Record" (CR Page S-3909)

Existing Laws Cited in this Measure:

Pub.L. 83-591 SEC. 172 -- Internal Revenue Code of 1954

Pub.L. 99-514 -- Tax Reform Act of 1986; Internal Revenue Code of 1986

-----No. 12 of 14-----

Measure, Sponsor and Short Title:

S.839 by ADAMS (D-WA) -- Puget Sound Tanker Safety Act of 1989

Official Title (caption):

A bill to provide for the safe operation of tanker traffic in Puget Sound, to improve the ability to respond to tanker vessel accidents in Puget Sound, and for other purposes.

Introduced on Wednesday, April 19, 1989

Committee Referrals:

04/19/89 -- In The SENATE

Referred to SENATE COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION

Committee Schedules Pending for this Measure:

Currently, none

All Specified Actions:

04/19/89 -- In The SENATE

Introduced by ADAMS (D-WA)

Referred to SENATE COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION

Remarks by ADAMS (D-WA) in "Congressional Record" (CR Page S-4387)

Full text of measure printed in "Congressional Record" (CR Page S-4388)

04/04/89 -- In The SENATE

Introduced by HEINZ (R-PA)

Referred to SENATE COMMITTEE ON ENVIRONMENT AND PUBLIC WORKS

Remarks by HEINZ (R-PA) in "Congressional Record" (CR Page S-3252)

Existing Laws Cited in this Measure:

Currently none

Existing Laws Cited in this Measure:
Currently none

~~-----No. 13 of 14~~

Measure, Sponsor and Short Title:

8 S.Res.102 by BRYAN, RICHARD (D-NV) -- Resolution Relating to Gasoline Price Increases Following the "Exxon Valdez" Oil Spill

Official Title (caption):

Resolution expressing the sense of the Senate with respect to gasoline price increases which have occurred after the Exxon Valdez oil spill of March 24, 1989.

Introduced on Wednesday, April 12, 1989

Committee Referrals:

04/12/89 -- In The SENATE

Referred to SENATE COMMITTEE ON ENERGY AND NATURAL RESOURCES

Committee Schedules Pending for this Measure:

Currently, none

All Specified Actions:

04/12/89 -- In The SENATE

Introduced by BRYAN, RICHARD (D-NV)

Referred to SENATE COMMITTEE ON ENERGY AND NATURAL RESOURCES

Remarks by BRYAN, RICHARD (D-NV) in "Congressional Record" (CR Page S-3678)

Full text of measure printed in "Congressional Record" (CR Page S-3786)

Existing Laws Cited in this Measure:

Currently none

~~-----No. 14 of 14-----~~

Measure, Sponsor and Short Title:

9 S.J.Res.90 by HEINZ (R-PA) -- Resolution Requiring Proposals to Prevent and Disperse Oil Spills on the Seas, Coasts and Waterways

Official Title (caption):

Joint resolution to require the President to submit proposals to prevent, and disperse, oil spills on the seas, coasts, and waterways of the United States.

Introduced on Tuesday, April 4, 1989

Committee Referrals:

04/04/89 -- In The SENATE

Referred to SENATE COMMITTEE ON ENVIRONMENT AND PUBLIC WORKS

Committee Schedules Pending for this Measure:

Currently, none

All Specified Actions:

COMPLIMENTS OF
ALASKA STATE LIBRARY

LEGI-SLATE Report for the 101st Congress Wed, April 19, 1989 3:24pm (EDT)

Search of 1501 Press Briefings to find 48:
 occurring between Thursday, April 6, 1989 and Tuesday, April 18, 1989
 with reference to words in file named "ALASKA OIL"

Copyright (C) 1989 by Federal Information Systems Corporation.

- Thursday, April 6, 1989
 CNN's "Business Day": Roger Sullivan, President, US-China Business
 Council
 Briefing ID: 460299 (109 lines)

* - Thursday, April 6, 1989
 House Merchant Marine, Coast Guard & Navigation Subcmte Hearing: Adm.
 Paul Yost, Coast Guard - Alaskan Oil Spill (6 April) Part I
 Briefing ID: 460302 (1057 lines)

- Thursday, April 6, 1989
 Defense Department Briefing
 Briefing ID: 460321 (376 lines)

* - Thursday, April 6, 1989
 House Merchant Marine, Coast Guard & Navigation Subcmte Hearing: Adm.
 Paul Yost, Coast Guard - Alaskan Oil Spill (6 April) Part II of
 II
 Briefing ID: 460331 (1073 lines)

* - Thursday, April 6, 1989
 House Merchant Marine, Coast Guard & Navigation Subcmte Hearing:
 Samuel Skinner, Steve McAlpine, John Devens - Alaskan Oil Spill
 (6 April AM)
 Briefing ID: 460332 (1310 lines)

* - Thursday, April 6, 1989
 House Merchant Marine, Coast Guard & Navigation Subcmte Hearing: L.
 G. Rawl, Chrmn, Exxon - Alaskan Oil Spill (6 April PM) Part I
 Briefing ID: 460357 (924 lines)

* - Thursday, April 6, 1989
 House Merchant Marine, Coast Guard & Navigation Subcmte Hearing: L.
 G. Rawl, Chrmn. Exxon - Alaskan Oil Spill (6 April PM) Part II
 of II
 Briefing ID: 460371 (1065 lines)

- CONGRESSIONAL HEARINGS ON ALASKAN OIL SPILL - 8

- Saturday, April 15, 1989
CNN's "Newsmaker Saturday": Sen. George Mitchell, Senate Majority Leader
Briefing ID: 460840 (415 lines)
-
- Monday, April 17, 1989
Nat'l Conf. of the Building & Construction Trades Department of the AFL-CIO: Rep. Jim Wright, Speaker of the House
Briefing ID: 460872 (320 lines)
-
- Friday, April 14, 1989
"The McLaughlin Group": Political Discussion
Briefing ID: 460876 (869 lines)
-
- Monday, April 17, 1989
Senate Energy, Energy Regulation & Development Subcmte Hearing: Henson Moore, Deputy Sec. of Energy - Petroleum Price Increases (17 April)
Briefing ID: 460880 (708 lines)
-
- Monday, April 17, 1989
Senate Energy, Energy Regulation & Development Subcmte Hearing: Joe McMillan, Exxon Co. - Petroleum Price Increases (17 April)
Briefing ID: 460892 (479 lines)
-
- Monday, April 17, 1989
"Inside Washington": Political Discussion
Briefing ID: 460907 (694 lines)
-
- * - Monday, April 17, 1989
Senate Energy, Energy Regulation & Development Subcmte Hearing: John Lichtblau, Edwin Rothschild, Tracy Stanton - Petroleum Price Increases (17 April)
Briefing ID: 460913 (984 lines)
-
- Tuesday, April 18, 1989
Press Conference: Representative Lee Hamilton, Chairman, Joint Economic Committee - Annual Committee Report on the Economy
Briefing ID: 460938 (572 lines)
This is a partial briefing transcript, more to follow.
-
- Tuesday, April 18, 1989
Defense Department Briefing
Briefing ID: 460949 (144 lines)
-
- Tuesday, April 18, 1989
Press Conference: Lawrence Rawl, Chairman, Exxon Corporation

ADDITIONAL CONGRESSIONAL HEARINGS AND VISITS

- April 19 - Sen. Baucus (D-MT) held a hearing on the impact of the Alaska Oil Spill.
- April 20 - Secretary of the Interior Manuel Lujan, Congressman Don Young and Congressman Elton Gallegly (R-CA) will visit the Valdez spill area. On April 21 they will visit Kenai and Kodiak.
- May 7 - Congressman George Miller (D-CA) will lead several members of the House Interior Committee in conducting a field hearing in Valdez and in viewing the spill area cleanup effort.
- May 8 - Congressman Miller will conduct a second field hearing in Anchorage.
- May 16 - National Transportation Safety Board public hearing on the spill in Anchorage.

CONGRESSIONAL HEARINGS ON OIL

COMPLIMENTS OF
ALASKA STATE LIBRARY
spill/pollution

LEGI-SLATE Report for the 101st Congress

Tue, April 25, 1989 7:45pm (EDT)

Schedule for Hearings, Mark-ups or Business Meetings:
For measures in file named "OIL SPILL"

04/25/89 11:00 AM

HOUSE COMMITTEE ON RULES

H-313 Capitol

Hearing OPEN TO THE PUBLIC

MEASURES:

H.R.1486 BY JONES, WALTER (D-NC) -- Fiscal Year 1990 Appropriations
for the Maritime Administration, Authorization

*H.R.2072 BY WHITTEN (D-MS) -- Dire Emergency Supplemental
Appropriations and Transfers, Urgent Supplementals, and Correcting
Enrollment Errors Act of 1989

SUBJECTS: Consideration of Rules for Pending Legislation

05/11/89 10:00 AM

HOUSE COMMITTEE ON MERCHANT MARINE AND FISHERIES

COAST GUARD AND NAVIGATION SUBCOMMITTEE

1334 LONGWORTH HOUSE OFFICE BUILDING

Hearing OPEN TO THE PUBLIC

MEASURES:

*H.R.1465 BY JONES, WALTER (D-NC) -- Oil Pollution Liability and
Compensation Act of 1989

SUBJECTS: Oil Pollution Liability and Compensation Act

SFC 4/24/89

STEVE COWPER, GOVERNOR

DEPT. OF ENVIRONMENTAL CONSERVATIONOFFICE OF THE COMMISSIONER
P.O. BOX 0, JUNEAU, AK 99811

April 7, 1989

Mr. George Nelson
President
Alyeska Pipeline Service
Company
1835 South Bragaw Street
Anchorage, AK 99512

Dear Mr. Nelson:

At the Governor's direction, I have signed the enclosed Emergency Order and Notice of Modification. Many of the concerns will be dealt with in development of a new Contingency Plan in response to the Notice of Modification. Concerns expressed in the oil company Comments about meeting the draft Emergency Order's April 30, 1989, deadline should be obviated by the final Emergency Order's May 15, 1989 deadline, and its new paragraph 11, which allows seven days to demonstrate any physical impossibility of performance. The department expects to work closely with company representatives over the course of the next week to make response to the order as expeditious and effective as possible.

Also, please note the new paragraph 9, dealing with radio contact between tankers and the terminal, and required notices of potential spill incidents.

The department disagrees with the assumption expressed in the comments that "compliance with contingency plan equipment requirements is met by the aggregate of equipment in inventory plus equipment that may be deployed for training or spill response related activities at any point in time." Comments, p. 1. The department expects that once contingency plan equipment is deployed in response to a spill, the equipment will be replaced immediately, or normal terminal operations will be adjusted -- suspended if necessary -- until the full complement of "core" equipment is ready to respond to any new spill. The "core" contingency plan equipment is as stated on the list in the plan, General Provisions volume, pp. 9-133 - 9-134. Comments, p.2.

The department will work with you concerning safety factors related to the booming of vessels at the terminal. Comments, p. 2. The department must insist, however, that no loading of vessels occurs if weather and/or safety factors prevent booming.

DEC EMERGENCY ORDER

Mr. George Nelson

- 2 -

April 7, 1989

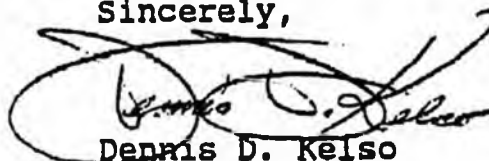
The department is ready to consult with you next week to determine how quickly licensed pilots can be made available, and will adjust the order as necessary in that regard. Comments, p.3.

The department reserves the right to evaluate Alyeska's oil spill response capability generally and with reference to specific spill scenarios. The department reserves the right to enhance or adjust the oil spill response contingency plan as necessary during the term of this Emergency Order or during the approval process for the revised plan.

Specifically, the department intends to undertake a complete reevaluation of the worst case spill scenario outlined in the current plan; the Exxon Valdez spill demonstrates that such a review is imperative and urgent. Many ideas have already been suggested that may improve response capability, including the creation of a state of the art oil spill research and training facility in Alaska, of community based response teams, and of equipment sites. These ideas and no doubt many others are worth discussion and consideration in the very near future among all interested parties.

Should there be any questions concerning the Emergency Order or Notice of Modification, Mr. Larry Dietrick, Director of the Division of Environmental Quality, will be the department's principal contact.

Sincerely,



Dennis D. Kelso
Commissioner

cc: Governor Steve Cowper
Douglas B. Baily, Attorney General
Bill Wade, President, ARCO
Jim Palmer, BP Exploration
Darrell G. Warner, President, Exxon

STATE OF ALASKA

DEPARTMENT OF ENVIRONMENTAL CONSERVATION

IN THE MATTER OF)
)
 ALYESKA PIPELINE SERVICE COMPANY)
)
 OIL SPILL CONTINGENCY PLAN)
)
 Respondent)
)

EMERGENCY ORDER

Pursuant to AS 46.03.820, which authorizes the Department of Environmental Conservation to issue orders to prevent and abate pollution of the environment on an emergency basis, and based upon an investigation conducted by the Department of Environmental Conservation, I find and order as follows:

FINDINGS

1. Alyeska Pipeline Service Company ("Alyeska") has in place, pursuant to AS 46.04.030, an oil spill contingency plan ("plan") which prescribes Alyeska's response to an oil spill from Alyeska's Marine Terminal or a tanker calling on the terminal.

2. On March 24, 1989, the T/V Exxon Valdez ran aground on Bligh Island after taking on approximately 53,094,510 gallons (1,264,155 barrels) of crude oil from Alyeska's Marine Terminal.

3. The T/V Exxon Valdez discharged approximately 10,000,000 gallons (240,000 barrels) of crude oil following the grounding.

4. Alyeska is responsible under the plan for immediate implementation of the plan and is obligated under the plan to, inter alia,:

- a. initiate reconnaissance actions to determine the exact location and extent of the spill;
- b. initiate control actions to minimize the spread of oil and to prevent oil from reaching sensitive areas;
- c. initiate cleanup actions for recovery of oil in conjunction with containment action as required.

5. Specifically, the plan provides for an oil spill response for a scenario of a 200,000 barrel spill in Prince William Sound. Under that scenario, Alyeska is obligated to, inter alia,

- a. move containment booms, skimmers, response equipment, support equipment and personnel (including private contractors) to the site within 1 to 5 hours;
- b. deploy the closest empty or light loaded tanker to the spill site;
- c. boom off the leaking vessel to contain the spilled oil;
- d. undertake exclusion actions to prevent spilled oil from contaminating designated sensitive areas; and
- e. immediately begin recovery of oil.

6. Alyeska did not fully boom off the the Exxon Valdez until more than 72 hours following the grounding and long after the vast majority of the oil had been discharged from the vessel.

7. The time period Alyeska took to deploy the plan's designated equipment far exceeded the operational schedule set out in the plan and Alyeska undertook no effective containment or cleanup of the oil.

8. Alyeska undertook no exclusion actions to prevent spilled oil from approaching communities or sensitive areas.

9. As of April 4, 1989, only approximately 9000 barrels had been recovered. Also, the area of the spill's impact exceeded 1640 square miles. This spill fouls hundreds of miles of shoreline. It severely impacts water quality, fisheries resources, waterfowl and marine mammals.

10. Alyeska is under a mandatory and continuing legal obligation to contain and cleanup the existing Valdez spill. Alyeska's inadequate response to the spill under the plan to date demonstrates its inability to respond as required under the plan to any new oil spills.

11. Continued operation of Alyeska's Marine Terminal and tanker traffic at the current crude oil flow rate creates a substantial potential risk of an additional oil spill at Alyeska's Marine Terminal or in Prince William Sound.

12. If an oil spill occurs, it will result in or is likely to result in irreversible or irreparable damage to the natural resources or environment and will result in or is likely to result in an imminent or present danger to the health or welfare of the people of the state.

13. Alyeska has demonstrated an inability to respond as required under its plan. Therefore, it is necessary to add supplemental procedures to the plan. A Notice of Modification of Alyeska's oil spill contingency plan has been ordered by the Department of Environmental Conservation. It would be prejudicial to the interests of the people of the State of Alaska to

delay action on the Notice of Modification until an opportunity for a hearing can be provided because of the substantial threat of a catastrophic oil spill for which there is not an adequate response capability in place. Therefore, an Emergency Order under AS 46.03.820 is appropriate.

14. Furthermore, the Governor of the State of Alaska has declared the Valdez oil spill an emergency under AS 26.23. AS 26.23.020(b) and AS 26.23.020(g) authorize the Governor of the State of Alaska to issue orders to control ingress to and egress from an emergency site to achieve the purposes enunciated in AS 26.23.010 (1) and (7).

ORDER

Based upon the foregoing findings, I order as follows:

1. Alyeska must have in place the complete core inventory of all terminal contingency plan equipment for the Marine Terminal described on pages 9-133 and 9-134 of the plan, within 72 hours from receipt of this Notice. Alyeska must identify to DEC in writing, within 72 hours of this notice, the storage locations of all core contingency plan equipment. Thereafter, Alyeska may not use core contingency plan equipment in any operation except oil spill response and training;

2. Alyeska must designate a round-the-clock oil spill response crew of a minimum of 12, plus crew supervisors, located at the terminal, which crews and supervisors shall be immediately available and have as their sole responsibility oil spill response. The terminal response crew is in addition to the manpower required in paragraph 8.e. below. The minimum terminal

crew may be augmented by additional crew at the terminal or at other locations to enhance oil spill response capability. Alyeska must identify to DEC in writing, within 72 hours of this notice, the designated shift supervisors and, within 7 days from this notice, the shift crews. Alyeska must, thereafter, notify DEC in writing within twenty-four hours of any crew or supervisor changes.

3. Alyeska must boom all tankers upon arrival. Alyeska must inspect boomed areas hourly for spills; Alyeska must inspect for the presence of oil in all boomed areas prior to the tanker deberthing;

4. Alyeska must deberth tankers only during daylight (dawn to twilight) hours until it complies with paragraphs 1 and 2 above;

5. Alyeska must load only one tanker at a time until it complies with paragraphs 1 and 2 above;

6. Alyeska must ensure that two tugs accompany all outgoing tankers to Hinchinbrook Entrance southeast of Seal Rocks;

7. Alyeska must ensure that a pilot be aboard an accompanying tug or on all outbound tankers to Hinchinbrook Entrance.

8. Alyeska must acquire and have in operation as soon as possible but no later than May 15, 1989, the best available equipment and technology and the capability to respond to, and arrive on-scene within two hours of notification, a 10,000,000 gallon oil spill or a distressed tanker between the Hinchinbrook Entrance and Potato Point. Response capability at the scene shall include but is not limited to:

1000
600

5000
888
6500
4000

a. thirty-thousand feet of heavy duty, deep skirted, rough water, seagoing boom which is capable of withstanding and performing in a 3 meter sea state;

b. immediate deployment and management of the boom so as to contain spilled oil and prevent it from impacting shoreline;

c. recovery equipment capable of removing oil from the water at a rate of not less than 10,000 barrels per hour;

d. pumping, transfer, and lightering equipment, and storage capacity and ancillary storage transfer equipment, adequate to receive, transfer, and store recovered oil at a rate of not less than 10,000 barrels per hour without impeding the necessary recovery rate;

e. pumping, transfer, and lightering equipment, and storage capacity, adequate to remove and store all oil from a distressed tanker at a rate of not less than 10,000 barrels per hour without impeding the necessary recovery rate; and

f. sufficient vessels, manpower, equipment and appurtenances adequate to accomplish all of the above.

9.a. Alyeska's Valdez Marine Terminal operations center must maintain direct radio contact with the bridge of each incoming and outgoing tanker, accompanying tugs, and Alyeska's oil spill response vessels while an incoming or outgoing tanker is located at any point between the terminal and Seal Rocks at the Hinchinbrook Entrance. Alyeska must record all radio transmissions and preserve each recording for a period of at least 30 days, unless Alyeska receives a notice under paragraph 9.b.

below, in which case Alyeska shall immediately transmit the original of the recording(s) to DEC's Valdez District Office.

b. Alyeska must require each tanker, accompanying tugs, and Alyeska's oil spill response vessels to notify Alyeska immediately by radio transmission if an incident occurs or there is any irregularity or indication of a problem which threatens or may threaten the tanker or its cargo (including ballast water). Specifically, notice is required if the tanker leaves both of the U.S. Coast Guard designated Prince William Sound and Valdez Arm traffic lanes (except when an outbound tanker leaves the lanes at their Hinchinbrook Entrance terminus).

c. As soon as Alyeska receives a notice under this paragraph, it must alert all its oil spill response teams and initiate all actions needed for an immediate response. Alyeska must also immediately provide oral notice to the Department of Environmental Conservation Valdez District Office Supervisor. The two hour time period during which Alyeska must respond to a tanker oil spill will begin upon its receipt of any notice under this paragraph.

10. Alyeska must prepare, by no later than June 1, 1989, an application for approval for a revised oil spill contingency plan which incorporates the modification terms and conditions in paragraphs 1, 2, 3, 6, 7, 8 and 9 above and which adds supplemental and enhanced oil spill response capability.

11. In the event Alyeska is unable to comply with the deadline in paragraph 8, it shall notify DEC in writing within 7

days of this Order and describe in detail the compelling reason why the deadline cannot be achieved. Submitting a notice under this paragraph does not stay the operation of this Order unless the Order is modified in writing by the Department of Environmental Conservation.

PROCEDURES

Respondent has the right to present evidence or request a hearing to review this Order at any time within 15 days of service. The department may schedule a hearing at the earliest possible time of such a request is made pursuant to AS 46.03.820(b) and (c).

Any request for hearing or submission of evidence should be made by delivery of the enclosed Notice of Defense to the Department of Environmental Conservation, P.O. Box 0, Juneau, Alaska 99811-1800. Failure to request a hearing or submit evidence within the time period specified constitutes a waiver of respondent's right to review this Order.

The submission of an application or the scheduling of hearing does not stay the operation of this Order.

PENALTIES

Any person who violates this Order is subject to criminal prosecution under AS 46.03.790. Additionally, the person is liable in a civil action under AS 46.03.760 for a sum of not less than \$500 nor more than \$100,000 for the initial violation and not more than \$5,000 each day thereafter that the violation continues. Penalties beyond the minimum amount are computed on

the basis of liquidated damages, reasonable administrative costs incurred by the department, and the economic savings realized by the respondent.

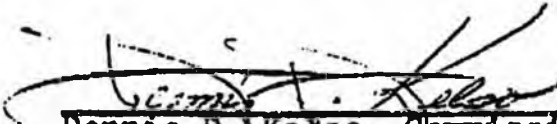
AS 46.03.820(d) authorizes the Attorney General to seek enforcement of this Order if respondent fails to immediately comply with its provisions.

Additionally, if respondent disobeys or resists the terms of this Order, the department may, under the authority of AS 44.62.590, petition the Superior Court for an order directing respondent to show cause why it should not be held in contempt of court. If respondent is adjudged in contempt, respondent may, under the terms of AS 09.50.050, be imprisoned until such time as the terms of the Order are met.

This Order does not constitute a waiver by the Department of Environmental Conservation of the provisions of any other state law or regulation and the Department of Environmental Conservation reserves all lawful remedies in equity, by statute, or the common law.

Dated April 7, 1989

DEPARTMENT OF ENVIRONMENTAL CONSERVATION


Dennis D. Kerso, Commissioner Alaska
Department of Environmental Conservation

STATE OF ALASKA
DEPARTMENT OF ENVIRONMENTAL CONSERVATION

IN THE MATTER OF)
)
ALYESKA PIPELINE SERVICE COMPANY)
OIL SPILL CONTINGENCY PLAN)
)
Respondent.)
_____)

NOTICE OF DEFENSE TO
EMERGENCY ORDER

Alyeska Pipeline Service Company ("Alyeska"), under AS 44.62.390, hereby gives notice of defense in this proceeding. Alyeska Pipeline Service Company understands it has, and is hereby notified of, the following options, and selects the option(s) indicated:

does not agree to be bound by the terms of the Emergency Order and requests a hearing;

objects upon the ground that the Emergency Order does not state acts or omissions upon which the agency may proceed;

objects to the form of the Emergency Order on the ground that it is so undefined or uncertain that Alyeska cannot identify the transaction or prepare a defense;

admits the findings in the Emergency Order and does not contest the Emergency Order;

presents new matter, which is attached, by way of defense to the findings in the Emergency Order;

[__] denies the findings in the Emergency Order, concedes no liability that might arise out of said findings if true, but otherwise agrees to abide by its terms.

Dated: _____, 1989.

Alyeska Pipeline Service Company

By _____

Typed Name: _____

Title: _____

Note: This document must be signed and returned to the Department of Environmental Conservation, P.O. Box 0, Juneau, AK 99811 within 15 days of receipt.

STATE OF ALASKA

DEPARTMENT OF ENVIRONMENTAL CONSERVATION

IN THE MATTER OF)
)
 ALYESKA PIPELINE SERVICE COMPANY)
 OIL SPILL CONTINGENCY PLAN)
)
 Respondent)
)

NOTICE OF MODIFICATION
 OF DEPARTMENT OF ENVIRONMENTAL
 CONSERVATION'S APPROVAL OF OIL
 DISCHARGE CONTINGENCY PLAN

Pursuant to AS 46.04.040(f), the Department of Environmental Conservation modifies its approval of the Alyeska Pipeline Service Company oil spill contingency plan.

FINDINGS

1. Alyeska Pipeline Service Company ("Alyeska") has in place, pursuant to AS 46.04.030, an oil spill contingency plan ("plan") which prescribes Alyeska's response to an oil spill from Alyeska's Marine Terminal or a tanker calling on the terminal.
2. On March 24, 1989, the T/V Exxon Valdez ran aground on Bligh Island after taking on approximately 53,094,510 gallons (1,264,155 barrels) of crude oil from Alyeska's Marine Terminal.
3. The T/V Exxon Valdez discharged approximately 10,000,000 gallons (240,000 barrels) of crude oil following the grounding.
4. Alyeska is responsible under the plan for immediate implementation of the plan and is obligated under the plan to, inter alia,

- a. initiate reconnaissance actions to determine the exact location and extent of the spill;
- b. initiate control actions to minimize the spread of oil and to prevent oil from reaching sensitive areas;
- c. initiate cleanup actions for recovery of oil in conjunction with containment action as required.

5. Specifically, the plan provides for an oil spill response for a scenario of a 200,000 barrel spill in Prince William Sound. Under that scenario, Alyeska is obligated to, inter alia:

- a. move containment booms, skimmers, response equipment, support equipment and personnel (including private contractors) to the site within 1 to 5 hours;
- b. deploy the closest empty or light loaded tanker to the spill site;
- c. boom off the leaking vessel to contain the spilled oil;
- d. undertake exclusion actions to prevent spilled oil from contaminating designated sensitive areas; and
- e. immediately begin recovery of oil.

6. Alyeska did not fully boom off the T/V Exxon Valdez until more than 72 hours following the grounding and long after the vast majority of the oil had been discharged from the vessel.

7. The time period Alyeska took to deploy the plan's designated equipment far exceeded the operational schedule set out in the plan and Alyeska undertook no effective containment or cleanup of the oil.

8. Alyeska undertook no exclusion actions to prevent spilled oil from approaching communities or sensitive areas.

9. As of April 4, 1989, only approximately 9000 barrels had been recovered. Also the area of the spill's impact exceeded 1540 square miles. This spill fouls hundreds of miles of shoreline. It severely impacts water quality, fisheries resources, waterfowl and marine mammals.

10. In light of the foregoing, Alyeska's discharge experience demonstrates a necessity for modification of the plan, under AS 46.04.030(f).

MODIFICATION TERMS AND CONDITIONS

Therefore, based upon the foregoing findings, the Department of Environmental Conservation ("DEC") modifies its approval of Alyeska's plan to add the following terms and conditions pursuant to AS 46.04.030(e):

1. Alyeska must have in place the complete core inventory of all terminal contingency plan equipment for the Marine Terminal described on pages 9-133 and 9-134 of the plan, within 72 hours from receipt of this Notice. Alyeska must identify to DEC in writing, within 72 hours of this notice, the storage locations of all core contingency plan equipment. Thereafter, Alyeska may not use core contingency plan equipment in any operation except oil spill response and training;

2. Alyeska must designate a round-the-clock oil spill response crew of a minimum of 12, plus crew supervisors, located at the terminal, which crews and supervisors shall be immediately available and have as their sole responsibility oil spill

response. The terminal response crew is in addition to the manpower required in paragraph 8.e. below. The minimum terminal crew may be augmented by additional crew at the terminal or at other locations to enhance oil spill response capability. Alyeska must identify to DEC in writing, within 72 hours of this notice, the designated shift supervisors and, within 7 days from this notice, the shift crews. Alyeska must, thereafter, notify DEC in writing within twenty-four hours of any crew or supervisor changes.

3. Alyeska must boom all tankers upon arrival. Alyeska must inspect boomed areas hourly for spills. Alyeska must inspect for the presence of oil in all boomed areas prior to the tanker deberting;

4. Alyeska must debert tankers only during daylight (dawn to twilight) hours until it complies with paragraphs 1 and 2 above;

5. Alyeska must load only one tanker at a time until it complies with paragraphs 1 and 2 above;

6. Alyeska must ensure that two tugs accompany all outgoing tankers to Hinchinbrook Entrance southeast of Seal Rocks;

7. Alyeska must ensure that a pilot be aboard an accompanying tug or on all outbound tankers to Hinchinbrook Entrance;

8. Alyeska must acquire and have in operation as soon as possible but no later than May 15, 1989, the best available equipment and technology and the capability to respond to, and to arrive on-scene within two hours of notification, a 10,000,000 gallon oil spill or a distressed tanker between the Hinchinbrook

Entrance and Potato Point. Response capability at the scene shall include but is not limited to:

a. thirty-thousand feet of heavy duty, deep skirted, rough water, seagoing boom which is capable of withstanding and performing in a 3 meter sea state;

b. immediate deployment and management of the boom so as to contain spilled oil and prevent it from impacting shoreline;

c. recovery equipment capable of removing oil from the water at a rate of not less than 10,000 barrels per hour;

d. pumping, transfer, and lightering equipment, and storage capacity and ancillary storage transfer equipment, adequate to receive, transfer, and store recovered oil at a rate of not less than 10,000 barrels per hour without impeding the necessary recovery rate;

e. pumping, transfer, and lightering equipment, and storage capacity, adequate to remove and store all oil from a distressed at a rate of not less than 10,000 barrels per hour without impeding the necessary recovery rate; and

f. sufficient vessels, manpower, equipment and appurtenances to accomplish all of the above.

9.a. Alyeska's Valdez Marine Terminal operations center must maintain direct radio contact with the bridge of each incoming and outgoing tanker, accompanying tugs, and Alyeska's oil spill response vessels while an incoming or outgoing tanker is located at any point between the terminal and Seal Rocks at the Hinchinbrook Entrance. Alyeska must record all radio transmissions and preserve each recording for a period of at least 30

days, unless Alyeska receives a notice under paragraph 9.b. below, in which case Alyeska shall immediately transmit the original of the recording(s) to DEC's Valdez District Office.

b. Alyeska must require each tanker, accompanying tugs, and Alyeska's oil spill response vessels to notify Alyeska immediately by radio transmission if an incident occurs or there is any irregularity or indication of a problem which threatens or may threaten the tanker or its cargo (including ballast water). Specifically, notice is required if the tanker leaves both of the U.S. Coast Guard designated Prince William Sound and Valdez Arm traffic lanes (except when an outbound tanker leaves the lanes at their Hinchinbrook Entrance terminus).

c. As soon as Alyeska receives a notice under this paragraph, it must alert all its oil spill response teams and initiate all actions needed for an immediate response. Alyeska must also immediately provide oral notice to the Department of Environmental Conservation Valdez District Office Supervisor. The two hour time period during which Alyeska must respond to a tanker oil spill will begin upon its receipt of any notice under this paragraph.

10. Alyeska must prepare, by no later than June 1, 1989, an application for approval for a revised oil spill contingency plan which incorporates the modification terms and conditions in paragraphs 1, 2, 3, 6, 7, 8 and 9 above and which adds supplemental and enhanced oil spill response capability.

11. In the event Alyeska is unable to comply with the deadline in paragraph 8, it shall notify DEC within 7 days of the date of this Notice and describe in detail the compelling reason

why the deadline cannot be achieved. Submitting a notice under this paragraph does not stay the operation of this Notice unless the Notice is modified in writing by the Department of Environmental Conservation.

PROCEDURES


Respondent has the right to present evidence or request a hearing to review this Notice of Modification within 15 days of service.

Any request for a hearing or submission of evidence should be made by delivery of the enclosed Notice of Defense to the Department of Environmental Conservation, Southcentral Regional Office, 3601 C Street, Anchorage, Alaska 99503. Failure to request a hearing or submit evidence within the time period specified constitutes a waiver of respondent's right to review this Notice of Modification.

This Notice of Modification does not constitute a waiver by the Department of Environmental Conservation of the provisions of any other state law or regulations, and the Department of Environmental Conservation reserves all lawful remedies in equity, by statute, or the common law.

DATED: April 7, 1989

DEPARTMENT OF ENVIRONMENTAL CONSERVATION

for

Bill H. Landreau, Regional Supervisor
Southcentral Regional Office Alaska
Department of Environmental
Conservation

STATE OF ALASKA
DEPARTMENT OF ENVIRONMENTAL CONSERVATION

IN THE MATTER OF)
)
ALYESKA PIPELINE SERVICE COMPANY)
OIL SPILL CONTINGENCY PLAN)
)
Respondent)
_____)

NOTICE OF DEFENSE TO
NOTICE OF MODIFICATION

Alyeska Pipeline Service Company, under AS 44.62.390, hereby gives notice of defense in this proceeding. Alyeska Pipeline Service Company understands it has, and is hereby notified of, the following options, and selects the option(s) as indicated:

[] does not agree to be bound by the terms of the Notice of Modification and requests a hearing;

[] objects upon the ground that the Notice of Modification does not state acts or omissions upon which the agency may proceed;

[] objects to the form of the Notice and Modification on the ground that it is so undefined or uncertain that Alyeska cannot identify the transaction or prepare a defense;

[] admits the findings in the Notice of Modification and does not contest the Notice of Modification;

[] presents new matter, which is attached, by way of defense to the findings in the Notice of Modification;

[] denies the findings in the Notice of Modification, concedes no liability that might arise out of said findings if true, but otherwise agrees to abide by the Notice terms.

Dated: _____, 1989.

Alyaska Pipeline Service Company

By _____

Typed Name: _____

Title: _____

Note: This document must be signed and returned to Department of Environmental Conservation's Southcentral Regional Office Supervisor, Bill H. Lamoreaux, within 15 days of receipt.

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SENATE FINANCE COMMITTEE REPORT

DATE: 3/1/90

FURTHER:

DATE TURNED INTO OFFICE: 3/23/90

The Finance Committee considered

SB 273

"An Act relating to the licensing of insurance agents, general agents, brokers, solicitors, adjusters, and firms; and providing for an effective date."

and recommended:

replace with _____ CS SB 273 (Finance) same title
 or adopt _____ CS _____ new title
 attached amendment(s) technical
 Finance letter of intent adopted title change
(HB only)

do pass

do not pass

no recommendation

individual recommendations

further referral to _____

ATTACHES NEW FISCAL NOTE(S):

APPROVES PREVIOUS:

fiscal note(s) _____ Dept/Date: _____

fiscal note(s) _____ Dept/Date: _____

zero fiscal note(s) DECLD 3/5/90

zero fiscal note(s) _____

appropriation-no fiscal note

SIGNING DO PASS:

OTHER RECOMMENDATIONS:

Jim Duncan

[Signature]

1. _____

Richard (DO PASS)

2. _____

Co-Chairs: Signatures and Recommendations

3/23/90

Adopted
by SFC

(Offered by Sen. Kelley)

CS SB 273 (FIN), relating to regulation of insurance agents.

LEGISLATIVE INTENT

It is the intent of the legislature that regulations prescribed under Sec. 21.27.380 (e) be consistent with recommendations of the National Association of Insurance Commissioners' regulatory model for agent continuing education requirements and standards. It is also the intent of the legislature that the director of the Division of Insurance, Department of Commerce and Economic Development, shall seek the advice of Alaska insurance organizations and associations on appropriate adaptations of the regulatory model.

R/SFC 3-23-90

STATE OF ALASKA
1990 LEGISLATIVE SESSION

BILL VERSION: CSSB 273 (L&C)

PUBLISH DATE: _____

FISCAL NOTE

REQUEST:

Revision Date: _____
Title: An Act relating to the licensing of agents, general agents, brokers, solicitors and adjusters
Sponsor: Rules Committee
Requestor: Senate Finance

Agency Affected: Commerce & Econ. Dev.
BRU: Insurance
Components: Operations

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						
MISCELLANEOUS						
TOTAL OPERATING	0	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						
FEDERAL FUNDS						
OTHER						
TOTAL	0	0	0	0	0	0

POSITIONS:

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

ANALYSIS : (Attach a separate page if necessary)

No fiscal impact for FY 90.

Prepared by: Joan Brown, Administrative Officer
Division: Insurance

Phone: 465-2597
Date: 3/2/90

Approved by Commissioner: Larry Merculieff *LM*
Agency: Department of Commerce & Economic Development

Date: 3/5/90

Distribution (by preparer):

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

Changes in CSSB 273 (Fin) have no fiscal impact. This fiscal note is appropriate. 3/23/90

5/8 2/13

Original sponsor(s): Rules/Governor

IN THE SENATE

BY THE FINANCE COMMITTEE

CS FOR SENATE BILL NO. 273 (Finance)

IN THE LEGISLATURE OF THE STATE OF ALASKA

SIXTEENTH LEGISLATURE - SECOND SESSION

A BILL

For an Act entitled: "An Act relating to the regulation of insurance agents, general agents, brokers, managers, solicitors, adjusters, and firms; and providing for an effective date."

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

* Section 1. AS 21.27.010(a) is amended to read:

(a) A person may not [IN THIS STATE] act as or represent to be an agent, general agent, broker, solicitor, or adjuster unless licensed by the [THIS] state.

* Sec. 2. AS 21.27.010(b) is amended to read:

(b) An agent, general agent, solicitor, or broker may not solicit or take applications for, procure, or place for others any kind of insurance for which the person is not licensed.

* Sec. 3. AS 21.27.030(a) is amended to read:

(a) The director may not grant an agent, general agent, solicitor, or broker license to a person if the director has reasonable cause to believe that the [CIRCUMSTANCES OF THE] applicant for the license would, [ARE SUCH THAT] during the 12-month period immediately following issuance of the license, receive an [IF ISSUED, THE] aggregate amount in [OF] commissions [TO BE] represented by the controlled business that exceeds [WOULD EXCEED] the aggregate amount of commissions [TO BE] represented by all other insurance business that would [TO] be procured by or through the applicant.

* Sec. 4. AS 21.27.030(d) is amended to read:

(d) The director may revoke an agent, general agent, solicitor, or broker license if the director has reasonable cause to believe that during either of the two preceding calendar years the aggregate amount of commissions represented by the controlled business procured by or through the licensee exceeded the aggregate amount of commissions represented by all other insurance business procured by or through the licensee.

* Sec. 5. AS 21.27.050 is amended to read:

Sec. 21.27.050. ONE FILING OF PERSONAL DATA SUFFICIENT. (a) The filing of personal data by an individual in connection with one application for an agent or general agent license is [SHALL BE] sufficient, regardless of the number of insurers to be represented [BY THE AGENT] or the number of subsequent applications by the same applicant.

(b) The director may [FROM TIME TO TIME] require a licensed agent, general agent, solicitor, broker, or adjuster, to supply the information called for in an application for a license.

* Sec. 6. AS 21.27.060 is amended to read:

Sec. 21.27.060. EXAMINATION OF APPLICANTS. (a) An [EACH] applicant for an individual license as agent, general agent, broker, solicitor, or adjuster shall, before the issuance of the license, personally take and pass, to the satisfaction of the director, an examination given by the director as a test of the qualifications and competence of the applicant. This requirement does not apply to

(1) applicants for limited licenses, as travel insurance agents only, under AS 21.27.150, or, at the discretion of the director, to applicants for licenses as disability insurance agents for the purpose of handling limited coverages pertaining to sports and recreation;

(2) applicants

(A) who, at any time within the two-year [FIVE-YEAR] period immediately preceding the date of application, have been licensed in this state under a license requiring qualifications required by the license applied for;

(B) [AND] who are considered by the director to be fully qualified and competent; and

(C) whose previous license was not revoked for any reason;

(3) applicants for a license [AS NONRESIDENT AGENT OR AS NONRESIDENT BROKER] who have fulfilled qualification requirements in their state or province of residence and who are considered by the director to be fully qualified and competent [;

(4) APPLICANTS FOR AN AGENT OR SOLICITOR LICENSE COVERING THE SAME KINDS OF INSURANCE AS AN AGENT'S OR SOLICITOR'S LICENSE THEN HELD BY THEM].

(b) The director may at any time require an individual licensed as an agent, general agent, broker, solicitor, or adjuster to take and successfully pass an examination testing competence and qualifications as a condition to the continuance of the license if the licensee has been guilty of a violation of this title, or has [SO] conducted affairs under the license that [AS TO] cause the director reasonably to desire further evidence of the qualifications of the licensee.

* Sec. 7. AS 21.27.080(d) is repealed and reenacted to read:

(d) The director may make arrangements, including contracting with an outside testing service, for administering examinations and collecting a nonrefundable fee.

* Sec. 8. AS 21.27.090 is repealed and reenacted to read:

Sec. 21.27.090. QUALIFICATIONS FOR LICENSING. (a) To qualify for an agent, general agent, broker, solicitor, or adjuster license,

an applicant shall comply with this title and

(1) be 19 years of age or older with a high school or General Education Development diploma or equivalent;

(2) if for a resident license, be a bona fide resident before issuance of the license and actually reside in the state;

(3) successfully pass any examination required under AS 21.27.060;

(4) be a trustworthy person;

(5) not use or intend to use the license for the purpose principally of writing controlled business, as defined in AS 21.27.-030;

(6) not have committed an act that is a ground for denial, suspension, or revocation set out in AS 21.27.410;

(7) if the application is for an agent or general agent license, be appointed as its agent or general agent by one or more authorized insurers, subject to issuance of the license, except that an individual acting on behalf of a firm is not required to have an appointment as an agent or general agent for that activity;

(8) if the application is for a general agent license, have a minimum of three years active working experience in insurance administrative functions, including those listed under the definition of "general agent" in AS 21.90.900, that, in the director's discretion, exhibits the applicant's ability to competently perform the administrative functions for all lines applied for;

(9) if the application is for a broker license, have a minimum of three years' active working experience in all lines applied for either as an agent, solicitor, adjuster, general agent, broker, or as an employee of insurers or representative of insurers, or special education or training of sufficient duration and extent to satisfy the

director that the applicant possesses the competence necessary to fulfill the responsibilities of a broker;

(10) if the application is for a solicitor license, intend to and in fact make the soliciting and handling of insurance business under the license the applicant's principal gainful occupation and represent and be employed by only one licensed agent, general agent, or broker;

(11) if the application is for an adjuster license, have at least six months' experience, special education, or training in handling loss claims under insurance contracts, of sufficient duration and extent to make the person reasonably competent to fulfill the responsibilities of an adjuster.

(b) If the director finds that the applicant is qualified and that the license fee has been paid, the director shall issue the license.

(c) The director may adopt regulations establishing additional educational or experience requirements for applicants under (a) of this section.

(d) To qualify for a firm agent or broker license an applicant must comply with this title and

(1) comply with (a)(4) and (5) of this section;

(2) if a corporation, maintain a lawfully established place of business in the state, except as provided in AS 21.27.270.

* Sec. 9. AS 21.27 is amended by adding a new section to read:

Sec. 21.27.095. LICENSING OF GENERAL AGENTS. (a) A general agent has the authority, consistent with this title, that is conferred by the insurer. A general agent, resident or nonresident, qualified and licensed under AS 21.27.090, may exercise the powers conferred by this title upon agents licensed for the kinds of insurance that the

general agent is authorized to transact for the insurer appointing the agent.

(b) A person employed on salary by an insurer, including an officer or salaried employee performing the same services as a general agent, is considered to be a service representative and is not required to be licensed.

(c) For purposes of this section, a person that performs management services for an insurer is not required to be licensed as a general agent if the person

(1) is a wholly-owned subsidiary of the insurer;

(2) wholly owns the insurer; or

(3) is a wholly-owned subsidiary of the insurance holding company that owns or controls the insurer.

* Sec. 10. AS 21.27.100 is amended to read:

Sec. 21.27.100. APPOINTMENT OF AGENTS OR GENERAL AGENTS. An [EACH] insurer [, ON] appointing an agent or general agent in the state [,] shall file written notice of the appointment [IN TRIPLICATE] with the director on forms prescribed and furnished by the director. If the appointee is [THEN] licensed and if the necessary licensing fee is paid, [OR AS SOON AS LICENSED,] the director shall provide to the insurer and to the appointee written notification of the effective date of the appointment [MAIL ONE COPY OF THE APPOINTMENT TO THE AGENT AND RETURN ONE COPY TO THE INSURER WITH THE THIRD COPY BEING RETAINED IN THE DIRECTOR'S OFFICE].

* Sec. 11. AS 21.27.100 is amended by adding a new subsection to read:

(b) An insurer that enters into an agreement with a general agent shall do so by means of a written contract that specifically sets out the duties, functions, powers, authority, and compensation of all parties to the contract. A contract with a general agent shall be

kept in the permanent records of the insurer and general agent, and be open to inspection by the director.

* Sec. 12. AS 21.27.110 is amended to read:

Sec. 21.27.110. TERM OF APPOINTMENT [OF AGENT]. An [EACH] appointment under AS 21.27.100 continues [SHALL CONTINUE] in force until

(1) the 30th of June of each year unless continued [RENEWED] by the insurer by payment to the director on or before the close of business on the 30th day of June of an annual fee set under AS 21.06.-250; [OR]

(2) the appointment is revoked by the insurer by written notice of revocation to the appointee and [AGENT; THE INSURER SHALL IMMEDIATELY FILE A DUPLICATE COPY OF THE NOTICE OF REVOCATION WITH] the director; or

(3) the appointment is revoked by the director by written notice of revocation to the appointee and insurer [NO FEE SHALL BE CHARGED FOR FILING THE COPY].

* Sec. 13. AS 21.27.120(a) is amended to read:

(a) Revocation of an appointment is [BY THE INSURER SHALL BE CONSIDERED TO BE] effective as of the date designated in the notice as being the effective date if the notice is actually received by the appointee [AGENT] before the designated date; otherwise, as of the earlier of the following dates:

(1) the date the notice of revocation was received by the appointee [AGENT];

(2) the date the notice, if mailed to the agent at the appointee's [AGENT'S] last address of record [WITH THE INSURER], in due course should have been received by the appointee [AGENT].

* Sec. 14. AS 21.27.130 is amended to read:

Sec. 21.27.130. FORM AND CONTENT OF [AGENT, BROKER, SOLICITOR] LICENSES. Agent, general agent, adjuster, solicitor, and broker licenses must be in the form the director prescribes, and must set out

(1) the name and address of the licensee, or if the licensee is required to have a place of business, the address of the place of business;

(2) if for [THE AGENT OR BROKER IS] a firm, the name of the principal or manager of the firm [HOLDING AN INDIVIDUAL LICENSE AS REQUIRED BY AS 21.27.140];

(3) the kind or kinds of insurance the licensee is licensed to handle;

(4) if a solicitor's license, the name and address of the agent or broker represented by the solicitor;

(5) the condition under which the license is granted;

(6) the date of issuance of the license.

* Sec. 15. AS 21.27.160 is amended to read:

Sec. 21.27.160. SCOPE [NUMBER] OF LICENSES. An agent, general agent, broker, solicitor, or adjuster is only required to have [BUT] one type of license inclusive of all kinds or combination of kinds of insurance the agent, general agent, broker, adjuster, or solicitor is licensed to handle, regardless of the number of represented insurers [FOR WHOM THE AGENT IS APPOINTED].

* Sec. 16. AS 21.27.160 is amended by adding a new subsection to read:

(b) The following license types may be issued:

(1) an all lines license;

(2) a property or casualty lines license; or

(3) a life lines license.

* Sec. 17. AS 21.27.190 is amended by adding a new subsection to read:

(d) The director may adopt, by regulation, an alternative to the

bond required by this section.

* Sec. 18. AS 21.27.240 is amended to read:

Sec. 21.27.240. FEE FOR AND [,] CUSTODY OF SOLICITOR'S LICENSE [AND CANCELLATION]. (a) An agent, general agent, or broker who employs a solicitor shall pay the fee for issuance, or annual fee for continuation, of a solicitor license.

(b) The solicitor license [SHALL BE DELIVERED TO AND] shall remain in the possession of the employer [EMPLOYING AGENT OR BROKER]. Upon termination of the employment, the license terminates and shall be returned to the director for cancellation.

* Sec. 19. AS 21.27.250(a) is amended to read:

(a) A solicitor license may not cover [ANY KIND OF] insurance for which the agent, general agent, or broker by whom the solicitor is employed is not [THEN] licensed.

* Sec. 20. AS 21.27.250(c) is amended to read:

(c) An individual may [SHALL] not be licensed as an agent, general agent, or broker while licensed as a solicitor.

* Sec. 21. AS 21.27.260 is amended to read:

Sec. 21.27.260. EMPLOYER'S RESPONSIBILITY FOR SOLICITOR [OF EMPLOYING AGENT OR BROKER]. All business transacted by a solicitor under license as a solicitor shall be in the name of the agent, general agent, or broker by whom the solicitor is employed. The [AND THE] agent, general agent, or broker is [SHALL BE] responsible for all acts or omissions of the solicitor within the scope of employment as solicitor.

* Sec. 22. AS 21.27.270(a) is amended to read:

Sec. 21.27.270. LICENSING OF NONRESIDENT AGENTS, GENERAL AGENTS, BROKERS, OR ADJUSTERS. (a) The director may license as a nonresident insurance agent, general agent, broker, or adjuster a person who

otherwise qualifies under this title, but who is not a resident of or domiciled in the state [ALASKA].

* Sec. 23. AS 21.27.280(a) is amended to read:

Sec. 21.27.280. DIRECTOR AS AGENT FOR SERVICE OF PROCESS [AGAINST NONRESIDENT AGENT, BROKER, ADJUSTER]. (a) A [EACH] licensed nonresident agent, general agent, broker, or adjuster shall appoint the director as attorney to receive service of legal process issued against the licensee [AGENT, BROKER OR ADJUSTER] in this state upon causes of action arising in this state. Service upon the director as attorney constitutes [SHALL CONSTITUTE] effective legal service upon the licensee [AGENT, BROKER OR ADJUSTER].

* Sec. 24. AS 21.27.280(b) is amended to read:

(b) The appointment is [SHALL BE] irrevocable for as long as [THERE COULD BE] a cause of action may be brought against the licensee [AGENT, BROKER OR ADJUSTER] arising out of insurance transactions in this state.

* Sec. 25. AS 21.27.280(c) is amended to read:

(c) Duplicate copies of legal process against the licensee [AGENT, BROKER OR ADJUSTER] shall be served upon the director either by a peace officer or through certified mail with return receipt requested. At the time of service the plaintiff shall pay to the director a fee set under AS 21.06.250, taxable as costs in the action.

* Sec. 26. AS 21.27.280(d) is amended to read:

(d) Upon receiving a [THE] service of legal process, the director shall immediately send one of the copies of the process, by certified mail with return receipt requested, to the defendant licensee [AGENT, BROKER OR ADJUSTER] at the defendant's last address of record with the director.

* Sec. 27. AS 21.27.310(a) is amended to read: