

ALASKA LEGISLATURE

HOUSE and SENATE FINANCE COMMITTEE FILES, 2005-2006 2936

Statutory Independent Contractor (Non-Employee)

Due in part to the difficulty that frequently arose in the application of the 20 factors by the Internal Revenue Service, in 1982, under the Tax Equity and Fiscal Responsibility Act (TEFRA), Congress created a new category of independent contractor for federal tax purposes known as a "statutory non-employee" or "statutory independent contractor." It is contained in Section 3508 of the Internal Revenue Code.

In order to qualify as a statutory independent contractor, the following three criteria must be met:

1. The sales associate must be a licensed real estate agent.
2. Substantially all of the sales associate's remuneration for the services performed as a real estate agent must be directly related to sales or other output rather than to the number of hours worked.
3. A written agreement must exist between the sales associate and the person for whom he or she works, which agreement must provide that the sales associate will not be treated as an employee with respect to such services for federal tax purposes.

This three-part test is far less complicated than the application of multiple factors under the common law.

Licensure

The licensure requirement should be easily satisfied by all real estate salespeople in view of the license law requirements in all states, territories, and the District of Columbia.

INDEPENDENT CONTRACTOR OR EMPLOYEE?



SECTION 530 PROVIDES
BUSINESSES WITH
RELIEF FROM FEDERAL
EMPLOYMENT TAX
OBLIGATIONS IF CERTAIN
REQUIREMENTS ARE MET.

SECTION 530 RELIEF REQUIREMENTS

Your business has been selected for an employment tax examination to determine whether you correctly treated certain workers as independent contractors. However, you will not owe employment taxes for these workers, if you meet the **relief requirements** described below. If you do not meet these **relief requirements**, the IRS will need to determine whether the workers are independent contractors or employees and whether you owe employment taxes for those workers.

Section 530 Relief Requirements:
To receive relief, you must meet all three of the following requirements:

I. Reasonable Basis

First, you had a reasonable basis for not treating the workers as employees. To establish that you had a reasonable basis for not treating the workers as employees, you can show that:

- You reasonably relied on a court case about Federal taxes or a ruling issued to you by the IRS; or
- Your business was audited by the IRS at a time when you treated similar workers as independent contractors and the IRS did not reclassify those workers as employees; or

- You treated the workers as independent contractors because you knew that was how a significant segment of your industry treated similar workers; or
- You relied on some other reasonable basis. For example, you relied on the advice of a business lawyer or accountant who knew the facts about your business.

If you did not have a reasonable basis for treating the workers as independent contractors, you do not meet the **relief requirements**.

II. Substantive Consistency

In addition, you (and any predecessor business) must have treated the workers, and any similar workers, as independent contractors. If you treated similar workers as employees, this relief provision is not available.

III. Reporting Consistency

Finally, you must have filed Form 1099-MISC for each worker, unless the worker earned less than \$600. Relief is not available for any year you did not file the required Forms 1099-MISC. If you filed the required Forms 1099-MISC for some workers, but not for others, relief is not available for the workers for whom you did not file Forms 1099-MISC.

The IRS examiner will answer any questions you may have about your eligibility for this relief.





This Employment Tax Resource Courtesy Of
The Independent Contractor Report
 James R. Uquhart III, Esq.
 Editor

Full Text, as Amended
 of
Section 530
 of the
Revenue Act of 1978
 entitled
**Controversies Involving Whether Individuals are Employees
 for Purposes of Employment Taxes**

Section 530 Table of Contents

- (a) Termination of Certain Employment Tax Liability.
- (b) Prohibition Against Regulations and Rulings on Employment Status.
- (c) Definitions.
- (d) Exception.
- (e) Special Rules For Application of Section.

Section 530 of the Revenue Act of 1978, 26 U.S.C.A. Sec. 3401 note, Pub. L. 95-600; as amended by Pub. L. 96-167, Sec. 9(d), Dec. 29, 1979, 93 Stat. 1278; Pub. L. 96-541, Sec. 1, Dec. 17, 1980, 94 Stat. 3204; Pub. L. 97-248 [Tax Equity and Fiscal Responsibility Act of 1982], title II, Sec. 269(c)(1), (2), 96 Stat. 552; Pub. L. 99-514, Sec. 2, title XVII, Sec. 1706(a), Oct. 22, 1986, 100 Stat. 2095, 2781; Pub. L. 104-188 [Small Business Job Protection Act of 1996] Sec. 1122, August 20, 1996, provides that:

(a) Termination of Certain Employment Tax Liability. [Top]

(1) In general.

- If -

(A) for purposes of employment taxes, the taxpayer did not treat an individual as an employee for any period, and

(B) in the case of periods after December 31, 1978, all Federal tax returns

(including information returns) required to be filed by the taxpayer with respect to such individual for such period are filed on a basis consistent with the taxpayer's treatment of such individual as not being an employee,

then, for purposes of applying such taxes for such period with respect to the taxpayer, the individual shall be deemed not to be an employee unless the taxpayer had no reasonable basis for not treating such individual as an employee.

(2) Statutory standards providing one method of satisfying the requirements of paragraph (1).

- For purposes of paragraph (1), a taxpayer shall in any case be treated as having a reasonable basis for not treating an individual as an employee for a period if the taxpayer's treatment of such individual for such period was in reasonable reliance on any of the following:

(A) judicial precedent, published rulings, technical advice with respect to the taxpayer, or a letter ruling to the taxpayer;

(B) a past Internal Revenue Service audit of the taxpayer in which there was no assessment attributable to the treatment (for employment tax purposes) of the individuals holding positions substantially similar to the position held by this individual; or

(C) long-standing recognized practice of a significant segment of the industry in which such individual was engaged.

(3) Consistency required in the case of prior tax treatment.

- Paragraph (1) shall not apply with respect to the treatment of any individual for employment tax purposes for any period ending after December 31, 1978, if the taxpayer (or a predecessor) has treated any individual holding a substantially similar position as an employee for purposes of the employment taxes for any period beginning after December 31, 1977.

(4) Refund or credit of overpayment.

- If refund or credit of any overpayment of an employment tax resulting from the application of paragraph (1) is not barred on the date of the enactment of this Act (Nov. 6, 1978) by any law or rule of law, the period for filing a claim for refund or credit of such overpayment (to the extent attributable to the application of paragraph (1)) shall not expire before the date 1 year after the date of the enactment of this Act (Nov. 6, 1978).

(b) Prohibition Against Regulations and Rulings on Employment Status.

[Top]

- No regulation or Revenue Ruling shall be published on or after the date of the enactment of this Act (Nov. 6, 1978) and before the effective date of any law hereafter enacted clarifying the employment status of individuals for purposes of the employment taxes by the Department of the Treasury (including the Internal Revenue Service) with respect to the employment status of any individual for purposes of the employment taxes.

(c) Definitions. [Top]

- For purposes of this section -

(1) **Employment tax.** - The term 'employment tax' means any tax imposed by subtitle C of the Internal Revenue Code of 1986 (formerly I.R.C. 1954, section 3101 et seq. of this title).

(2) **Employment status.** - The term 'employment status' means the status of an individual, under the usual common law rules applicable in determining the employer-employee relationship, as an employee or as an independent contractor (or other individual who is not an employee).

(d) Exception. [Top]

- This section shall not apply in the case of an individual who, pursuant to an arrangement between the taxpayer and another person, provides services for such other person as an engineer, designer, drafter, computer programmer, systems analyst, or other similarly skilled worker engaged in a similar line of work.

(e) Special Rules For Application of Section. [Top]**(1) NOTICE OF AVAILABILITY OF SECTION**

- An officer or employee of the Internal Revenue Service shall, before or at the commencement of any audit inquiry relating to the employment status of one or more individuals who perform services for the taxpayer, provide the taxpayer with a written notice of the provisions of this section.

(2) RULES RELATING TO STATUTORY STANDARDS

- For purposes of subsection (a)(2) -

(A) a taxpayer may not rely on an audit commenced after December 31, 1996, for purposes of subparagraph (B) thereof unless such audit included an examination for employment tax purposes of whether the individual involved (or any individual holding a position substantially similar to the position held by the individual involved) should be treated as an employee of the taxpayer,

(B) in no event shall the significant segment requirement of subparagraph (C) thereof be construed to require a reasonable showing of the practice of more than 25 percent of the industry (determined by not taking into account the taxpayer), and

(C) in applying the long-standing recognized practice requirement of subparagraph (C) thereof-

(i) such requirement shall not be construed as requiring the practice to have continued for more than 10 years, and

(ii) a practice shall not fail to be treated as long-standing merely because such practice began after 1978

(3) AVAILABILITY OF SAFE HARBORS

- Nothing in this section shall be construed to provide that subsection (a) only applies where the individual involved is otherwise an employee of the taxpayer.

(4) BURDEN OF PROOF-**(A) IN GENERAL**

- If -

(i) a taxpayer establishes a prima facie case that it was reasonable not to treat an individual as an employee for purposes of this section, and

(ii) the taxpayer has fully cooperated with reasonable requests from the Secretary of the Treasury or his delegate,

then the burden of proof with respect to such treatment shall be on the Secretary.

(B) EXCEPTION FOR OTHER REASONABLE BASIS

- In the case of any issue involving whether the taxpayer had a reasonable basis not to treat an individual as an employee for purposes of this section, subparagraph (A) shall only apply for purposes of determining whether the taxpayer meets the requirements of subparagraph (A), (B), or (C) of subsection (a)(2).

(5) PRESERVATION OF PRIOR PERIOD SAFE HARBOR

- If -

(A) an individual would (but for the treatment referred to in subparagraph (B)) be deemed not to be an employee of the taxpayer under subsection (a) for any prior period, and

(B) such individual is treated by the taxpayer as an employee for employment tax purposes for any subsequent period.

then, for purposes of applying such taxes for such prior period with respect to the taxpayer, the individual shall be deemed not to be an employee.

(6) SUBSTANTIALLY SIMILAR POSITION

- For purposes of this section, the determination as to whether an individual holds a position substantially similar to a position held by another individual shall include consideration of the relationship between the taxpayer and such individuals.

[End of Section 530, as amended]

Editor's Note:

1. Section 530(d), added by Section 1706(b) of Pub. L. 99-514, applies to remuneration paid and services rendered after December 31, 1986. Source: Pub. L. 99-514.
2. In general, amendments made by Section 530(e), added by Section 1122 of Pub. L. 104-188 [Small Business Job Protection Act of 1996] shall apply to periods after December 31, 1996. **NOTICE BY INTERNAL REVENUE SERVICE** - Section 530(e)(1) shall apply to audits which commence after December 31, 1996. **BURDEN OF PROOF - IN GENERAL** - Section 530(e)(4) shall apply to disputes involving periods after December 31, 1996; **NO INFERENCE** - Nothing in the amendments made by this section shall be construed to infer the proper treatment of the burden of proof with respect to disputes involving periods before January 1, 1997. Source: Pub. L. 104-188

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UNITED STATES CODE SERVICE
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*** CURRENT THROUGH PL. 109-160, APPROVED 12/30/05 ***
*** WITH A GAP OF 109-155 ***

TITLE 26 INTERNAL REVENUE CODE
SUBTITLE C EMPLOYMENT TAXES AND COLLECTION OF INCOME TAX
CHAPTER 25 GENERAL PROVISIONS RELATING TO EMPLOYMENT TAXES AND COLLECTION OF
INCOME TAXES AT SOURCE

GO TO CODE ARCHIVE DIRECTORY FOR THIS JURISDICTION

26 USCS § 3508 (2005)

§ 3508. Treatment of real estate agents and direct sellers

(a) General rule. For purposes of this title, in the case of services performed as a qualified real estate agent or as a direct seller

- (1) the individual performing such services shall not be treated as an employee, and
- (2) the person for whom such services are performed shall not be treated as an employer

(b) Definitions. For purposes of this section

(1) Qualified real estate agent. The term 'qualified real estate agent' means any individual who is a sales person if—

- (A) such individual is a licensed real estate agent,
- (B) substantially all of the remuneration (whether or not paid in cash) for the services performed by such individual as a real estate agent is directly related to sales or other output (including the performance of services) rather than to the number of hours worked, and
- (C) the services performed by the individual are performed pursuant to a written contract between such individual and the person for whom the services are performed and such contract provides that the individual will not be treated as an employee with respect to such services for Federal tax purposes

(2) Direct seller. The term "direct seller" means any person if—

- (A) such person
 - (i) is engaged in the trade or business of selling (or soliciting the sale of) consumer products to any buyer on a buy-sell basis, a deposit-commission basis, or any similar basis which the Secretary prescribes by regulations, for resale (by the buyer or any other person) in the home or otherwise than in a permanent retail establishment,
 - (ii) is engaged in the trade or business of selling (or soliciting the sale of) consumer products in the home or otherwise than in a permanent retail establishment, or
 - (iii) is engaged in the trade or business of the delivering or distribution of newspapers or shopping news (including any services directly related to such trade or business),
- (B) substantially all the remuneration (whether or not paid in cash) for the performance of the services described in subparagraph (A) is directly related to sales or other output (including the performance of services) rather than to the number of hours worked, and
- (C) the services performed by the person are performed pursuant to a written contract between such person and the person for whom the services are performed and such contract provides that the person will not be treated as an employee with respect to such services for Federal tax purposes

(3) Coordination with retirement plans for self-employed. This section shall not apply for purposes of subtitle A [26 USCS §§ 1 et seq.] to the extent that the individual is treated as an employee under section 401(c)(1) [26 USCS § 401(c)(1)] (relating to self-employed individuals).

HISTORY:

(Added Sept. 3, 1982, P.L. 97-248, Title II, § 269(a), 96 Stat. 551; Aug. 20, 1996, P.L. 104-188, Title I, § 1118(a), 110 Stat. 1764.)

HISTORY; ANCILLARY LAWS AND DIRECTIVES**Amendments**

In 1996, P.L. 104-188, Sec. 1118(a) (applicable to services performed after 12/31/95, as provided by Sec. 1118(b), which appears as a note to this section), amended subsec. (b)(2)(A) by deleting "or" at the end of cl. (i), inserting "or" at the end of cl. (ii), and adding cl. (iii).

In 1982, P.L. 97-248, Sec. 269(a), added Code Sec. 3508, effective for services performed after 12/31/82.

Other provisions

Rules and regulations. Act Sept. 3, 1982, P.L. 97-248, Title II, § 269(c)(3), 96 Stat. 553, provides: "Nothing in section 530 of the Revenue Act of 1978 [26 USCS § 3401 note] shall be construed to prohibit the implementation of the amendments made by this section [enacting this section, amending 42 USCS § 410 and 26 USCS § 3401 note]."

Application of Aug. 20, 1996 amendments. Act Aug. 20, 1996, P.L. 104-188, Title I, Subtitle A, § 1118(b), 110 Stat. 1764, provides: "The amendments made by this section [amending subsec. (b)(2)(A) of this section] shall apply to services performed after December 31, 1995."

NOTES:**Related Statutes & Rules**

This section is referred to in 42 USCS § 410.

Research Guide**Am. Jur.**

35 Am. Jur. 2d, Federal Tax Enforcement § 163

33A Am. Jur. 2d, Federal Taxation (2005) §§ 9161, 9506, 9516, 9810, 9813

70A Am. Jur. 2d, Social Security and Medicare §§ 286, 288, 289, 291

Labor and Employment

10 Labor and Employment Law (Matthew Bender), ch. 261, Terms, Conditions, Privileges of Employment, and Independent Contractor Status § 261.06

Interpretive Notes and Decisions

1. Generally 2. "Consumer products"

1. Generally

Telemarketers and delivery personnel who market gourmet food products by telephone or personal sales, are compensated solely on commissions and serve under written agreement that they are not treated as employee for employment tax purposes, are direct sellers, it is not necessary that copies of each written contract be produced, and it is sufficient that the taxpayer have samples of contracts and evidence that telemarketers and delivery personnel executed such agreements. *Smoky Mt. Secrets v. United States* (1995, ED Tenn) 910 F. Supp. 1316, 95-2 USTC ¶ 50573, 76 AFTR 2d 6974, 95 TNT 210-18, reported in full (1995, ED Tenn) 1995 US Dist LEXIS 20348.

2. "Consumer products"

"Consumer products" for purposes of § 3508 include both tangible consumer goods and intangible consumer services, consumer products include home study educational courses for instruction-by-mail educational institute, accordingly, direct sellers of home study educational courses who meet other § 3508 requirements can be considered independent contractors. *Cleveland Inst. of Electronics v. United States* (1992, ND Ohio) 787 F. Supp. 741, CCH Unemployment Inv. Rep. P 16583A, 92-1 USTC ¶ 50182, 69 AFTR 2d 1015.

Definition of "consumer product" includes both tangible consumer goods and intangible consumer services, and

accordingly persons who sell home study educational courses sell consumer products. *Cleveland Inst. of Electronics v United States* (1992, ND Ohio) 787 F Supp 741, CCH Unemployment Ins Rep P 16583A, 92-1 USTC P 50182, 69 AFTR 2d 1015

Sales personnel who sell cable television subscriptions qualify as direct sellers and are properly treated as independent contractors since cable television subscriptions qualify as consumer products. *R Corp v United States* (1994, MD Fla) CCH Unemployment Ins Rep P 14033B, 94-2 USTC P 50380, 74 AFTR 2d 5620, 94 TNT 156-34, magistrate's recommendation, costs/fees proceeding (1996, MD Fla) 77 AFTR 2d 855

Specialty advertising products, such as pens, key chains, coffee mugs, and like distributed by business as form of advertising are not consumer products since personal or household use of item is subordinate to its purpose of conveying advertising message. *Private Letter Ruling 9143046*

SENATE COMMITTEE REPORT

DATE: 4/7/06

FURTHER: Finance

DATE TURNED
IN TO OFFICE: 4/28/06

Labor and Commerce Committee considered CS FOR HOUSE BILL NO. 409(L&C)

HB 409 NO WORKERS' COMP. FOR REAL EST. LICENSEE

"An Act relating to excluding qualified real estate licensees from workers' compensation coverage."

and recommends:

- be replaced with _____ CS _____ (_____)
- adopt previous _____ CS _____ (_____)
- attached amendment(s)
- adopt Letter of Intent by _____ Committee
- further referral to _____ Committee

CS Senate Bill:
 Same Title
 New Title

SCS House Bill:
 Same Title
 Technical Title Change
 New Title w/ SCR # _____

NEW FISCAL NOTE(S):

Department	Date	Fiscal	Indet.	Zero	FN#

PREVIOUS FISCAL NOTE(S):

Department	Date	Fiscal	Indet.	Zero	FN#
DLWF	2/23/06			✓	2
DCED	2/24/06			✓	1

APPROPRIATION - no fiscal note

SIGNATURES AND RECOMMENDATIONS:	Do PASS	Do NOT PASS	No REC	AMEND
Davis <i>Betty Davis</i>			X	
Ellis <i>[Signature]</i>	X			
Seelins <i>[Signature]</i>	✓			
B. Stevens <i>[Signature]</i>	✓			
Bunde CHAIR: <i>[Signature]</i>	✓			

HB

412

HFIN

FILE

FISCAL NOTE

STATE OF ALASKA
2006 LEGISLATIVE SESSION

Fiscal Note Number: 1
Bill Version: HB 412
(H) Publish Date: 2/15/06

Revision Date/Time (Note if correction): _____ Dept. Affected: Military & Veterans Affairs
Title: Tuition Waivers: Military/Police/Fire RDU: Military & Veterans Affairs
Sponsor: Representative Ramras Component: Office of the Commissioner
Requester: _____ Component No.: 414

Expenditures/Revenues (Thousands of Dollars)

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

OPERATING EXPENDITURES	FY 2007	FY 2008	FY 2009	FY 2010	FY 2011	FY 2012
Personal Services	0.0	0.0	0.0	0.0	0.0	0.0
Travel	0.0	0.0	0.0	0.0	0.0	0.0
Contractual	0.0	0.0	0.0	0.0	0.0	0.0
Supplies	0.0	0.0	0.0	0.0	0.0	0.0
Equipment	0.0	0.0	0.0	0.0	0.0	0.0
Land & Structures	0.0	0.0	0.0	0.0	0.0	0.0
Grants & Claims	0.0	0.0	0.0	0.0	0.0	0.0
Miscellaneous	0.0	0.0	0.0	0.0	0.0	0.0
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0

CAPITAL EXPENDITURES	0.0	0.0	0.0	0.0	0.0	0.0
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CHANGE IN REVENUES ()	0.0	0.0	0.0	0.0	0.0	0.0
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FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts	0.0	0.0	0.0	0.0	0.0	0.0
1003 GF Match	0.0	0.0	0.0	0.0	0.0	0.0
1004 GF	0.0	0.0	0.0	0.0	0.0	0.0
1005 GF/Program Receipts	0.0	0.0	0.0	0.0	0.0	0.0
1037 GF/Mental Health	0.0	0.0	0.0	0.0	0.0	0.0
Other (Specify Type--Do not abbreviate)	0.0	0.0	0.0	0.0	0.0	0.0
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

Estimate of any current year (FY2006) cost: 0.0

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

POSITIONS

Full-time	0.0	0.0	0.0	0.0	0.0	0.0
Part-time	0.0	0.0	0.0	0.0	0.0	0.0
Temporary	0.0	0.0	0.0	0.0	0.0	0.0

ANALYSIS:

No fiscal impact.

Prepared by: John Cramer
Division: Administrative Services Division
Approved by: Craig E. Campbell, Commissioner
Agency: Department of Military & Veterans Affairs

Phone: (907) 465-4002
Date/Time: 1/31/06 10:00 AM
Date: 1/31/2006

CS FOR HOUSE BILL NO. 412(HES)

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-FOURTH LEGISLATURE - SECOND SESSION

BY THE HOUSE HEALTH, EDUCATION AND SOCIAL SERVICES COMMITTEE

Offered: 3/24/06
Referred: Finance

Sponsor(s): REPRESENTATIVES RAMRAS, Stoltze, Crawford, Lynn

A BILL

FOR AN ACT ENTITLED

1 "An Act relating to the waiver of undergraduate expenses for a spouse or dependent
2 child of a deceased resident peace officer or member of the armed services, a fire
3 department, or an ambulance or first responder service."

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

5 * Section 1. AS 14.43.085(a) is amended to read:

6 (a) A person enrolled as a student in good standing in a state supported
7 educational institution in this state is entitled to a waiver of undergraduate tuition,
8 [AND] fees, and on-campus room and board costs for a period of up to five years
9 if the person was the spouse or dependent child of a bona fide resident of the state who
10 was

11 (1) a member of the armed services and who died in the line of duty or
12 who died as a result of injuries sustained while in the line of duty for the state or
13 federal government or who was listed by the United States Department of Defense as a
14 prisoner of war or as missing in action; or

1 (2) a peace officer or a member of a fire department, ambulance
2 service, or first responder service who died from an act arising out of and in the
3 course of

4 (A) employment as a peace officer or a fire fighter; [OR]

5 (B) duties as a volunteer fire fighter; or

6 (C) duties as an ambulance service or first responder
7 service provider.

8 * Sec. 2. The uncodified law of the State of Alaska is amended by adding a new section to
9 read:

10 REVISOR'S INSTRUCTION. The revisor of statutes is instructed to change the catch
11 line of AS 14.43.085 to take into account the changes made by sec. 1 of this Act.

Representative Jay Ramras
Co-Chair, House Resources
Co-Chair, Economic Develop.
Tourism & Trade
House State Affairs
Joint Armed Services
119 N. Cushman St. Suite 207
Fairbanks, Alaska 99701
Phone: (907) 452-1088
Fax: (907) 452-1146

Alaska State Legislature



While in Session
State Capitol, Room 104
Juneau, Alaska 99801-1182
(907) 465- 3004
Fax: 465-2070
Toll Free: (877) 465-3004

House District 10

House of Representatives

Sponsor Statement CSHB 412

Everyday, we enjoy the freedoms and security granted to us by our Constitution and laws. These rights, that so many take for granted, are there because men and women work everyday to assure they are protected. Alaskans who put on a uniform and put their life on the line, be it a police officer, a firefighter, an emergency medical technician, or a member of the armed services deserve our respect and support.

When they give the ultimate sacrifice to protect us, we as Alaskans have an obligation to help their families, in more than just the short term. Most families, have not only lost a spouse or a parent, they have lost a major source of income. CSHB 412 will offer these surviving family members an opportunity to advance their lives by attending the University of Alaska for a very reduced cost.

Existing language in AS 14.43.085 allows a waiver of fees and tuition. CSHB 412 expands that language to include on-campus room and board. The cost to the State and the University is small when compared to the price of giving ones life in service to our state and country.

By combining these cost reductions with the limited compensation the Federal Government provides military families, an Alaskan student could receive up to five years of a University of Alaska education at little or no expense. CSHB 412 will show our men and women who selflessly give of themselves that we support them, not only while they serve, but we will also be there should they make the ultimate sacrifice.

Federal Benefits for Veterans and Dependents 2005 Edition

Department of Veterans Affairs

Dependents Educational Assistance

Dependents Educational Assistance benefits are available to spouses who have not remarried and children of: (1) veterans who died or are permanently and totally disabled as the result of a disability arising from active military service; (2) veterans who died from any cause while rated permanently and totally disabled from service-connected disability; (3) servicemembers listed for more than 90 days as currently missing in action or captured in line of duty by a hostile force; (4) servicemembers listed for more than 90 days as currently detained or interned by a foreign government or power.

The termination of a surviving spouse's remarriage — either by death or divorce — will reinstate Dependents' Educational Assistance benefits to the surviving spouse. If a surviving spouse ceases living with another person who has been held out publicly as the person's spouse, there is no bar to granting Dependents Educational Assistance benefits to the surviving spouse.

Benefits may be awarded for pursuit of associate, bachelor or graduate degrees at colleges and universities, including independent study, cooperative training and study abroad programs. Courses leading to a certificate or diploma from business, technical or vocational schools also may be taken.

Benefits may be awarded for apprenticeships, on-the-job training programs and farm cooperative courses. Benefits for correspondence courses under certain conditions are available to spouses only. Secondary-school programs may be pursued if the individual is not a high-school graduate. An individual with a deficiency in a subject may receive tutorial assistance benefits if enrolled halftime or more. Deficiency, refresher and other training also may be available.

Monthly Payments

Payments are made monthly. The rate effective Oct. 1, 2004, is \$803 a month for full-time school attendance, with lesser amounts for part-time training. A person may receive educational assistance for full-time training for up to 45 months or the equivalent in part-time training. Payments to a spouse end 10 years from the date the individual is found eligible or from the date of the death of the veteran.

VA may grant an extension. Children generally must be between the ages of 18 and 26 to receive education benefits, though extensions may be granted.

Montgomery GI Bill Death Benefit

VA will pay a special Montgomery GI Bill death benefit to a designated survivor in the event of the service-connected death of an individual while on active duty or within one year after discharge or release. The deceased must either have been entitled to educational assistance under the Montgomery GI Bill program or a participant in the program who would have been so entitled but for the high school diploma or length-of-service requirement. The amount paid will be equal to the participant's actual military pay reduction, less any education benefits paid.

Examples of State Educational Benefits for Spouses and Children

California (CA)

College fee waiver program to children and dependents of service-connected disabled or service-related deceased veterans. The program is administered by the California Department of Veterans Affairs (CDVA)

ELIGIBILITY: Three plans for eligibility - Child, Spouse, Dependant

BENEFITS:

Fee waivers applies only to California State Universities, University of California campuses, and California Community Colleges. Annual benefits awarded on "academic year" basis. Students required to reapply each year for continued benefits.

Oregon

ELIGIBILITY: Oregon State requirements for offering aid to veterans are:

1. Active Duty in the U.S. Armed Forces for not less than 90 days and Korean War service 6/25/50 and 1/31/55, or received campaign or expeditionary medal, or ribbon awarded by the U.S. Armed Forces for service after 6/30/58;
2. Separation from military service under honorable conditions;
3. OR a resident at time of application for benefits;
4. U.S. Citizen; 5. Educational aid is not available for courses you would be receiving Federal GI Bill or Vocational Rehabilitation benefits

BENEFITS:

Rate of \$50 per month for full-time undergraduate studies; or other studies at \$35 per month.

Washington

- Honorably discharged veterans who have served in any branch of the armed forces may be eligible for the following state benefits:

Educational Benefits
County Veterans Assistance/Burial
Homeless Veteran Program
Employment Preference
Reemployment and Layoff Rights
Military Retirement Credit
Motor Vehicle Licenses
Reduced Fishing/Hunting License Fees
State and Federal Park Passes
Documents and Public Records
Reduced Public Transportation Fees

Hawaii

Currently the Hawaiian State Office of Veteran Services does not offer education assistance programs.

Iowa

Iowa War Orphans Education Aid

Children of veteran parents who died as a result of service between: 4/6/17 and 6/2/21; 9/16/40 and 12/31/46; 6/25/50 and 1/31/55; 8/5/64 and 5/7/75; or 8/2/90 (all dates inclusive). Iowa resident for two years. Reserve components on active duty status and National Guardsmen on active duty included.

BENEFITS:

\$600 maximum per year for tuition, matriculation and other fees, books, supplies, board, room, and other expenses at any IA education institution or trade school approved by the Department of Veterans Affairs Division (in addition to federal government benefits). Maximum total \$3,000 per student. No income or age limitations.

Minnesota

War Orphan Education Program

This program serves children of Minnesota veterans who died while on active duty military service or as a result of injuries or disease incurred while on active duty military service. Children are eligible for "tuition free status" at any state college level institution except the University of Minnesota. In addition, \$350.00 per year is available for school related expenses.

ELIGIBILITY CRITERIA: The deceased veteran parent must have been a resident at the time of entry into active duty military service and the dependent child must have been a resident for two years immediately prior to application.

Montana

Children of deceased Veterans

Eligibility: Children of MT residents deceased from service in WWII, Korea, or Vietnam

Program Benefits: Waiver of fees (depends on tuition at the school) These fee waivers are only available at: Montana State University at Billings, Bozeman, and Northern; the University of Montana at Missoula; Montana Tech of the University of Montana, the University of Montana College of Technology at Missoula; Western Montana College of the University of Montana; Montana State University College of Technology at Billings and Great Falls; and Helena College of Technology of the The University of Montana.

Fee waiver for Honorably discharged Veterans

Eligibility: Honorably discharged MT residents who served during wartime and are ineligible for financial aid under federal laws:

Program Benefits: Waiver of fees (depends on tuition at the school) These fee waivers are only available at: Montana State University at Billings, Bozeman, and Northern; the University of Montana at Missoula; Montana Tech of the University of Montana, the University of Montana College of Technology at Missoula; Western Montana College of the University of Montana; Montana State University College of Technology at Billings and Great Falls; and Helena College of Technology of the The University of Montana.

Dependents of POW/MIAs

Eligibility: Dependent of MT resident who has been declared by SECDEF to be a POW, missing or captured in connection with the conflict in Southeast Asia after 1/1/91

Program Benefits: Waiver of fees (depends on tuition at the school) These fee waivers are only available at: Montana State University at Billings, Bozeman, and Northern; the University of Montana at Missoula; Montana Tech of the University of Montana, the University of Montana College of Technology at Missoula; Western Montana College of the University of Montana; Montana State University College of Technology at Billings and Great Falls; and Helena College of Technology of the The University of Montana.

North Dakota

Dependent Children

Eligibility: Dependent Children, spouse, widow or ND resident veteran who was Killed in Action, died from wounds, or any other service connected causes, was totally disabled or died as a result of service connected causes, or was a POW/MIA. The veteran must have been born in and lived in ND until entrance into the U.S. Armed Forces or must have resided within the state for at least six months prior to entrance into the service.

Benefits: Free tuition and fees to any state supported school of higher education including vocational and technical schools to obtain bachelor's degree or certificate of completion. Maximum is 36 months or 8 semester period. Veteran must have been born in or lived in ND until entrance into the U.S. Armed Forces or must have resided within the state for at least 6 months prior to entrance into military service.

Veteran Emergency Loans

Eligibility: Loans to eligible ND resident veterans for temporary financial emergencies may be granted to honorably discharged veterans in amounts up to \$2,000.

Program Benefits: 8% interest is charge. One half of interest is refunded if loan is repaid within period loan was granted. Loan can be granted for periods of 6 to 48 months.

Application: North Dakota Department of Veterans Affairs, PO Box 9003, Fargo, ND 58106-9003

South Dakota

Free Tuition for Veterans

Certain veterans are eligible to take undergraduate courses at a state university without the payment of tuition provided: they are not eligible for educational payments under the GI Bill or any other federal educational program. To qualify the veteran must be:

- Discharged under Honorable conditions, and
- A current resident of South Dakota and qualify for in-state tuition, and
- Able to meet one of the following criteria:
 - Served on active duty at any time between August 2, 1990 and March 3, 1991.
 - Received an Armed Forces Expeditionary medal, Southwest Asia Service medal, or other United States campaign or service medal for participation in combat operations against hostile forces outside the boundaries of the United States.
 - Have a service connected disability rated 10%, or more, disabling.

Eligible veterans may receive one month of free tuition for each month of "qualifying service" with a minimum of one, up to a maximum of four, academic years. Qualifying service is defined as: the amount of time served on active duty between the beginning and ending dates of the particular period of conflict or hostilities during which the veteran earned eligibility for this program. Since all of the post-Vietnam conflicts have been very

short in duration, the majority of veterans who qualify will be entitled to only the minimum, one academic year, of free tuition.

Under the free tuition program, the veteran has twenty (20) years from the ending date of the specific period of service during which he or she served and met the eligibility criteria, or, twenty (20) years after the date that he or she was rated 10%, or more, disabled by the DVA.

EXAMPLE: A veteran earned the Armed Forces Expeditionary medal for serving in Grenada in October 1983. As the hostilities in Grenada were declared to have ceased as of November 21, 1983, the veteran has until November 21, 2003, to use the free tuition program.

SDDVA form E-11 "Veterans Application for Free Tuition at State Supported Schools" is available at the schools' financial aids, veterans representative or registrars offices or, they can be obtained from the Division of Veterans Affairs. The completed application, along with a copy of the veteran's DD-214 must be submitted to the Sioux Falls VA Regional Office (address shown on the reverse side of the form) and then returned to the school.

Free Tuition for Children of Veterans Who Die During Service

Children who are under the age of 25, are residents of South Dakota, and whose mother or father was killed in action or died of other causes while on active duty, are eligible for free tuition at a state supported school, if the deceased parent was a bona-fide resident of this state for at least six (6) months immediately preceding entry into active service.

SDDVA form E-12 "Application for Free Tuition at State Supported Institutions" is available at the schools' financial aids, veterans representative or registrars offices or, they can be obtained from the Division of Veterans Affairs.

Free Tuition for Dependents of POW's and MIA's

Children and spouses of prisoners of war, or of persons listed as missing in action, are entitled to attend a state supported school without the payment of tuition or mandatory fees provided they are not eligible for equal or greater federal benefits.

SDDVA form E-12 "Application for Free Tuition at State Supported Institutions" is available at the schools' financial aids, veterans representative or registrars offices or, they can be obtained from the Division of Veterans Affairs.

Reduced Tuition for South Dakota National Guardmembers

Guard members, who meet the requirements for admission, are eligible for a fifty percent (50%) reduction in undergraduate tuition charges at any state supported school for up to a maximum of four academic years OR, one program of study, approved by the state Board of Education, at any state vocational school upon payment of fifty percent (50%) of the tuition charges.

The receipt of federal educational benefits does not affect eligibility for this program. To qualify the guardmember must:

1. be a resident of this state and a member of the SD Army or Air Guard throughout each semester or vocational program for which he or she applies for benefits.
2. have completed required active duty for training.
3. attend 90% of drills and training periods and maintain a satisfactory academic grade level.
4. provide proper notice to the institution at time of registration for the term in which benefits are sought.

Wisconsin

Tuition and Fee Reimbursement Grant

Veterans who were discharged from active duty within the last 10 years may be reimbursed for up to 50% of their tuition and fees for courses completed as an undergraduate at schools in the University of Wisconsin System and the Wisconsin Technical College System. Reimbursement may not exceed 50% of the cost of tuition and fees for equivalent credits at UW-Madison.

Wisconsin veterans who receive a waiver of non-resident tuition while attending a school in Minnesota also may qualify for reimbursement.

Veterans with a service-connected disability rated by the VA as 30 percent or higher may be reimbursed for up to 100% of their tuition and fees at qualifying schools. Reimbursement may not exceed 100% of the cost of tuition and fees for equivalent credits at UW-Madison. Spouses and dependent children of deceased veterans are not eligible for this grant.

The semester for which a reimbursement grant is requested must end within 10 years after the veteran's release date from active duty. Veterans may receive grants for a total of eight full-time semesters or 120 credits of part-time study (no more than half of the total may have been taken at technical system schools).

The grant application must be received by WDVA no later than 60 days after the completion of the semester.

Veterans who receive a Tuition and Fee Reimbursement Grant are not allowed a Part-Time Study Grant or Retraining Grant for the same semester.

Income limit --- the veteran and spouse's combined annual income may not exceed \$47,500 plus \$500 for each dependent in excess of two dependents.

Veterans may apply for the grant at their County Veterans Service Office. Or write: Wisconsin Department of Veterans Affairs PO Box 7843 30 W. Mifflin St. Madison, WI 53703-7843 phone: (608) 266-1311 or toll-free 1-800-947-8387 (WIS-VETS)

Part-Time Study Grants

Veterans may be reimbursed for up to 50% of tuition and fees (not to exceed the cost at UW-Madison for the same number of undergraduate credits) after successfully completing part-time classroom or correspondence courses at most Wisconsin schools. Veterans with a service-connected disability rated by the VA as 30 percent or higher may be reimbursed for up to 100% of their tuition and fees at qualifying schools (not to exceed the cost at UW-Madison for the same number of undergraduate credits)..

In some instances, spouses and dependent children of deceased Wisconsin veterans also may be eligible for this grant.

To qualify as a part-time student, undergraduates must carry 11 credits or less per semester, and students with a bachelor's degree must carry eight credits or less per semester. Students enrolled in a summer session are automatically classified as part-time by WDVA.

Part-time students with a bachelor's degree may qualify for the grant if they do not have remaining federal veterans' benefits (not including Montgomery GI Bill for Selected Reserves).. Those with a master's degree or its equivalent do not qualify for grants.

The part-time coursework must be related to the applicant's occupational, professional or employment objectives. Courses taken solely for personal edification do not qualify for reimbursement.

Part-time students attending out-of-state schools may qualify for the grant if the school is accredited by the U.S. Office of Education and is within 50 miles of the Wisconsin border and the course is not offered at a Wisconsin school within 50 miles of the student's residence. Out-of-state correspondence courses may qualify for reimbursement if the school is accredited by the U.S. Office of Education and the course is not offered by a Wisconsin school.

The grant application must be received by WDVA no later than 60 days after the completion of the course.

Applicants who receive a Part-Time Study Grant are not allowed a Retraining Grant or Tuition and Fee Reimbursement Grant for the same period of enrollment. Applicants may receive no more than four Part-Time Study Grants during a 12-month period.

Income limit --- the veteran and spouse's combined annual income may not exceed \$47,500 plus \$500 for each dependent in excess of two dependents.

Veterans may apply for the grant through their County Veterans Service Office. You may call or write: Wisconsin Department of Veterans Affairs PO Box 7843 30 W. Mifflin St. Madison, WI 53703-7843 phone: (608) 266-1311 or toll-free 1-800-947-8387 (WIS-VETS)

Dependents of Deceased Veterans

Eligibility: Widow (er)s, minor or dependent children of eligible deceased WI veterans of any war, if residents and living in WI at the time of application. Children remain eligible if widow(er) remarries. Eligibility is determined by state statute. Income limit --- the veteran and spouse's combined annual income may not exceed \$47,500 plus \$500 for each dependent in excess of two dependents

Benefits: Reimbursement of costs for tuition, fees, and required textbooks upon satisfactory completion of part-time classroom correspondence course(s) at university, college, vocational, technical institute, or other institution of higher education as defined by WI statute, section 39.32(1)(a), provided the course(s) are related to the students occupational, professional, or educational objective. Reimbursement is limited to \$300 per course up to \$1,100 during any fiscal year. As long as the student continues to meet program requirements, reimbursement can be provided until Masters or Masters-equivalent Degree is obtained.

For more information

Your County Veterans Service Office will help with eligibility questions and the application process. For more information and questions about these programs, contact cschulde@mail.state.wi.us.

You may call or write: Wisconsin Department of Veterans Affairs PO Box 7843 30 W. Mifflin St. Madison, WI 53703-7843 phone: (608) 266-1311 or toll-free 1-800-947-8387 (WIS-VETS)

National Guard Tuition Grant for Enlisted Members

Eligibility: National Guard Tuition Grant for Enlisted Members

Benefits: For in-state or out of state institutions approved by the Higher Education Aids Board. Reimburses up to one-fourth of students tuition costs. Grant limited to no more than eight full semesters of studying and no grant shall be more than 25% of the resident undergraduate tuition charged by the University of Wisconsin-Madison.

Application: Contact your local National Guard Unit Authority.

Where do you want to go to college? How much does it cost?

Getting an early handle on this will help you figure out how much you'll need to save, earn or borrow.

The table gives you an idea of how much it costs to attend *one year at a four-year college*. In addition, you'll also have to budget for books, miscellaneous expenses and travel. Going to an in-state college costs less, since you are paying resident tuition and usually do not have to travel as far.

	Tuition and Fees	Room and Board	Total
University of Alaska	\$4,286	\$5,587	\$9,873
University of Washington	\$19,907	\$8,424	\$28,331
University of California Los Angeles	\$24,882	\$10,880	\$35,762
Montana State University Bozeman	\$14,190	\$5,500	\$19,690
Gonzaga University Spokane WA	\$23,140	\$3,895	\$27,035

Tuition and fees are averages. Out-of-state averages are based on non-resident prices.

Source: <http://info.Alaska.edu/gotocollege/costs.xml> University of Alaska Website

HB

419

HFIN

FILE

ALASKA STATE HOUSE OF REPRESENTATIVES



Session

(907)-465-3719
FAX# (907)-465-3258
State Capitol
Room 204

Contact:

Interim Address:

3340 Badger Road
North Pole, AK 99705
(907)-488-5725
Fax# (907)-488-4271

REPRESENTATIVE JOHN COGHILL

HB 419 "Board of Storage Tank Assistance"

SPONSOR STATEMENT

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

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

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

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

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

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

FISCAL NOTE

STATE OF ALASKA
2006 LEGISLATIVE SESSION

Fiscal Note Number: 1
Bill Version: HB 419
(H) Publish Date: 3/24/06

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

Expenditures/Revenues (Thousands of Dollars)

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

OPERATING EXPENDITURES	FY 2007	FY 2008	FY 2009	FY 2010	FY 2011	FY 2012
Personal Services	0.0	0.0	0.0	0.0	0.0	0.0
Travel	0.0	0.0	0.0	0.0	0.0	0.0
Contractual	0.0	0.0	0.0	0.0	0.0	0.0
Supplies	0.0	0.0	0.0	0.0	0.0	0.0
Equipment	0.0	0.0	0.0	0.0	0.0	0.0
Land & Structures	0.0	0.0	0.0	0.0	0.0	0.0
Grants & Claims	0.0	0.0	0.0	0.0	0.0	0.0
Miscellaneous	0.0	0.0	0.0	0.0	0.0	0.0
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0

CAPITAL EXPENDITURES	0.0	0.0	0.0	0.0	0.0	0.0
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CHANGE IN REVENUES ()	0.0	0.0	0.0	0.0	0.0	0.0
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FUND SOURCE (Thousands of Dollars)

FUND SOURCE	FY 2007	FY 2008	FY 2009	FY 2010	FY 2011	FY 2012
1002 Federal Receipts	0.0	0.0	0.0	0.0	0.0	0.0
1003 GF Match	0.0	0.0	0.0	0.0	0.0	0.0
1004 GF	0.0	0.0	0.0	0.0	0.0	0.0
1005 GF/Program Receipts	0.0	0.0	0.0	0.0	0.0	0.0
1037 GF/Mental Health	0.0	0.0	0.0	0.0	0.0	0.0
Other (Specify Type--Do not abbreviate)	0.0	0.0	0.0	0.0	0.0	0.0
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

Estimate of any current year (FY2005) cost: 0.0
Mark this box (X) if funding for this bill is included in the Governor's FY 2007 budget proposal:

POSITIONS

POSITIONS	FY 2007	FY 2008	FY 2009	FY 2010	FY 2011	FY 2012
Full-time	0	0	0	0	0	0
Part-time	0	0	0	0	0	0
Temporary	0	0	0	0	0	0

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

Prepared by: Larry Dietrick Phone: 907-465-5250
Division: Spill Prevention and Response Date/Time: March 17, 2006 3:40 p.m.
Approved by: Dan Easton, Deputy Commissioner Date: 3/21/2006
Agency: Department of Environmental Conservation

HOUSE BILL NO. 419

IN THE LEGISLATURE OF THE STATE OF ALASKA
TWENTY-FOURTH LEGISLATURE - SECOND SESSION

BY REPRESENTATIVE COGHILL

Introduced: 2/1/06
Referred: Resources, Finance

A BILL

FOR AN ACT ENTITLED

1 "An Act repealing the Board of Storage Tank Assistance, the underground storage tank
2 revolving loan fund, and the tank cleanup loan program; repealing certain reporting
3 requirements relating to underground petroleum storage tank systems; making
4 conforming amendments; and providing for an effective date."

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

6 * Section 1. AS 46.03.440(a) is amended to read:

7 (a) Financial records submitted to the department or to the former Board of
8 Storage Tank Assistance [BOARD] by the owner or operator of an underground
9 petroleum storage tank system are confidential and not subject to inspection or
10 copying under AS 40.25.110 - 40.25.120. The department, in consultation with the
11 affected owner or operator, shall determine which information is confidential under
12 this subsection.

13 * Sec. 2. AS 44.66.010(a)(7); AS 46.03.360, 46.03.363, 46.03.365(d), 46.03.385(e),
14 46.03.410, 46.03.422, 46.03.450(1), 46.03.450(3), 46.03.450(5), 46.03.450(9), 46.03.450(11);

1 and AS 46.08.040(a)(2)(G) are repealed.

2 * Sec. 3. 18 AAC 78.460, 18 AAC 78.500, 18 AAC 78.505, 18 AAC 78.506, 18 AAC
3 78.507, 18 AAC 78.508, 18 AAC 78.509, 18 AAC 78.511, 18 AAC 78.513, 18 AAC 78.514,
4 18 AAC 78.515, 18 AAC 78.520, 18 AAC 78.521, 18 AAC 78.523, 18 AAC 78.524, 18 AAC
5 78.526, 18 AAC 78.528, 18 AAC 78.529, 18 AAC 78.534, 18 AAC 78.535, 18 AAC 78.537,
6 18 AAC 78.555, 18 AAC 78.560, 18 AAC 78.950, 18 AAC 78.995(15), 18 AAC 78.995(32),
7 18 AAC 78.995(59), and 18 AAC 78.995(130) are annulled.

8 * Sec. 4. The uncodified law of the State of Alaska is amended by adding a new section to
9 read:

10 TRANSITION. (a) Notwithstanding the repeal of AS 46.03.360 and 46.03.365(d),
11 enacted by sec. 2 of this Act, regulations adopted by the Department of Environmental
12 Conservation in effect on the day before the effective date of this Act concerning underground
13 petroleum storage tank systems remain in effect until amended or repealed by the Department
14 of Environmental Conservation unless the regulation is specifically listed in sec. 3 of this Act.

15 (b) Contracts, rights, liabilities, and obligations created by or under a law amended or
16 repealed by this Act, and in effect on the day before the effective date of this Act, remain in
17 effect notwithstanding this Act's taking effect.

18 * Sec. 5. The uncodified law of the State of Alaska is amended by adding a new section to
19 read:

20 REVISOR'S INSTRUCTION. Unless the context requires otherwise, the revisor of
21 statutes is instructed to replace "AS 46.03.360 - 46.03.450" with "AS 46.03.365 - 46.03.450"
22 throughout the statutes.

23 * Sec. 6. This Act takes effect July 1, 2006.

FISCAL NOTE

STATE OF ALASKA
2006 LEGISLATIVE SESSION

Fiscal Note Number: 1
Bill Version: HB 419
(H) Publish Date: 3/24/06

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

Expenditures/Revenues (Thousands of Dollars)

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

OPERATING EXPENDITURES	FY 2007	FY 2008	FY 2009	FY 2010	FY 2011	FY 2012
Personal Services	0.0	0.0	0.0	0.0	0.0	0.0
Travel	0.0	0.0	0.0	0.0	0.0	0.0
Contractual	0.0	0.0	0.0	0.0	0.0	0.0
Supplies	0.0	0.0	0.0	0.0	0.0	0.0
Equipment	0.0	0.0	0.0	0.0	0.0	0.0
Land & Structures	0.0	0.0	0.0	0.0	0.0	0.0
Grants & Claims	0.0	0.0	0.0	0.0	0.0	0.0
Miscellaneous	0.0	0.0	0.0	0.0	0.0	0.0
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0

CAPITAL EXPENDITURES	0.0	0.0	0.0	0.0	0.0	0.0
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CHANGE IN REVENUES ()	0.0	0.0	0.0	0.0	0.0	0.0
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FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts	0.0	0.0	0.0	0.0	0.0	0.0
1003 GF Match	0.0	0.0	0.0	0.0	0.0	0.0
1004 GF	0.0	0.0	0.0	0.0	0.0	0.0
1005 GF Program Receipts	0.0	0.0	0.0	0.0	0.0	0.0
1037 GF Mental Health	0.0	0.0	0.0	0.0	0.0	0.0
Other (Specify Type--Do not abbreviate)	0.0	0.0	0.0	0.0	0.0	0.0
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

Estimate of any current year (FY2005) cost: 0.0

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

POSITIONS

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

ANALYSIS: (Attach a separate page if necessary)

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

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

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

ALASKA STATE HOUSE OF REPRESENTATIVES



Contact:

Interim Address:

3340 Badger Road
North Pole, AK 99705
(907)-488-5725
Fax# (907)-488-4271

Session

(907)-465-3719
FAX# (907)-465-3258
State Capitol
Room 204

REPRESENTATIVE JOHN COGHILL

HB419 – Repeal Board of Storage Tank Assistance

SECTIONAL

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

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

Article 6 – Underground Storage Tank Systems

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

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

AS 46.03.365 – Regulation of underground petroleum storage tank systems:

(d) Before adopting a regulation that sets a standard for the level of a contaminant that is allowed to remain in soil or groundwater after cleanup of a release from or associated with an underground petroleum storage tank, the department shall consult with the board. Before the department may adopt a regulation specifying allowable technologies for testing, containment and cleanup, or corrective action, the regulation must be approved by the board. *There is no longer a board to consult with or approve a regulation.*

AS 46.03.385 – Registration fee:

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

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

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

AS 46.03.450 – Definitions:

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

AS 46.08.040 – Uses of the fund:

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

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

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

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

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

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

Statute text

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

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

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

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

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

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

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

History

(§ 26 ch 128 SLA 1994)

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

Statute text

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

History

(§ 1 ch 59 SLA 1986)

Sec. 46.08.040. Uses of the fund.

Statute text

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

(1) from the response account in the fund

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

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

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

(i) in federal oil discharge cleanup activities; and

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

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

(2) from the prevention account in the fund to

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

(B) pay all costs incurred

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

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

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

(iv) to conduct training, response exercises, inspections, and tests, in order to verify equipment inventories and ability to prevent and respond to oil and hazardous substance release emergencies, and to undertake other activities intended to verify or establish the preparedness of the state, a municipality, or a party required by AS 46.04.030 to have an approved contingency plan to act in accordance with that plan; and

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

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

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

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

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

(i) in federal oil discharge cleanup activities; and

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

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

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

History

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

Annotations

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

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

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

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

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

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

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

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

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

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

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

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

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

Article 6. UNDERGROUND STORAGE TANK SYSTEMS

Sec. 46.03.360. Board of storage tank assistance.

Statute text

(a) There is established the Board of Storage Tank Assistance. For administrative purposes, the board is located in the department. The board consists of the commissioner of environmental conservation, or the commissioner's designee, and the following persons who shall be appointed by the governor to serve at the pleasure of the governor for staggered four-year terms:

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

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

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

(4) a member of the insurance industry; and

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

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

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

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

(e) Under AS 44.62 (Administrative Procedure Act), the board shall adopt regulation under which the department shall

(1) rank requests for assistance under AS 46.03.422;

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

(3) [Repealed, § 20 ch 41 SLA 2002.]

(f) If the department determines that an owner or operator is not eligible for assistance under AS 46.03.410 - 46.03.422 or that a cost is not eligible and the affected owner or operator disputes that determination, or if an owner or operator disputes the ranking assigned to the request for assistance, the owner or operator may apply to the board for resolution of the dispute. The board may issue a decision in a dispute brought to it under this subsection. The decision is binding on the owner, operator, and department.

(g) The board may adopt regulations to limit the number of sites per calendar year for which an owner or operator may be awarded financial assistance under AS 46.03.410 - 46.03.422. The department shall implement the regulations.

History

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

Annotations

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

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

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

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

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

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

Sec. 46.03.363. Reports.

Statute text

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

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

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

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

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

(5) a brief summary of disputes involving the board under AS 46.03.360(f) and other laws authorizing the board to review disputes; and

(6) recommendations for amendments or additions to AS 46.03.360 - 46.03.450.

History

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

Annotations

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

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

Statute text

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

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

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

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

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

(d) Before adopting a regulation that sets a standard for the level of a contaminant that is allowed to remain in soil or groundwater after cleanup of a release from or associated with an underground petroleum storage tank, the department shall consult with the board. Before the department may adopt a regulation specifying allowable technologies for testing, containment and cleanup, or corrective action, the regulation must be approved by the board.

History

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

Annotations

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

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

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

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

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

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

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

Sec. 46.03.370. Educational assistance.

Statute text

The department shall provide

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

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

History

(§ 2 ch 96 SLA 1990)

Sec. 46.03.375. Certification of storage tank workers.

Statute text

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

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

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

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

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

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

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

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

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

(g) In this section,

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

(2) [Repealed, § 25 ch 14 SLA 2005.]

History

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

Annotations

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

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

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

Cross references. For required notice by the commissioner upon adoption of regulations under (a) of this section, see § 8, ch. 95, SLA 1990 in the Temporary and Special Acts.

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

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

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

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

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

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

Legislative history reports. For governor's transmittal letter for ch. 14, SLA 2005 (SB 52), amending (a) and (b) and repealing former (g)(2) of this section, see 2005 Senate Journal 42 - 43. Sec. 46.03.380. Registration of tanks and tank systems.

Statute text

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

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

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

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

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

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

History

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

Annotations

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

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

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

Sec. 46.03.385. Registration fee.

Statute text

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

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

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

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

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

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

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

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

History

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

Annotations

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

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

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

Sec. 46.03.390. Notification of changes in tank systems.

Statute text

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

History

(§ 2 ch 96 SLA 1990)

Annotations

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

Sec. 46.03.395. Notification of tank system closure.

Statute text

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

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

History

(§ 2 ch 96 SLA 1990)

Annotations

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

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

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

Sec. 46.03.400. Registration forms.

Statute text

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

History

(§ 2 ch 96 SLA 1990)

Annotations

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

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

Sec. 46.03.405. Prohibitions.

Statute text

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

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

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

History

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

Annotations

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

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

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

Sec. 46.03.410. Underground storage tank revolving loan fund.

Statute text

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

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

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

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

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

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

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

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

History

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

Annotations

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

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

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

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

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

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

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

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

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

Sec. 46.03.422. Tank cleanup loan program.

Statute text

- (a) The commissioner may make a loan from the underground storage tank revolving loan fund to an owner or operator of an underground petroleum storage tank system for the costs of risk assessment, containment, corrective action, and cleanup resulting from a release of petroleum from or associated with an underground petroleum storage tank system if the owner or operator submitted a timely application for a grant under former AS 46.03.420 and agrees
- (1) to accept a loan in the same or lesser amount instead of a grant for the same project;
 - (2) to provide additional security or collateral for the loan if requested by the department;
 - (3) to
 - (A) upgrade all underground petroleum storage tanks located at the facility from which the release occurred to the standards set by state and federal regulations according to a time line established by the department; or
 - (B) remove and properly dispose of all liquids and sludges from the underground petroleum storage tanks located at the facility from which the release occurred, conduct a site assessment, and either fill the tanks with inert solid material or properly dismantle, remove, and dispose of the tanks in accordance with applicable state and federal regulations; and
 - (4) to submit a plan for risk assessment, containment, corrective action, and cleanup to the department for its review and approval; if the department and the owner or operator cannot reach agreement on a plan, on later changes in the plan, or on a cleanup decision, the owner or operator may apply to the board to review the dispute; the board may issue a recommendation to the department in a dispute brought to it under this paragraph; the recommendation may include a suggested time limit for completing appropriate cleanup activities or reaching a cleanup decision.
- (b) The department may require more security or collateral for a loan made under this section than was required under a previously approved grant application for the same project.
- (c) Under regulations of the board, the department shall rank requests under this section in order of priority, giving greatest priority to those tank systems that present the greatest threat or potential threat to human health.
- (d) The department may deny a request for a loan under this section if
- (1) other risk assessment, containment, corrective action, tank upgrading or closure, and cleanup activities for which money may be used under AS 46.03.410 constitute a higher priority for fund expenditures;
 - (2) the work that would have been covered by the loan has already been completed; or
 - (3) the loan is for reimbursement of expenses previously incurred.
- (e) This section does not affect
- (1) the liability under state or federal law of a person or entity that receives a loan under this section for the costs of risk management, containment, corrective action, and cleanup resulting from a release of petroleum; or
 - (2) the authority of the department to seek recovery from the owner or operator of costs other than loans actually made to an owner or operator under this section.
- (f) The rate of interest on a loan under this section is equal to the 12th Federal Reserve District discount rate in effect on January 1 of the year in which the loan is approved plus one-half

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

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

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

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

History

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

Annotations

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

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

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

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

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

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

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

Sec. 46.03.440. Confidentiality of financial records.

Statute text

(a) Financial records submitted to the department or the board by the owner or operator of an underground petroleum storage tank system are confidential and not subject to inspection or copying under AS 40.25.110 - 40.25.129. The department, in consultation with the affected owner or operator, shall determine which information is confidential under this subsection.

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

History

(§ 2 ch 96 SLA 1990)

Annotations

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

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

Statute text

In AS 46.03.360 - 46.03.450

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

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

- (A) farm or residential tank of 1,100 gallons or less capacity used for storing motor fuel for noncommercial purposes;
 - (B) tank used for storing heating oil for consumptive use on the premises where stored;
 - (C) septic tank;
 - (D) pipeline facility, including gathering lines,
 - (i) regulated under 49 U.S.C. 1671, et seq., (Natural Gas Pipeline Safety Act of 1968);
 - (ii) regulated under 49 U.S.C. 2001, et seq., (Hazardous Liquid Pipeline Safety Act of 1979); or
 - (iii) that is an intrastate pipeline facility regulated under state laws comparable to the provisions of law referred to in (i) or (ii) of this subparagraph;
 - (E) surface impoundment, pit, pond, or lagoon;
 - (F) storm water or waste water collection system;
 - (G) flow-through process tank;
 - (H) liquid trap or associated gathering lines directly related to oil or gas production and gathering operations;
 - (I) storage tank situated in an underground area such as a basement, cellar, mineworking, drift, shaft, or tunnel, if the storage tank is situated upon or above the surface of the floor;
 - (J) tank with a capacity of 10 gallons or less;
 - (K) tank containing hazardous wastes regulated under 42 U.S.C. 6921 - 6939b; or
 - (L) tank system that the department has exempted by regulations adopted under AS 46.03.365;
- (14) "underground petroleum storage tank system" means an underground storage tank containing petroleum together with its underground ancillary equipment and related containment system, if any; in this paragraph, "ancillary equipment" means devices used to distribute, meter, or control the flow of petroleum to and from the system, including piping, fittings, flanges, valves, and pumps.

History

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

Annotations

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

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

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

CHAPTER 65. INTERDEPARTMENT AND INTERAGENCY SERVICES

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

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

Sec. 44.66.010. Expiration of state boards and commissions.

Statute text

(a) Boards and commissions listed in this subsection expire on the date set out after each:

- (1) Alcoholic Beverage Control Board (AS 04.06.010) - June 30, 2007;
- (2) Board of Parole (AS 33.16.020) - June 30, 2008;
- (3) Regulatory Commission of Alaska (AS 42.04.010) - June 30, 2007;
- (4) Alaska Commission on Aging (AS 47.45.200) - June 30, 2008;
- (5) Council on Domestic Violence and Sexual Assault (AS 18.66.010) - June 30, 2006;
- (6) special education service agency (AS 14.30.600) - June 30, 2013;
- (7) Board of Storage Tank Assistance (AS 46.03.360) - June 30, 2007;
- (8) Statewide Suicide Prevention Council (AS 44.29.300) - June 30, 2009;
- (9) Alaska Seismic Hazards Safety Commission (AS 44.37.065) - June 30, 2005.

(b) Upon termination, a commission listed in (a) of this section shall continue in existence until June 30 of the next succeeding year for the purpose of concluding its affairs.

(c) A commission scheduled for termination under this chapter may be continued or reestablished by the legislature for a period not to exceed eight years.

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

History

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

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

Annotations

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

The first 2004 amendment, effective July 22, 2004, in paragraph (a)(4), substituted "(AS 47.45.200)" for "(AS 44.21.200)" and "2008" for "2004."

The second 2004 amendment, effective May 5, 2004, substituted "special education service agency" for "Special Education Service Agency" and "2013" for "2004" in paragraph (a)(6). The third 2004 amendment, effective June 26, 2004, substituted "(AS 47.44.200)" for "(AS 44.21.200)" in paragraph (a)(4).

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

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

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

Sec. 44.66.020. Agency programs.

Statute text

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

- (1) programs in the budget categories of general government, public protection, and administration of justice - January, 1980;
- (2) programs in the budget categories of education and the University of Alaska - January, 1981;
- (3) programs in the budget categories of health and social services - January, 1982;
- (4) programs in the budget categories of natural resources management, development, and transportation - January, 1983;
- (5) the Alaska coastal management program (AS 46.40) - January, 2011.

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

History

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

Annotations

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

Sec. 44.66.030. Program identification.

Statute text

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

History

(§ 3 ch 149 SLA 1977)

Sec. 44.64.090. Administrative hearing records.

Statute text

(a) The office shall acquire and organize statistical and other information relating to administrative hearings of the office and of other agencies. The office shall acquire and organize copies of proposed and final agency decisions in administrative hearings and copies of court decisions resulting from those administrative hearings. The information and decisions shall be made available to the public, agencies, and the legislature. The office shall make final agency decisions reached after administrative hearings available online through an electronic data base.

(b) This section does not apply to records that are confidential or privileged.

History

(§ 3 ch 163 SLA 2004)

Sec. 44.64.095. Federal requirements.

Statute text

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

History

(§ 3 ch 163 SLA 2004)

Sec. 44.64.200. Definitions.

Statute text

In this chapter,

(1) "administrative hearing" means a quasi-judicial hearing before an agency; it does not include an informal conference or review held by an agency before a final decision is issued or a rate-making proceeding or other nonadjudicative public hearing;

(2) "administrative law judge" means a hearing officer who is retained or employed by the office;

(3) "agency" means an agency of the executive branch of state government, including an officer, a division, or another subunit of an agency, a board or commission, a public corporation, and the University of Alaska;

(4) "hearing officer" means an individual who presides over the conduct of an administrative hearing and who is retained or employed by an agency for that purpose;

(5) "office" means the office of administrative hearings established in AS 44.64.010.

History

(§ 3 ch 163 SLA 2004)

HB

419

SFIN

FILE

SENATE FINANCE COMMITTEE REPORT

REPORTED OUT
MAY 04 2006
SENATE FINANCE COMMITTEE

DATE: 4/28/06

FURTHER:

DATE TURNED IN TO OFFICE: 5/4/06

Finance Committee considered HOUSE BILL NO. 419

HB 419 REPEAL UNDERGROUND STORAGE TANK LAWS

"An Act repealing the Board of Storage Tank Assistance, the underground storage tank revolving loan fund, and the tank cleanup loan program; repealing certain reporting requirements relating to underground petroleum storage tank systems; making conforming amendments; and providing for an effective date."

and recommends:

- be replaced with _____ CS _____ (_____)
- adopt previous _____ CS _____ (_____)
- attached amendment(s)
- adopt Letter of Intent by _____ Committee
- further referral to _____ Committee

CS Senate Bill:
 Same Title
 New Title

SCS House Bill:
 Same Title
 Technical Title Change
 New Title w/ SCR # _____

NEW FISCAL NOTE(S):

Department	Date	Fiscal	Ind.	Zero	FN#

PREVIOUS FISCAL NOTE(S):

Department	Date	Fiscal	Ind.	Zero	FN#
DEC	3/21/04			✓	1

APPROPRIATION - no fiscal note

SIGNATURES AND RECOMMENDATIONS:	DO PASS	DO NOT PASS	NO REC	AMEND
<i>[Signature]</i>	✓			
<i>[Signature]</i>	✓			
<i>[Signature]</i>			✓	
<i>[Signature]</i>	✓			
<i>[Signature]</i>	✓			
COCHAIR: <i>[Signature]</i>	✓			
COCHAIR: <i>[Signature]</i>	✓			

TANKS!

FISCAL NOTE

REPORTED OUT
MAY 04 2006
SENATE FINANCE COMMITTEE

STATE OF ALASKA
2006 LEGISLATIVE SESSION

Fiscal Note Number: 1
Bill Version: HB 419
(H) Publish Date: 3/24/06

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

Expenditures/Revenues (Thousands of Dollars)

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

OPERATING EXPENDITURES	FY 2007	FY 2008	FY 2009	FY 2010	FY 2011	FY 2012
Personal Services	0.0	0.0	0.0	0.0	0.0	0.0
Travel	0.0	0.0	0.0	0.0	0.0	0.0
Contractual	0.0	0.0	0.0	0.0	0.0	0.0
Supplies	0.0	0.0	0.0	0.0	0.0	0.0
Equipment	0.0	0.0	0.0	0.0	0.0	0.0
Land & Structures	0.0	0.0	0.0	0.0	0.0	0.0
Grants & Claims	0.0	0.0	0.0	0.0	0.0	0.0
Miscellaneous	0.0	0.0	0.0	0.0	0.0	0.0
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0

CAPITAL EXPENDITURES	0.0	0.0	0.0	0.0	0.0	0.0
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CHANGE IN REVENUES ()	0.0	0.0	0.0	0.0	0.0	0.0
-------------------------------	------------	------------	------------	------------	------------	------------

FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts	0.0	0.0	0.0	0.0	0.0	0.0
1003 GF Match	0.0	0.0	0.0	0.0	0.0	0.0
1004 GF	0.0	0.0	0.0	0.0	0.0	0.0
1005 GF/Program Receipts	0.0	0.0	0.0	0.0	0.0	0.0
1037 GF/Mental Health	0.0	0.0	0.0	0.0	0.0	0.0
Other (Specify Type--Do not abbreviate)	0.0	0.0	0.0	0.0	0.0	0.0
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

Estimate of any current year (FY2005) cost: 0.0

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

POSITIONS

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

ANALYSIS: (Attach a separate page if necessary)

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

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

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

ALASKA STATE HOUSE OF REPRESENTATIVES

**Contact:**

Interim Address:

3340 Badger Road
North Pole, AK 99705
(907)-488-5725
Fax# (907)-488-4271

Session

(907)-465-3719
FAX# (907)-465-3258
State Capitol
Room 204

REPRESENTATIVE JOHN COGHILL

HB 419 "Board of Storage Tank Assistance"

SPONSOR STATEMENT

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

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

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

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

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

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

ALASKA STATE HOUSE OF REPRESENTATIVES



Session

(907)-465-3719
FAX# (907)-465-3258
State Capitol
Room 204

Contact:

Interim Address:
3340 Badger Road
North Pole, AK 99705
(907)-488-5725
Fax# (907)-488-4271

REPRESENTATIVE JOHN COGHILL

HB419 – Repeal Board of Storage Tank Assistance

SECTIONAL

- Section 1. AS 46.03.440(a) reworded to *former board of storage tank assistance* because this Board is being dissolved.
- Section 2. This section lists the statutes that are being repealed, beginning with the Board of Storage Tank Assistance and Chapter 66 – Review of the activities of agencies, boards, and commissions AS 44.66.010(a)(7) – Expiration of Board of Storage Tank Assistance – June 30, 2007
- Article 6 – Underground Storage Tank Systems
- AS 46.03.360 – Board of storage tank assistance. *Board is being repealed.*
- AS 46.03.363 – Reports. *Reports will no longer be required.*
- AS 46.03.365 – Regulation of underground petroleum storage tank systems:
(d) Before adopting a regulation that sets a standard for the level of a contaminant that is allowed to remain in soil or groundwater after cleanup of a release from or associated with an underground petroleum storage tank, the department shall consult with the board. Before the department may adopt a regulation specifying allowable technologies for testing, containment and cleanup, or corrective action, the regulation must be approved by the board. *There is no longer a board to consult with or approve a regulation.*
- AS 46.03.385 – Registration fee:
(e) The department shall deposit fees collected under this section into the underground storage tank revolving loan fund established under AS 46.03.410. *There will no longer be a revolving loan fund for registration fee deposits.*
- AS 46.03.410 – Underground storage tank revolving loan fund. *Repealed in its entirety.*
- AS 46.03.422 – Tank cleanup loan program. *Repealed in its entirety.*

AS 46.03.450 – Definitions:

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

AS 46.08.040 – Uses of the fund:

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

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

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

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

SENATE COMMITTEE REPORT

DATE: 4/13/06

FURTHER: Finance

DATE TURNED IN TO OFFICE: 4/27/06

Resources Committee considered HOUSE BILL NO. 419

HB 419 REPEAL UNDERGROUND STORAGE TANK LAWS

"An Act repealing the Board of Storage Tank Assistance, the underground storage tank revolving loan fund, and the tank cleanup loan program; repealing certain reporting requirements relating to underground petroleum storage tank systems; making conforming amendments; and providing for an effective date."

and recommends:

- be replaced with _____ CS _____ (_____)
- adopt previous _____ CS _____ (_____)
- attached amendment(s)
- adopt Letter of Intent by _____ Committee
- further referral to _____ Committee

CS Senate Bill:	
<input type="checkbox"/>	Same Title
<input type="checkbox"/>	New Title
SCS House Bill:	
<input type="checkbox"/>	Same Title
<input type="checkbox"/>	Technical Title Change
<input type="checkbox"/>	New Title w/ SCR # _____

NEW FISCAL NOTE(S):

Department	Date	Fiscal	Indet.	Zero	FN#

PREVIOUS FISCAL NOTE(S):

Department	Date	Fiscal	Indet.	Zero	FN#
DEC	3/21			✓	1

APPROPRIATION - no fiscal note

SIGNATURES AND RECOMMENDATIONS:	DO PASS	DO NOT PASS	NO REC	AMEND
Elton <i>K. Elton</i>	✓			
Koolish <i>Robert Koolish</i>	✓			
Dyson <i>Frank Dyson</i>	✓			
Seekins <i>Joseph Seekins</i>	✓			
Siedman <i>John Siedman</i>	✓			
Wagoner CHAIR: <i>Wagoner</i>	✓			

HB

420

SFIN

FILE

SENATE FINANCE COMMITTEE REPORT

REPORTED OUT
MAY 03 2006
SENATE FINANCE COMMITTEE

DATE: 4/29/06

FURTHER:

DATE TURNED
IN TO OFFICE: 3 May 2006

Finance Committee considered CS FOR HOUSE BILL NO. 420(FSH)

HB 420 FOREST RESOURCES & PRACTICES STANDARDS

"An Act relating to riparian protection standards for forest resources and practices; and providing for an effective date."

and recommends:

- be replaced with _____ CS _____ (_____)
- adopt previous _____ CS _____ (_____)
- attached amendment(s)
- adopt Letter of Intent by _____ Committee
- further referral to _____ Committee

CS Senate Bill:
 Same Title
 New Title

SCS House Bill:
 Same Title
 Technical Title Change
 New Title w/ SCR # _____

NEW FISCAL NOTE(S):

Department	Date	Fiscal	Ind.	Zero	FN#

PREVIOUS FISCAL NOTE(S):

Department	Date	Fiscal	Ind.	Zero	FN#
DNR	1/23/06			✓	*1

APPROPRIATION - no fiscal note

SIGNATURES AND RECOMMENDATIONS:	DO PASS	DO NOT PASS	NO REC	AMEND
<i>[Signature]</i>			✓	
<i>[Signature]</i>	✓			
<i>[Signature]</i>	✓			
<i>[Signature]</i>	✓			
COCHAIR: <i>[Signature]</i>	✓			
COCHAIR: <i>[Signature]</i>	✓			

FISCAL NOTE

REPORTED OUT
MAY 03 2006
SENATE FINANCE COMMITTEE

STATE OF ALASKA
2006 LEGISLATIVE SESSION

Fiscal Note Number: 1
Bill Version: HB 420
(H) Publish Date: 2/1/06

Revision Date/Time (Note if correction): 01/23/06 Dept. Affected: Natural Resources
Title Relating to riparian protection standards for RDU Resource Development
forest resources and practices... Component Forest Management & Development
Sponsor Rules Committee
Requester Governor Component No. 435

Expenditures/Revenues (Thousands of Dollars)

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

OPERATING EXPENDITURES	FY 2007	FY 2008	FY 2009	FY 2010	FY 2011	FY 2012
Personal Services	0.0	0.0	0.0	0.0	0.0	0.0
Travel	0.0	0.0	0.0	0.0	0.0	0.0
Contractual	0.0	0.0	0.0	0.0	0.0	0.0
Supplies	0.0	0.0	0.0	0.0	0.0	0.0
Equipment	0.0	0.0	0.0	0.0	0.0	0.0
Land & Structures	0.0	0.0	0.0	0.0	0.0	0.0
Grants & Claims	0.0	0.0	0.0	0.0	0.0	0.0
Miscellaneous	0.0	0.0	0.0	0.0	0.0	0.0
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0

CAPITAL EXPENDITURES	0.0	0.0	0.0	0.0	0.0	0.0
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CHANGE IN REVENUES ()	0.0	0.0	0.0	0.0	0.0	0.0
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FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts	0.0	0.0	0.0	0.0	0.0	0.0
1003 GF Match	0.0	0.0	0.0	0.0	0.0	0.0
1004 GF	0.0	0.0	0.0	0.0	0.0	0.0
1005 GF/Program Receipts	0.0	0.0	0.0	0.0	0.0	0.0
1037 GF/Mental Health	0.0	0.0	0.0	0.0	0.0	0.0
Other (Specify Type--Do not abbreviate)	0.0	0.0	0.0	0.0	0.0	0.0
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

Estimate of any current year (FY2006) cost: 0.0
Mark this box (X) if funding for this bill is included in the Governor's FY 2007 budget proposal:

POSITIONS

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

ANALYSIS: (Attach a separate page if necessary)

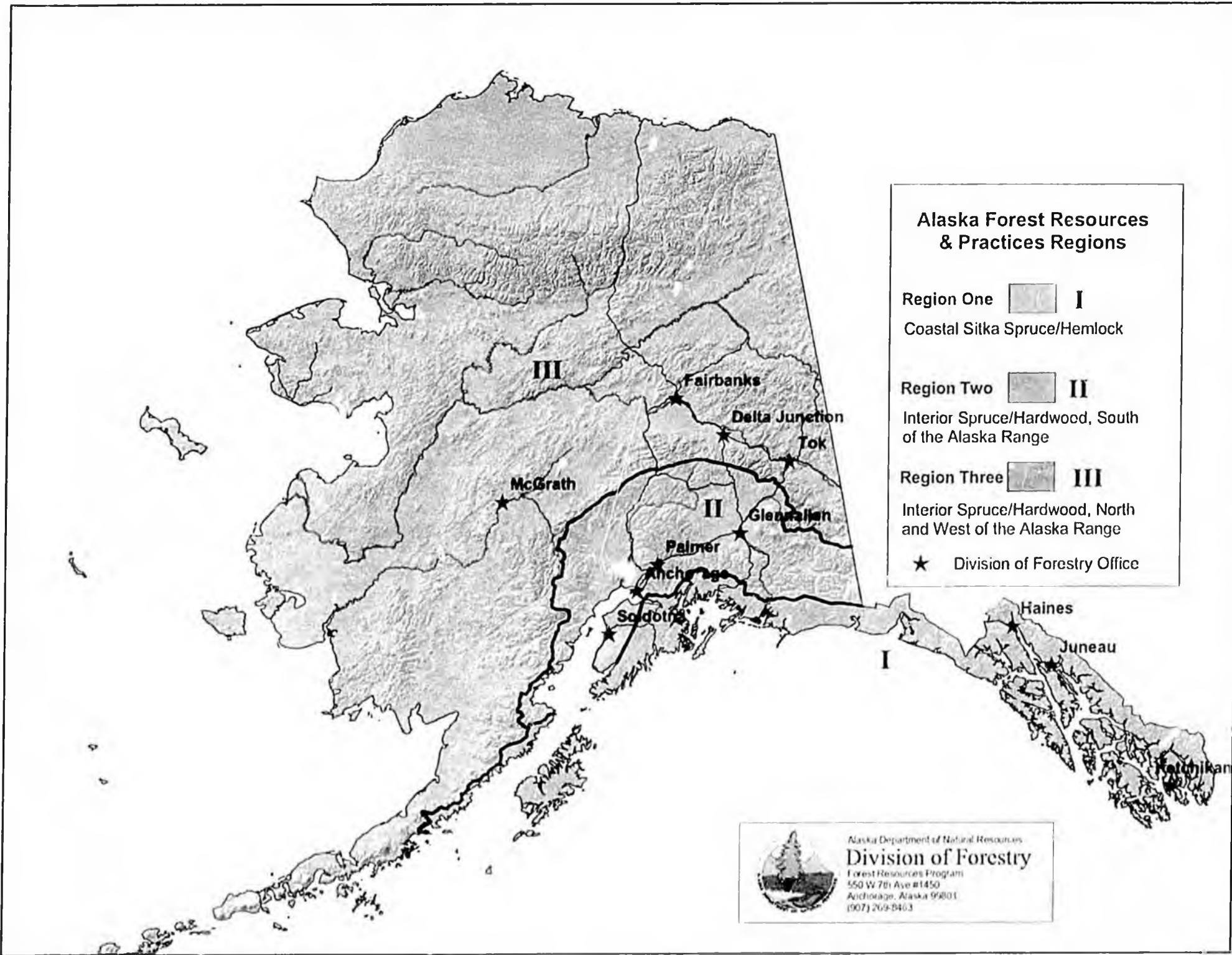
This bill will have a negligible impact on operating costs, and there is no capital cost associated with this project. This bill changes the riparian standards under the Forest Resources & Practices Act, but doesn't change the process DNR uses to administer the standards.

The Division of Forestry included state, municipal, Trust, and private landowners in the development of these recommendations. Their assessment was that the proposed changes would have a negligible economic impact on their operations because the timber value per acre is low, many riparian areas are naturally unforested, and landowners have routinely included voluntary buffers in their harvest operations.


Prepared by: Chris Maisch, Director Phone 451-2660
Division Forestry Date/Time 1/23/2006
Approved by: Mike Menge, Commissioner Date 1/23/2006
Agency Natural Resources


HB 420 – Forest Resources and Practices Act
Region II Southcentral


4-28-06 Handouts:
Additional Materials



**Alaska Forest Resources
& Practices Regions**

Region One  **I**
Coastal Sitka Spruce/Hemlock

Region Two  **II**
Interior Spruce/Hardwood, South
of the Alaska Range

Region Three  **III**
Interior Spruce/Hardwood, North
and West of the Alaska Range

★ Division of Forestry Office



Alaska Department of Natural Resources
Division of Forestry
Forest Resources Program
550 W 7th Ave #1450
Anchorage, Alaska 99501
(907) 269-8463

FRPA Water body class definitions

Region I	Region II	Region III
<p>Applicability: Types I-A, I-B, I-C, and I-D apply to private lands. Waterbodies on state and other public land are classified only as waters that do or do not have anadromous or high value resident fish</p>	<p>Applicability: Waterbody classes apply to all ownerships. Buffers are the same for public and private land, but only public land has special management zones.</p>	<p>Applicability: Waterbody classes apply to all ownerships. However, buffer widths for Type III-A and III-B waters are different on public and private land.</p>
<p>Type I-A An anadromous water body that (A) is a stream or river of any size having an average gradient of eight percent or less, with banks held in place by vegetation, channels that are not incised, and a substrate composed of rubble, gravel, sand, or silt; (B) consists of wetlands and lakes, including their outlets; and (C) is an estuarine area delimited by the presence of salt-tolerant vegetation</p>	<p>Type II-A (A) a nonglacial stream greater than 50 feet wide that has anadromous or high value resident fish and that has an unconfined and dynamic channel; and (B) a water body that typically has point bars, islands, scour planes, active or recent side channels, and areas of obvious bank erosion.</p>	<p>Type III-A A waterbody that is a (A) nonglacial high value resident fish water body greater than three feet in width at the ordinary high water mark; (B) nonglacial anadromous water body; <u>or</u> (C) backwater slough;</p>
<p>Type I-B An anadromous water body that does not meet the definition of a Type I-A water body</p>	<p>Type II-B A glacial stream that has anadromous or high value resident fish and that is not a glacial Type II-C water body;</p>	<p>Type III-B A glacial high value resident fish water body or a glacial anadromous water body; "Type III-B water body" does not include a glacial backwater slough</p>
<p>Type I-C A water body that is not anadromous, that is a tributary to a Type I-A or Type I-B water body, and that has a gradient of 12 percent or less.</p>	<p>Type II-C A water body that has anadromous or high value resident fish that (A) is a nonglacial water body >3' wide and ≤50' wide at ordinary high water mark that has an unconfined and dynamic channel; (B) is a nonglacial water body >3' wide at ordinary high water mark that has a confined channel; (C) is a reach of the Kenai River, Kasilof River, or Lake Fork Crescent River >3' wide at ordinary high water mark; or (D) is a lake or pond;</p>	<p>Type III-C A nonglacial high value resident fish water body that is less than or equal to three feet in width at the ordinary high water mark and that does not contain anadromous fish.</p>
<p>Type I-D in Region I, a water body that is not anadromous, that is tributary to a Type I-A or Type I-B water body, and that has a</p>	<p>Type II-D A nonglacial stream or a reach of the Kenai River, Kasilof River, or Lake Fork Crescent River that is less than or equal to three feet wide at ordinary high water</p>	

gradient greater than 12 percent

mark that has anadromous or high value resident fish.

"Anadromous water body" means the portion of a fresh water body or estuarine area that

(A) is cataloged under AS 41.14.040 as important for anadromous fish; or

(B) is not cataloged under AS 41.14.870 as important for anadromous fish but has been determined by the deputy commissioner to contain or exhibit evidence of anadromous fish in which event the anadromous portion of the stream or waterway extends up to the first point of physical blockage;

"high value resident fish" means resident fish populations that are used for recreational, personal use, commercial, or subsistence purposes

HB 420/SB 262 – Forest practices riparian standards in Region II Sectional Analysis

This bill would complete the task of setting statewide riparian protection standards -- stream buffers -- for commercial forest operations. This process began with the 1990 changes to the Forest Resources and Practices Act ("FRPA", AS 41.17), and included updates to the riparian



standards for Region I (coastal forests) in 1999, and for Region III (interior forests) in 2003.

The existing FRPA standards for Region II (southcentral forests, see blue on map) were adopted in 1990 as interim standards pending scientific review. That review was completed in 2004. The recommendations were reviewed by the Board of Forestry and affected interests in 2005, and incorporated into the FRPA amendments in this bill.

Section 1 – Findings. Section 1 comprises legislative findings clarifying the intent to protect fish habitat and water quality during forest operations, and emphasizing the unique characteristics of the forests and fisheries of Southcentral Alaska. The standards in this bill are tailored specifically to conditions in Region II. Compared to other regions, Region II has an abundance of both large, dynamic rivers and narrow anadromous streams in forested areas, high fisheries values, low timber volumes per acre, and a higher proportion of hardwood timber (cottonwood, birch, and aspen).

Section 2: AS 41.17.116 -- Private land. Section 2 sets riparian standards for commercial forest operations on private land along water bodies with anadromous or high-value resident fish in Region II. For large, nonglacial, and most glacial rivers, no-harvest buffers would extend 150 feet from the water body, with a widened buffer along outer bends subject to erosion. Most nonglacial waters, lakes, and glacial rivers with relatively stable banks would have 100-foot no-harvest buffers, similar to the existing interim standard. Small streams would have 50-foot no-harvest buffers. Buffers are designed to prevent erosion and sedimentation and provide large woody debris for fish habitat. Buffers also apply to estuarine areas along anadromous or high-value resident fish streams, using the same width that applies to the adjacent stream type. Forested estuaries are rare in Region II.

Section 3: AS 41.17.118 – State land. Section 3 sets riparian standards for state land along water bodies with anadromous or high-value resident fish in Region II. The no-harvest buffers would be the same as those set for private land. In addition, on state land only, harvesting from the landward boundary of the no-harvest buffer to 300 feet from the water body may occur but must be consistent with the maintenance or enhancement of wildlife habitat.

Section 4: AS 41.17.119 -- Other public land. Section 4 sets riparian standards for other public land along water bodies with anadromous or high-value resident fish in Region II. The no-harvest buffers are the same as those applicable to state and private land.

Section 5: AS 41.17.950 (21) – “Riparian area” definition. This section amends the definition of "riparian area" to be consistent with the riparian standards set forth in sections 2, 3, and 4.

Section 6: AS 41.17.950 (34) – (41) – Other definitions. This section adds definitions for new terms used in the riparian standards in sections 3, 4, and 5. The definitions cover the four new stream categories (Types II-A, II-B, II-C, and II-D), and clarify the terms "outer bend subject to erosion," "point bar," "terrace," and "terrace top break".

Section 7 – Effective date. This section sets the effective date as July 1, 2006.



RESOURCE DEVELOPMENT COUNCIL

Growing Alaska Through Responsible Resource Development

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February 15, 2006

Senator Tom Wagoner
 Chair, Senate Resources Committee
 Alaska State Legislature
 State Capitol
 Juneau, AK 99801-1182

Re: Senate Bill 262 – Forest Resources & Practices Standards

Dear Senator Wagoner:

On behalf of the Resource Development Council for Alaska, Inc. (RDC), I am writing to express our support for Senate Bill 262. SB 262 amends the Alaska Forest Resources and Practices Act (FRPA) in order to update the state standards for forestry activities in riparian areas. The bill is the product of a two-year consensus process managed by the Board of Forestry and it completes a statewide review of the FRPA riparian standards that began in 1996.

RDC is a private, non-profit business association comprised of individuals and leading companies from Alaska's oil and gas, mining, forest products, fisheries and tourism industries. The association's membership also includes construction companies, local communities, Native corporations, organized labor and a wide range of industry-support firms. RDC works to grow Alaska's economy through the responsible development of the state's natural resources.

SB 262 creates standards for forestry activities in the riparian areas of southcentral Alaska (Region II) that protect water quality and fish habitat while supporting healthy timber and fishing industries. The bill incorporates the best available science and maintains the state's compliance with relevant federal statutes. Most importantly, it has been vetted by government, university and private sector scientists, as well as affected stakeholders, including local governments, private forest owners, timber and fishing industry representatives, environmental groups and the state resource agencies.

SB 262 assigns distinct riparian standards for four different types of water bodies with anadromous or high-value resident fish. The no-cut buffers defined for Region II differ from the other regions in that they are wider on large, dynamic rivers and narrower on small streams. The Board of Forestry's Science & Technical Committee and Implementation Group identified a number of sound reasons for these differences, including the fact that within Region II there are significantly more large rivers that overlap with areas where harvesting is likely to take place.

The Board of Forestry has a proven track record in developing consensus language to amend the FRPA, having successfully crafted the riparian standards for Region I in 1999 and for Region III in 2003. RDC strongly supports the Board of Forestry's work on these issues and we believe they warrant the endorsement of the Legislature. Please move SB 262 forward without amendment.

Thank you for considering RDC's position on this important piece of legislation.

Sincerely,

RESOURCE DEVELOPMENT COUNCIL
For Alaska, Inc

A handwritten signature in cursive script that reads "Tadd Owens". The signature is written in dark ink and is positioned above the printed name and title.

Tadd Owens
Executive Director

Legislation would change timber practices in Southcentral Alaska

By HAL SPENCE

Peninsula Clarion

Timber harvesting rules defining buffers meant to protect habitat around Kenai Peninsula rivers and streams would be stiffened under bills now before the Alaska Legislature.

But while some no-cut buffer zones would be widened and others reduced, the primary change would be to require those strict no-cut buffers on private, as well as public land. Nevertheless, the proposed changes are not expected to significantly alter current commercial forestry practices on the Kenai Peninsula, according to harvesters.

The buffer zone amendments are proposed in House Bill 420 and its companion Senate Bill 262, currently in the House Rules Committee and Senate Re-sources Committee respectively.

No-cut buffers 100 feet wide already are required on public lands. The proposed changes generally would widen those buffers around large rivers to 150 feet, keep the 100-foot buffer about smaller rivers, and reduce them to 50 feet along small streams less than three feet wide.

Currently, private lands within 100 feet of rivers and streams have been regulated as special management areas, where tree cutting is permitted if operations are designed to protect habitat and water quality. Here there are no no-cut zones.

That would change under the proposed revisions. If approved, the same no-cut terms applied to public lands would also apply on private property.

Passage of one of the bills would complete a process begun in 1990 to adopt statewide riparian protection standards (stream buffers) for commercial forest operations under the Forest Resources and Practices Act. Revised standards already have been adopted in two of the state's three FRPA regions: Region I, which covers much of southern coastal Alaska, including the east side of the Kenai Peninsula, and Region III, which includes Interior Alaska.

Only Region II, which stretches across much of Southcentral Alaska south of Denali, including western Kenai Peninsula from Homer north to Turnagain Arm and the west side of Cook Inlet, has yet to be revised. That is the purpose behind the two bills.

"The nutshell version is that around large, dynamic rivers, both glacial and nonglacial, we're proposing a wider basic buffer (no-cut zone) of 150 feet. That would apply both on public and private land," said Marty Freeman, with the State Division of Forestry.

Gone would be the special management areas on private land under which harvesting currently can occur near to rivers and streams.

The general purpose behind all the buffers is to protect fish habitat. The high value of fish coupled with the relatively low value of timber in Region II has led to the proposed restrictions.

In many cases, the wider buffers are meant to prevent too much erosion and sedimentation. Along some rivers, however, the aim is to protect natural erosive forces necessary to ensure enough dead wood reaches the rivers to create sloughs and side channels that provide fish with resting and spawning habitat, she said.

"The way to get big logs into big rivers is to have the banks erode," she said. "They need a lot of wood, so you need a wider buffer."

The Alaska Forest Resources and Practices Act is meant to provide the commercial timber industry with a "one-stop shopping" system for complying with the federal Clean Water Act and Coastal Zone Management Act. Forest operations that are consistent with the FRPA are deemed consistent with those acts.

According to the division, final approval of the FRPA as the state's forestry management measure for the Coastal Zone Reauthorization Act depends on adoption of buffer standards on private land in Region II. The two bills now before lawmakers are meant to accomplish that.

According to Freeman, the bills are the culmination of more than two years of work by scientists, agencies, municipalities (Matanuska-Susitna and Kenai Peninsula boroughs included), Native corporations, representatives of the timber industry and other stakeholders, including the University of Alaska and Mental Health Trusts.

"It got a quite broad review," Freeman said.