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NEWS RELEASE

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COWPER INTRODUCES PREVENTIVE OIL SPILL LEGISLATION

JUNEAU--Gov. Steve Cowper announced today that he will introduce three new, comprehensive oil spill bills Wednesday modeled on the recommendations of the state Oil Spill Commission and designed to prevent future spills like the Exxon Valdez disaster.

The bills strengthen the state's ability to require safe equipment, create industry incentives for safe operations through greater financial requirements and further involve citizens and local governments in planning spill response efforts. The bills also clarify the roles of state agencies in responding to hazardous waste and oil spills, increase civil penalties for spills involving hazardous substances other than crude oil and close a loophole in current state law for spills of less than 18,000 gallons.

"The Oil Spill Commission made a thorough review of ways to improve the state's ability to prevent major environmental disasters like the Exxon Valdez spill," Cowper said. "For the most part, their recommendations were reasoned and responsible and now it's our turn to do our part to put them into effect.

"We asked the industry for suggestions on this package and have incorporated most of their recommendations. These bills will go a long way toward protecting the environment, our natural resources and the Alaskan way of life," the Governor said.

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The three bills incorporate the intent of many of the 59 recommendations of the Oil Spill Commission not addressed in legislation approved last year. They are being introduced the day after the Commission presented its final, 189-page report to the Governor.

Here are the highlights of the proposed legislation:

Safer operations:

- The Department of Environmental Conservation would be given authority to inspect tankers operating in state waters for structural integrity. Current law gives no state agency such authority.

The tanker fleet operating in Alaska is aging and several spills in recent years have resulted from cracks in tankers that could have been detected through state inspections. The commission said of tanker inspections: "The lack of any quality control or assurance program on tanker operations from Prince William Sound or Cook Inlet allows serious hazards to arise."

A bill (SB497) introduced by the Governor last week extends that inspection authority without prior consent to oil facilities such as the Alyeska terminal in Valdez.

- State-approved contingency plans would be required for facilities storing at least 5,000 barrels of product, such as bulk storage facilities. Civil or administrative penalties could be imposed for failure to prepare such contingency plans. Under the legislation, the industry must plan to clean up the "realistic maximum oil discharge" in the shortest possible time.

- Civil penalties would be increased for spills of non-crude oil. Under current law, the maximum for such spills is \$10 per gallon. Under the proposed legislation, the maximum penalty would rise to \$50 a gallon for non-crude spills in surface or subsurface fresh water - the most difficult in which to clean up spills. Lesser penalties could be imposed for spills in other types of water such as in intertidal zones where natural flushing helps the clean-up.

- A loophole in current law that imposes no fine for spills of less than 18,000 gallons would be closed. That loophole currently leads to problems in reporting spills and lawsuits over the size of spills.

-MORE-

Financial responsibility:

- On the theory that industry will operate more safely if required to be financially responsible, the legislation would require new standards of financial responsibility for companies transporting oil and other hazardous substances. Currently there is no financial requirement for some bulk fuel operators.

The new bills would require operators to post bond, have insurance or otherwise show they have the financial assets to pay for spills should they occur. For the smallest operations, financial responsibility would be a minimum of \$1 million, up to \$20 million for large tankers carrying non-crude substances. For the largest tankers such as the Exxon Valdez, operators will have to show \$500 million in financial assets.

State agency response:

The Commission urged the state to clarify the role of various state agencies in responding to spills. The legislation addresses those issues in two ways: It gives the governor authority to expend the state Oil and Hazardous Substance Release Response Fund for whatever purpose deemed necessary during a spill. It also details the Division of Emergency Services' role during a catastrophic spill as overall coordinator of the state's disaster response. DEC would continue to be the lead agency in overseeing the spill clean-up.

The legislation also formalizes the creation of the Alaska State Emergency Response Commission to oversee planning and preparation of oil spill response efforts. The commission would be composed of eight state agencies and seven public members appointed by the governor, with an emphasis on experts in emergency response. The commission also would be charged with establishing local emergency planning committees in communities composed of elected officials, emergency response experts, the media and operators of hazardous substance facilities.

In addition to the bills to be introduced Wednesday, the administration on Feb. 14 sponsored SB 497 which permits the levy of administrative penalties for contingency plan violations. The bill, similar to one (HB409) introduced in the House by Rep. Mike Davis, also permits DEC to order compliance on a specific schedule if the agency finds a violation by a tanker or facility operator.



STATE OF ALASKA
OFFICE OF THE GOVERNOR
JUNEAU

Preliminary Administration Response
to each Recommendation of the
Alaska Oil Spill Commission

February 20, 1990

In response to the final report of the Alaska Oil Spill Commission, Governor Cowper has initiated several lines of administrative and legislative action. The proposals are intended to encourage and require strengthened preventative measures to guard against further oil spills, to clarify various industry and agency responsibilities, and to enhance citizen involvement in oil spill contingency planning and response.

In 1989 several significant pieces of legislation were passed, others were submitted, and this year several more are being proposed. In addition, regulatory measures are under consideration and advocacy for federal action is being pursued. The following is a summary of the administration's preliminary proposals to address each recommendation of the Oil Spill Commission. These proposals, plus those initiated by the Legislature, must be carefully coordinated to produce a strong but operable body of law to better prevent and respond to spills of oil and other hazardous materials.

Comprehensive Prevention

1. Prevention as Fundamental Policy: This theme underlies several of the specific proposals in the administration's legislative package.
2. Changed Attitudes that Spills Are Unacceptable: Again, this philosophy underlines the specific language drafted in the proposed legislative package. A new approach to these issues must be taken if the lessons of the Exxon Valdez spill are to be learned.
3. Involvement of Citizens in Oversight: The administration is considering re-establishing the Environmental Advisory Board under AS 44.46.030 as a body to provide continuing citizen oversight on key environmental issues. The administration is also strengthening public participation in spill contingency planning at all levels.

4. Regulatory Agencies Fully Prepared to be Vigilant: The administration is addressing this recommendation in two forums. The proposed legislative package contains several tools to enhance the effectiveness of the regulatory process. The budget for the Department of Environmental Conservation proposed by the Governor also includes increases in funding for the oil pollution control program, to bring funding for facility contingency plan reviews up to a core level.

5. Foreign Flag Vessels: Are already covered by state law establishing liability. Proposed legislation to increase the financial responsibility required of tankers operating in Alaska waters will make this more meaningful by ensuring that resources are actually available to pay damages.

Responsibilities of Industry:

6. Industry Commitment to Environmental Safety: The administration will promote and support industry efforts in this regard.

7. Best Available Technology: The administration will encourage industry in this regard. Moreover, the Department of Environmental Conservation has retained an outside consultant to review existing state regulations governing industry contingency plans, with the mandate to update these regulations, consistent with best available technology.

8. Corporate Safety Executives: The administration supports efforts by industry to designate such executives.

9. Tank Farm Capacity to Meet Maximum Throughput: The administration encourages the industry to consider this, but recognizes the possible costs and need to weigh those against likely declines in throughput from TAPS.

State Regulation and Oversight

10. People are Stewards of Natural Resources: The administration recognizes the importance of involving citizens in key decisions regarding the environment. As mentioned above, the administration is considering re-establishing the Environmental Advisory Board to perform this function and is also enhancing public involvement in all areas of contingency planning. The administration has also proposed legislation to strengthen regulatory oversight and to increase funding for the Department of Environmental Conservation.

11. Federal Pre-emption Should Not Block State Regulations Regarding Transportation: The administration agrees that the state should enact legislation that is necessary to protect its resources. The State has been an active player in lobbying Congress to avoid pre-emption of state authorities in oil spill legislation being considered by Congress.

12. Oversight Council: As discussed elsewhere, the administration is considering re-establishing the Environmental Advisory Board.

13. Enhanced Regulatory Strength: The administration recognizes the necessity of equipping regulatory agencies to address the full range of situations that may arise and providing workable remedies to ensure that facilities are in compliance with environmental standards. The proposed legislative package includes key improvements to state statutes for civil penalties, criminal penalties (HB 315), administrative penalties (SB 497/HB 409), the "dollars per gallon" penalties, access to facilities for inspections (SB 497/HB 409), environmental audits (SB 497/HB 409), expedited compliance order proceedings (SB 497/HB 409), and improved requirements for facility oil spill contingency plans.

These, and other proposals would give Alaska the range of tools available in many other states and available to the federal government to assertively enforce environmental laws. The Governor's budget proposal for the Department of Environmental Conservation is also a critical element in strengthening this capacity.

14. Strengthened Inspection and Drill Authority: The administration has included improved inspection authority in its package (SB 497/HB 409) and has included funding necessary to implement regularly scheduled drills in the budget proposal for DEC. (SB 264 authorizes use of the Response Fund for this purpose). In addition, the proposed legislative package includes authority for the State to inspect tankers to ensure their structural integrity. This would be a significant new responsibility for the state.

15. Government Offices at Alyeska: To be arranged with Alyeska.

16. State Licensing of Safety and Response Personnel: Still under consideration.

17. Expansion of State Authorities for Adjacent Waters: The administration will advocate this position in Congressional deliberations. Interstate compacts will also be considered for this purpose.

18. Interstate Compacts for Prevention, Response, Etc: The administration is interested in exploring this in appropriate areas. The State of Alaska is already a participant in an ongoing group formed by the governors of Alaska, Washington, Oregon, California, and the Minister of British Columbia, to work jointly on these issues. An interstate notification process has been developed and adopted.

No specific legislation appears to be required for Alaska to enter into such compacts. However, the administration has recently extended the Alaska Oil Spill Commission, in part to help explore compact opportunities further.

19. Maintenance and Personnel Audits: Proposed legislation to increase access for inspections and to provide for environmental audits (SB 497/HB 409) would address the main points of this recommendation.

20. Marine Pilots Issues: Recommendations are being considered. This issue has not been addressed in the immediate proposed legislation package, but will be reviewed further.

21. State as Co-Insured: The State has a right of direct access to resources identified as satisfying the financial responsibility provisions of existing law. Additional legislation on this point does not seem warranted. However, the administration has proposed legislation to increase the required amounts for financial responsibility.

22. Remote Spill Response: The administration agrees strongly with the need to provide for effective response in all areas, including remote ones. The DEC has contracted with an outside consultant to overhaul state regulations governing facility contingency plans. Regulations will be strengthened after this review. Then, all plans will be called in for review against the new requirements. Moreover, resources for assistance for community response will be provided through the implementation of the provisions in existing laws for response corps and depots. Also, the administration's legislative package establishes an explicit standard for facility oil spill contingency plans to include a response capability for response to a realistic maximum discharge within the shortest possible time.

23. Arctic Prevention Research: The administration will forward these recommendations to the Arctic Research Commission.

24. Pipeline Evaluation: An inter-agency review, headed up by the Department of Natural Resources, has been started on this issue; it is of great interest and concern. The process already initiated will lead to recommendations on the best way to approach this problem.

25. Harbor Administrative Offices: The administration is reviewing this concept to obtain a better understanding of the potential structure and role of the proposed harbor administrative offices.

26. Regional Advisory Committees: The administration's proposed legislation would bring oil spill contingency planning at the state and regional level under the process headed by the State Emergency Response Commission (SERC). This group is designed to establish appropriate coordination procedures between state agencies and local entities for spills of hazardous substances. This is reasonably combined with planning for oil spills. The SERC process establishes Local Emergency Planning Committees (LEPC's) at the local level to do the planning and establish the role of local entities in response. The administration proposes to use this existing mechanism, modifying the LEPC's as necessary to encompass community concerns regarding oil spills.

The administration is also supporting federal legislation for specific citizen oversight and planning in Prince William Sound and Cook Inlet, and commends Alyeska for their recent offer of funding for a Prince William Sound advisory panel.

27. Local Government Representation on Harbor Administration and Regional Councils: Local governments are represented on the SERC. This will provide for full local input in response planning.

Federal Regulation and Oversight

28. Double Hulls and Vessel Design: supporting Congressional action, particularly the position of the House of Representatives to require phase-in of double hull requirements.

29. Mandatory Traffic Control: supporting Congressional action.

30. Crew Levels: supporting federal action.

31. Coast Guard Role: support federal action, including increases in the Coast Guard budget.

32. Insurance Premiums to Reflect Risk: support federal action, also proposing state legislation.

33. Corporate Safety Reporting: support federal action.

34. International Action: support federal action, but remain opposed to international protocols that would result in State pre-emption.

35. Offshore Tanker Lanes: support federal action; possible interstate compact.

36. Tracking Vessels in the North Pacific: support federal action.

37. Presidential Report: support federal action.

Government Response Posture

38. Government in Charge: supporting Congressional action, particularly Senate legislative proposal to rest decision on cleanup completion with governor and the President.

39. Strengthen the Coast Guard: supporting through advocacy in Washington, D.C.

40. Adequately Fund and Staff EPA for Response: supporting federal action.

41. State Takeover of Spill Response: Many of the legislative and administrative proposals are designed to enhance the state's ability to take over direction of the spill response. A statutory change is not necessary. Administration approach is to participate in the response with the Coast Guard but to improve preparedness and planning at all levels.

42. State Role under Federal Authority: The administration fully supports this recommendation and will advocate this position in Congressional forums and through its participation on the Regional Response Team.

43. Community-Based Response Depots and State Response Committee: Community-based depots were authorized by statute last year (SB264). The administration is in the process of implementing that legislation. The development of administrative mechanisms to implement this will occur through the inter-agency State Emergency Response Commission. We would contemplate that some depots may be under the direct management of local communities and municipalities, rather than either DEC or DES. It is important that the response be geared to prevent disasters as much as possible, as well as to respond in those instances when a catastrophic spill occurs.

44. Local Volunteer Units under DES: Local response units were authorized by legislation last year (SB264). The administration supports the use of trained local residents in spill response, both in those rare cases of catastrophic response and in the far more frequent cases of non-catastrophic spills. As mentioned

above, the goal of a response is to prevent a disaster. We are encouraged to see Alyeska proposing to integrate local residents and boat operators into its response planning for Prince William Sound. The planning for the appropriate responses by different agencies and local entities will occur under the direction of the SERC.

45. Comprehensive Regional Response Plans: Are already authorized under state law and provisions are enhanced under proposed legislation. The administration supports implementation of this process.

46. Regional Response Capacity: The administration supports this recommendation and will implement it through the process headed by the SERC. Also addressed last year by passage of SB 261.

47. Emergency Economic Maintenance: Still under consideration.

Implementing the Response

48. Use Incident Command System: The administration supports this recommendation and will implement it through administrative action under the SERC and the agencies with jurisdiction.

49. Enlarge Community Role in Response: The administration supports this recommendation. This will occur through implementation of the regional and statewide contingency planning and through the legislative proposal related to the SERC.

50. Allocation of State Response Capability: The administration agrees with the need to clarify and reinforce the appropriate responsibilities of all agencies and other entities involved in a response. The allocation of duties is more complex than can be described in the one paragraph devoted to this subject in the summary report. Consequently, the administration proposes to establish the SERC in statute to oversee planning and establish clear allocations of duties between agencies. Moreover, the proposed legislation explicitly clarifies that the Department of Military and Veterans Affairs conducts its normal responsibilities during oil spills that are disasters. This process will allow definition of a proper role for each agency to be fully defined.

51. Enhanced Role for DMVA: As mentioned above, the proposed legislative package proposes statutory changes to give DMVA a lead role, through the Division of Emergency Services, during a declared disaster.

52. Immediate Funding Mechanism: The legislative proposals would allow the Governor to use the funding in the response fund for any purpose during an oil spill disaster. This would provide an immediate funding source for those activities endorsed by the Governor.

53. Local Service Impact Funding: The administration supports making an appropriate amount of funding available to local governments to help with these functions. We are providing comments to Senator Szymanski on SB 359 to achieve this purpose, and are also including legislative provisions to allow the Governor to use Response Fund monies during declared oil spill disasters.

54. Full Cost Reimbursement: Same as number 53.

55. Private Contingency Plans Must Have Worst Case Scenario: This recommendation is explicitly addressed in the proposed legislative package, but is tempered to reflect the realistic maximum oil spill to be anticipated. The state and regional planning process will lead to integration of all response capability.

Research and Development

56. Knowledge Transfer: The administration recognizes the need for more research. Major funding will be needed for this. The administration is considering the technology review board proposed in SB 421 as a means of determining research needs and articulating these in the appropriate forums.

57. State Research Center: The administration has included funding for this center in the proposed budget for the Department of Natural Resources; SB 421 establishes an Oil and Hazardous Substances Spill Technology Review Commission.

58. Pretesting of Materials: The administration supports this recommendation and intends to follow up through action by the agencies with jurisdiction.

59. Tanker Training Simulators: The administration will discuss this with the Coast Guard.

MEMORANDUM

DATE: 2/26/90

RE: Commission Report versus Governor's Oil Spill Bills

The following is a list of items from the Oil Spill Commission Report that were not included in any of the Governor's Oil Spill Bills (PG. numbers refer to pages in the Oil Spill Commission's Executive Summary):

- 1) Seven day tank farm capacity (PG. 18)
- 2) Establish a harbor administration office (PG. 28)
- 3) Establish state (PG. 21) and Regional advisory councils (PG.29) and they should represent local governments (PG. 29)
- 4) Licensing of all transportation safety personnel (PG. 24)
- 5) Compensation for persons impacted by oil spill who are not protected by unemployment insurance (PG. 44)
- 6) Regional and State oversight council (PG. 21)
- 7) Government space at Alyeska or other major terminals (PG. 24)
- 8) Task force on the environmental safety of pipeline (PG. 27)
- 9) Interstate compact (PG. 25)
- 10) Provision for citizen lawsuits (PG. 23)
- 11) Quick response (PG. 44)
- 12) Plans to cover worst-case scenarios (PG. 52)

WPfile:hrescomp

**Testimony before the Alaska Senate
Special Committee on Oil and Gas
on SB 503 and SB 504**

**Walter B. Parker, Chairman
Alaska Oil Spill Commission**

1 March 1990

SB 503

In general, SB 503 reflects several of the major thrusts of recommendations by the Alaska Oil Spill Commission. Mainly, it brings oil spill response into the state's emergency response network and mandates strong cooperation between those state agencies concerned with emergency response to hazardous substances, including crude oil and refined petroleum products. Most important, it concentrates on establishing immediate response at the local level, something addressed by several of the commission's recommendations, most strongly Recommendations 27 and 49.

Section 1, 2 and 4

Recommendations 52 and 53 address the need for an immediately available oil or hazardous substance response fund. Broadening the use of the 470 fund and providing the governor with the flexibility to use those funds in addressing oil spills and other emergencies is directly consistent with the commission's intent in these recommendations.

Section 3

The problem the commission wrestled with in the relationships between the Department of Environmental Conservation and Division of Emergency Services was ultimately the determination of who would be in charge of a catastrophic spill response and at what level the response authority of DES would be implemented. Our recommendation on the use of the Incident Command System (Recommendation 48) is our major response to this problem. The key element is having an on-scene commander in each emergency response district that has the authority to bring the Incident Command System into operation.

The bill recognizes DES expertise in communications, logistics, equipment procurement, manpower and community liaison. This is supported by our Recommendations 50 and 51. DEC expertise in providing measurement and evaluations of environmental conditions is in the bill, but their role in directing initial response and later cleanup is not absolutely clear. The commission believed that use of the ICS would clarify the difference between oversight roles and management roles in a response mobilization at any level. It also would clarify federal and private participation in response, beyond the responsibilities outlined in the district contingency plan. In the best of worlds, each district will have a contingency plan that is absolutely clear on what role each party will play. We found that the Incident Command System does the best job of this.

Each district may have different structures that reflect the differences in state agency structure, federal agency structure, local government capabilities and private capabilities. We felt that maximizing the use of existing governmental and private capabilities through the ICS would be the most cost-effective and efficient way to achieve an oil spill response system that can meet the target of responding to a worst-case situation within 72 hours.

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The commission did not address the formation of the State Emergency Response Commission. The SERC does carry out the intentions of Recommendations 27 and 49 on local involvement and Recommendations 45 and 50 on allocation of state response authority. Most importantly, it provides the structure for developing effective regional response plans. These plans are the most critical element of the entire response structure because it is in the region that the ability to respond quickly and effectively must be lodged.

SB 504

Section 1

Our Recommendation 55 should be considered. We feel that contingency plans should be based on the ability to respond to a "worst-case spill" within 72 hours. The language in the bill of a "realistic maximum" oil discharge and to remove that discharge "within the shortest possible time" does not provide a firm mandate for private contingency plans. It does not do enough to mitigate the risk oil shipment imposes on residents of adjacent coasts. It is not in line with our overall policy Recommendations 1, 2 and 3.

The requirement that contingency plans be properly implemented is a longstanding loophole that needs to be closed. If private plans are not implemented the government will have to take up the slack or we will have regional response plans whose effectiveness is as suspect as those that failed last March 24.

Section 2

The commission did not address in its report any amounts for financial responsibility. We did make the point in Recommendation 21 that the state should require the shipping industry to insure the state and its citizens against risk and this section carries out that idea.

Section 4

Providing DEC with the authority to inspect tankers, terminals, exploration and production facilities is, in many ways, the most important regulatory prevention measure that must be undertaken if the system is to truly improve. We address this in Recommendation 14, with other aspects addressed in Recommendations 11 and 13.

Recommendations not contained in SB 502, SB 503 or SB 504

Recommendation 9—Tank farm capacity at Valdez.

Recommendation 12—A citizens advisory council to oversee the safe transportation of oil, gas and other hazardous substances.

Recommendation 16—State licensing of private personnel involved in oil transportation.

Recommendation 25—Harbor Administration.

Recommendation 47—A system for emergency economic maintenance.

Recommendation 57—In-state research institute.

MEMORANDUM

2/23/90

RE: Alaska Emergency Response Commission Members

The Alaska Emergency Response Commission, set up by Administrative Order 103, is comprised of 13 members. It is seat specific and not open to the public at large. The following is a list of individuals currently serving on the commission, where they are from and the seat they have:

Thomas R. Brooks	Eagle River	Generator
Tom Fink	Anchorage	Local Government
Don Gilman	Soldotna	Local Government
Juanita Helms	Fairbanks	Local Government
Carl Hild	Anchorage	Public Interest
Anne Walker	Nome	Rural
William Shechter	Fairbanks	Fire Chief

The rest of the members are designees of departments:

Mark Johnson	Juneau	HSS
Denny Kelso	Juneau	DEC
Ervin Martin	Palmer	MVA
C. Roger McCoy	Juneau	Public Safety
Jeffery Ottesen	Juneau	DOTPF
Marty Rutherford	Anchorage	CRA

DP:jmj