SCOMM

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ponsor(s): Rules/Governor

SE BY THE SENATE SPECIAL COMMITTEE ON OIL & GAS

SENATE CS FOR CS FOR HOUSE BILL NO. 567 (Oil & Gas)

IN THE LEGISLATURE OF THE STATE OF ALASKA

SIXTEENTH LEGISLATURE - SECOND SESSION

A BILL

entitled: "An Act relating to oil discharge prevention and contingency plan requirements, financial responsibility requirements related to oil, penalties, and inspection authority of the Department of Environmental Conservation; relating to the oil and hazardous substance release response fund and responses to oil and hazardous substance emergencies; authorizing the Department of Environmental Conservation and municipalities to enter into agreements pertaining to vessel traffic control and monitoring systems; and providing for an effective date."

ED BY THE LEGISLATURE OF THE STATE OF ALASKA:

n 1. AS 29.35.020 is amended by adding a new subsection to

d) A municipality may enter into agreements with the United Coast Guard, the United States Environmental Protection Agency, her persons relating to development and enforcement of vessel c control and monitoring systems for oil barges and tank vessels ng oil operating in or near the waters of the state.

. AS 46.03.759(c) is amended to read:

) Subject to the $500,000,000 maximum set under (a) of this n the court shall assess four times the penalty set out in (a) s section if the court finds

(1) the discharge was caused by the gross negligence or

intentional act of the defendant;

(2) the defendant did not take reasonable measures to contain and clean up the discharged oil; or

(3) the defendant did not act or respond in accordance with an approved oil discharge prevention and contingency plan.

* Sec. 3. AS 46.03.823(a) is amended to read:

(a) A person who is a response action contractor with respect to a release or threatened release of a hazardous substance whose acts or omissions are not contrary to a response plan or order by a state or federal agency having jurisdiction over the release or threatened release is not civilly liable for injuries, costs, damages, expenses, or other liability that results from the release or threatened release unless the release or threatened release is caused by an act or omission of the response action contractor that is negligent or grossly negligent or constitutes intentional misconduct. To show negligence by a response action contractor, a claimant must show that the acts or omissions of the contractor under the response action contract were not in accordance with generally accepted professional standards and practices at the time the response action services were performed.

* Sec. 4. AS 46.03.823(b) is amended to read:

(b) The liability limitation under (a) of this section

(1) does not apply to a response action contractor who would otherwise be liable for the release or threatened release under state or federal law even if that person had not carried out a response action with respect to the release or threatened release; and

(2) does apply only to releases for which notification to the department was provided and received in the manner prescribed under state law [STRICTLY LIABLE UNDER THIS SECTION].

* Sec. 5. AS 46.03.823(e) is amended to read:

(e) This section does not affect the liability of a response action contractor that may arise from the response action contractor's failure to comply with the terms or conditions of a

<u>(1)</u> response action contract or a remedial action plan if one has been approved by the department<u>; or</u>

<u>(2) contingency plan approved by the department where the response action contractor is the plan holder</u>.

* Sec. 6. AS 46.03.823(g)(2) is amended to read:

(2) "response action contract" means a written contract or agreement to provide response action with respect to a release or threatened release of a hazardous substance, entered into by a person with

(A) the department; [OR]

(B) another person who has entered into an agreement with the department that provides for response action subject to the department's oversight and control;

<u>(C) a federal agency with jurisdiction over the release or threatened release; or</u>

<u>(D) another person potentially liable for the release or threatened release under state or federal law;</u>

* Sec. 7. AS 46.03.823(g)(3) is amended to read:

(3) "response action contractor" means

(A) a person who enters into a response action contract with respect to a release or threatened release of a hazardous substance and who is carrying out the contract<u>, including a cooperative organization formed to maintain and supply response equipment and materials that enters into a response action contract relating to a release or threatened release</u>; and

(B) a person who is retained or hired by and is under the control of a person described in (A) of this paragraph to provide services related to the response action contract.

* Sec. 8. AS 46.04.020(e) is amended to read:

(e) The department shall enter into negotiations for memoranda of understanding or cooperative agreements with the United States Coast Guard, the United States Environmental Protection Agency, and other persons in order to

(1) facilitate coordinated and effective oil discharge prevention and response in the state, including agreements relating to development and enforcement of vessel traffic control and monitoring systems for tank vessels and oil barges operating in or near the waters of the state;

(2) provide for cooperative review of oil discharge prevention and contingency plans submitted to the department under AS 46.-04.030;

(3) provide for cooperative inspections of oil terminal facilities by the department and the United States Coast Guard or United States Environmental Protection Agency; and

(4) provide for cooperative oil discharge notification procedures.

* Sec. 9. AS 46.04.030 is amended to read:

Sec. 46.04.030. OIL DISCHARGE PREVENTION AND CONTINGENCY PLANS. (a) A person may not cause or permit the operation of an oil terminal facility in the state unless an oil discharge prevention and contingency plan for the facility has been approved by the department and the person is in compliance with the plan [. THE DEPARTMENT IS THE ONLY STATE AGENCY WHICH HAS THE POWER TO APPROVE AN OIL DISCHARGE CONTINGENCY PLAN FOR THE PURPOSES OF THIS SECTION].

(b) A [AFTER JANUARY 1, 1981, A] person may not cause or permit the operation of a pipeline or an [OFFSHORE] exploration or production facility in the state unless an oil discharge prevention and contingency plan for the pipeline or facility has been approved by the department and the person is in compliance with the plan.

(c) Except as provided in (n) of this section, a [A] person may not operate a tank vessel or an oil barge within the waters of the state, or cause or permit the transfer of oil to or from a tank vessel or [, OR, AFTER JANUARY 1, 1981, TO OR FROM] an oil barge, unless an oil discharge prevention and contingency plan for the tank vessel or oil barge has been approved by the department and the person is in compliance with the plan [EXCEPT FOR PROSECUTIONS UNDER AS 46.03.-790(b), IT IS NOT A DEFENSE TO AN ACTION BROUGHT FOR VIOLATION OF THIS SUBSECTION THAT THE PERSON CHARGED BELIEVED THAT A CURRENT OIL DISCHARGE CONTINGENCY PLAN FOR THE TANK VESSEL OR OIL BARGE HAD BEEN APPROVED BY THE DEPARTMENT].

(d) Upon approval of a contingency plan, the department shall issue to the plan holder a certificate stating that the contingency plan has been approved by the department. The certificate must include the name of the facility, pipeline, tank vessel, or oil barge for which it is issued, the effective date of the contingency plan, and the date by which the contingency plan must be submitted for renewal. A [AN OIL DISCHARGE] contingency plan must be submitted for renewal [RENEWED AT LEAST] every three years.

(e) The department may attach reasonable terms and conditions to its approval or modification of a [AN OIL DISCHARGE] contingency plan that the department [WHICH IT] determines are necessary to ensure [INSURE] that the applicant for a [AN OIL DISCHARGE] contingency plan has access to sufficient resources to protect environmentally sensitive areas and to contain, clean up, and mitigate potential oil discharges from the facility or vessel as provided in (k) of this section, and to ensure that the applicant complies with the contingency plan [WITHIN THE SHORTEST FEASIBLE TIME]. The [OIL DISCHARGE] contingency plan must provide for the use [OF THE BEST AVAILABLE TECHNOLOGY] by the applicant of the best technology that was available at the time the contingency plan was submitted or renewed. The department may require an applicant or holder of an approved contingency plan to take steps necessary to demonstrate its ability to carry out the contingency plan, including

(1) periodic training;

(2) response team exercises; and

(3) verifying access to inventories of [AVAILABLE] equipment, supplies, and personnel identified as available in the approved contingency plan.

(f) Upon request of a plan holder or on the department's own initiative, the [THE] department, after notice and opportunity for hearing, may modify its approval of a [AN OIL DISCHARGE] contingency plan if the department [IT] determines that a change has occurred in the operation of a facility [, MARINA] or vessel necessitating an amended or supplemented plan, or the operator's discharge experience demonstrates a necessity for modification. The department, after notice and opportunity for hearing, may revoke its approval of a [AN OIL DISCHARGE] contingency plan if the department [IT] determines that

(1) approval was obtained by fraud or misrepresentation;

(2) the operator does not have access to the quality or quantity of resources identified in the plan; [OR]

(3) a term or condition of approval or modification has been violated; or

(4) the person is not in compliance with the contingency

plan and the deficiency materially affects the plan holder's response capability.

(g) Failure of a holder of an approved or modified [OIL DISCHARGE] contingency plan to comply with the plan, or to have access to the quality or quantity of resources identified in the plan or [AND, IN THE EVENT OF A SPILL,] to respond with those resources within the shortest possible [FEASIBLE] time in the event of a spill is a violation of this chapter for purposes of AS 46.03.760(a), 46.03.765, 46.03.790, and any other applicable law. If the holder of an approved or modified [OIL DISCHARGE] contingency plan fails to respond to and conduct cleanup operations of an unpermitted discharge of crude oil with the quality and quantity of resources identified in the plan and in a manner required under the plan, the holder is strictly liable, jointly and severally, for the civil penalty assessed under AS 46.03.758, 46.03.759, or 46.03.760 against any other person for that discharge.

* Sec. 10. AS 46.04.030 is amended by adding new subsections to read:

(h) The department is the only state agency that has the power to approve, modify, or revoke a contingency plan for the purposes of this section. The department shall exercise its power under this section in a timely manner. Except for prosecutions under AS 46.03.790(b) and except as provided in (i) of this section, it is not a defense to an action brought for a violation of (a) - (c) of this section that the person charged believed that a current contingency plan had been approved by the department.

(i) It is a defense to an action brought for a violation of (a) - (c) of this section that the person charged relied on a certificate of approval issued by the department under (d) of this section unless the person knew or had reason to know at the time of the alleged violation that approval of the plan had been revoked or that the holder of the plan was not capable of carrying out the plan.

(j) Before the department approves or modifies a contingency plan under this section, the department shall provide a copy of the contingency plan to the Department of Fish and Game and to the Department of Natural Resources for their review. The department shall by regulation establish the procedures and time limits applicable to agency review of contingency plans.

(k) Except as provided in (m) and (o) of this section, the holder of an approved contingency plan required under this section shall maintain, or have available under contract, in its region of operation or in another region of operation approved by the department, singly or in conjunction with other operators, sufficient oil discharge containment, storage, transfer, and cleanup equipment, personnel, and resources to meet the following response planning standards:

(1) for a discharge from an oil terminal facility, the plan holder shall plan to be able to contain or control, and clean up a discharge equal to the capacity of the largest oil storage tank at the facility within 72 hours, except that if the department determines that the facility is located in an area of high risk because of natural or man-made conditions outside of the facility, it may increase the volume requirement under this paragraph so that the contingency plan must be designed for a response that is greater in amount than the capacity of the largest oil storage tank at the facility;

(2) for a discharge from an exploration or production facility or a pipeline, the plan holder shall plan to be able to contain or control, and clean up the realistic maximum oil discharge within 72 hours;

(3) for a discharge of crude oil from a tank vessel or oil barge, the plan holder shall plan to be able to contain or control, and clean up a realistic maximum oil discharge as provided in (A), (B), and (C) of this paragraph:

(A) for tank vessels and oil barges having a cargo volume of less than 500,000 barrels, the plan holder shall maintain at a minimum in the region of operation, equipment, personnel, and other resources sufficient to contain or control, and clean up a 50,000 barrel discharge within 72 hours;

(B) for tank vessels and oil barges having a cargo volume of 500,000 barrels or more, the plan holder shall maintain at a minimum in its region of operation, equipment, personnel, and other resources sufficient to contain or control, and clean up a 300,000 barrel discharge within 72 hours;

(C) in addition to the minimum equipment, personnel, and other resources required to be maintained within the region of operation by (A) or (B) of this paragraph, a plan holder shall maintain, either within or outside of the plan holder's region of operation, additional equipment, personnel, and other resources sufficient to contain or control, and clean up a realistic maximum discharge within the shortest possible time; the plan holder must demonstrate that the equipment, personnel, and other resources maintained outside the plan holder's region of operation are accessible to the plan holder and will be deployed and operating at the discharge site within 72 hours;

(4) for a discharge from a tank vessel or oil barge carrying noncrude oil in bulk as cargo, the plan holder shall plan to be able to contain or control 15 percent of the maximum capacity of the vessel or barge or the realistic maximum oil discharge, whichever is

greater, within 48 hours and clean up the discharge within the shortest possible time consistent with minimizing damage to the environment;

(5) for a discharge subject to the provisions of (1) - (3) of this subsection that enters a receiving environment other than open water, the time requirement for clean up of the portion of the discharge that enters the receiving environment may, in the department's discretion, be within the shortest possible time consistent with minimizing damage to the environment.

(l) The provisions of (k) of this section do not constitute cleanup standards that must be met by the holder of a contingency plan. Notwithstanding (k) of this section, failure to remove a discharge within the time periods set out in (k) of this section does not constitute failure to comply with a contingency plan for purposes of (g) of this section or for the purpose of imposing administrative, civil, or criminal penalties under any other law.

(m) When considering whether to approve or modify a contingency plan, the department may consider evidence that oil discharge prevention measures such as double hulls or double bottoms on vessels or barges, secondary containment systems, hydrostatic testing, enhanced vessel traffic systems, or enhanced crew or staffing levels have been implemented, and, in its discretion, may make exceptions to the requirements of (k) of this section to reflect the reduced risk of oil discharges from the facility, pipeline, vessel, or barge for which the plan is submitted or being modified.

(n) A tank vessel or oil barge that is conducting, or is available only for conducting, oil discharge response operations is exempt from the requirements of (c) of this section if the tank vessel or oil barge has received prior approval of the department. The department may approve exemptions under this subsection upon application and presentation of information required by the department.

(o) A holder of an approved contingency plan does not violate the terms of the contingency plan by furnishing to another plan holder, with the approval of the department, equipment, materials, or personnel to assist the other plan holder in a response to an oil discharge. The plan holder shall replace or return the transferred equipment, materials, and personnel as soon as feasible. The department shall by regulation determine the maximum amount of equipment, materials, or personnel and the maximum amount of time for which it will approve a transfer.

(p) In this section,

(1) "contingency plan" means an oil discharge prevention and contingency plan required under this section;

(2) "in compliance with the plan" means, with respect to a contingency plan, to

(A) establish and carry out procedures identified in the plan as being the responsibility of the holder of the plan;

(B) have access to and have on hand the quantity and quality of equipment, personnel, and other resources identified as being accessible or on hand in the plan;

(C) fulfill the assurances espoused in the plan in the manner described in the plan;

(D) comply with terms and conditions attached to the plan by the department under the authority of (e) of this section; and

(E) successfully demonstrate the ability to carry out the plan when required by the department under (e) of this section;

(3) "realistic maximum oil discharge" means the maximum and most damaging oil discharge that the department estimates could occur during the lifetime of the facility or pipeline based on the size, location, and capacity of the facility or pipeline; on the department's knowledge and experience with the facility or pipeline or with similar facilities or pipelines; and on the department's analysis of possible mishaps at the facility or pipeline or at similar facilities or pipelines;

(4) "region of operation," with respect to the holder of a contingency plan, means the area where the operations of the holder that require a contingency plan are located, the boundaries of which correspond to the regional boundaries established by the commissioner for regional master planning purposes under AS 46.04.210.

* Sec. 11. AS 46.04.040(a) is amended to read:

(a) A person may not cause or permit the operation of an oil terminal facility in the state unless the person has furnished to the department, and the department has approved, proof of financial ability to respond in damages. Proof of financial responsibility required for a crude oil terminal is $50,000,000 per incident. Proof of financial responsibility required for a noncrude oil terminal is $25, per incident, for each barrel of total noncrude oil storage capacity at the terminal or [WHICH HAS BEEN ACCEPTED BY THE DEPARTMENT. ABILITY TO RESPOND IN DAMAGES NEED NOT EXCEED $50,000,000 BUT MUST BE IN AN AMOUNT (1) NOT LESS THAN $10, PER INCIDENT, FOR EACH BARREL OF STORAGE CAPACITY AT THE OIL TERMINAL FACILITY: OR (2)] $1,000,000, whichever is greater, subject to a maximum of $50,000,000. For purposes of this subsection, an oil terminal facility that stores both crude oil and noncrude oil is subject to the financial responsibility requirements applicable to the type of facility that corresponds to the type of oil storage that predominates at the facility. However, if the facility stores more noncrude oil than crude oil, the $25 per incident, per barrel requirement of this subsection applies to each barrel of oil storage capacity at the facility.

* Sec. 12. AS 46.04.040(b) is amended to read:

(b) A [AFTER JULY 1, 1981, A] person may not cause or permit the operation of a pipeline or an [OFFSHORE] exploration or production facility in the state unless the person has furnished to the department, and the department has approved, proof of financial ability to respond in damages [HAS BEEN ACCEPTED BY THE DEPARTMENT]. Proof of financial responsibility required for a pipeline or an offshore exploration or production facility is $50,000,000 [MAY NOT BE LESS THAN $35,000,000] per incident. Proof of financial responsibility required for an onshore production facility is $20,000,000 per incident. Proof of financial responsibility required for an onshore exploration facility is $5,000,000 per incident.

* Sec. 13. AS 46.04.040(c) is amended to read:

(c) Except as provided in (m) of this section, a [A] person may not operate a tank vessel or an oil barge within the waters of the state, or cause or permit the transfer of oil to or from a tank vessel [,] or [, AFTER JANUARY 1, 1981, TO OR FROM] an oil barge, unless the person operating the tank vessel or oil barge has furnished to the department, and the department has approved, proof of financial ability to respond in damages. Proof of financial responsibility required under this subsection is

(1) $300. per incident, for each barrel of storage capacity or $100,000,000, whichever is greater, for a tank vessel or barge carrying crude oil;

(2) $100, per incident, for each barrel of storage capacity

or $1,000,000, whichever is greater, subject to a maximum of $35,000,000, for a tank vessel or barge carrying noncrude oil [RESPONSIBILITY FOR THE TANK VESSEL OR BARGE HAS BEEN ACCEPTED BY THE DEPARTMENT. FINANCIAL RESPONSIBILITY UNDER THIS SUBSECTION SHALL BE IN THE FOLLOWING AMOUNTS:

(1) FOR A TANK VESSEL OR OIL BARGE INVOLVED IN THE TRANSPORTATION OF TRANS-ALASKA PIPELINE OIL, THE AMOUNT REQUIRED BY THE FEDERAL MARITIME COMMISSION UNDER 43 U.S.C. 1653(c)(3) (SEC. 204 (c)(3), TRANS-ALASKA PIPELINE AUTHORIZATION ACT);

(2) FOR ANY OTHER OIL BARGE, THE AMOUNT REQUIRED BY SEC. 311(p)(1) OF THE CLEAN WATER ACT, OR $1,000,000, WHICHEVER IS GREATER;

(3) FOR ANY OTHER TANK VESSELS, THE AMOUNT REQUIRED BY SEC. 311(p)(1) OF THE CLEAN WATER ACT, OR $20,000,000, WHICHEVER IS GREATER].

* Sec. 14. AS 46.04.040(d) is amended to read:

(d) **Except** for prosecutions under AS 46.03.790(b) and except as provided in (k) of this section, it is not a defense to an action brought for violation of (a) - (c) [(c)] of this section that the person charged believed in good faith that proof of financial ability to respond in damages had been furnished to, and approved by, the department [THE VESSEL OPERATOR POSSESSED PROOF OF FINANCIAL RESPONSIBILITY ACCEPTED BY THE DEPARTMENT].

* Sec. 15. AS 46.04.040(e) is amended to read:

(e) Financial responsibility may be demonstrated by (1) self-insurance, (2) insurance, (3) surety, (4) [OR] guarantee, (5) letter of credit approved by the department, or (6) other proof of financial responsibility approved by the department, including proof of financial responsibility provided by a group of insureds who have agreed to cover pollution risks of members of the group under terms the department may prescribe. An action brought under AS 46.03.758, 46.03.759, 46.03.760(a) or (e), 46.03.822, or AS 46.04.030(g) [OR TO COLLECT PENALTIES IMPOSED UNDER AS 46.03.759] may be brought in a state court directly against the insurer, the group, or another person providing evidence of financial responsibility. The applicant, and an insurer, surety, [OR] guarantor, person furnishing an approved letter of credit, or other group or person providing proof of financial responsibility approved by the department shall appoint an agent for service of process in the state. For purposes of this subsection, an [AN] insurer, other than a group of insureds whose agreement has been approved by the department, must either be authorized by the Department of Commerce and Economic Development to sell insurance in the state or be an unauthorized insurer listed by the Department of Commerce and Economic Development as not disapproved for use in the state.

* Sec. 16. AS 46.04.040(f) is amended to read:

(f) Acceptance of proof of financial responsibility expires

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

(2) on the effective date of a change in the surety bond, guarantee, [OR] insurance agreement, letter of credit, or other proof of financial responsibility; or

(3) on the expiration or cancellation of the surety bond, guarantee, [OR] insurance agreement, letter of credit, or other proof of financial responsibility.

* Sec. 17. AS 46.04.040(g) is amended to read:

(g) The person whose proof of financial responsibility is accepted by the department under this section shall notify the department at least 30 days before the effective date of a change, expiration or cancellation in the surety bond, guarantee, [OR] insurance agreement, letter of credit, or other proof of financial responsibility. Application for renewal of acceptance of proof of financial responsibility under this section must be filed at least 30 days before the date of expiration.

* Sec. 18. AS 46.04.040 is amended by adding new subsections to read:

(j) Upon acceptance and approval of proof of financial responsibility under this section, the department shall issue to the applicant a certificate stating that the state's financial responsibility requirements have been satisfied. The certificate must include the name of the facility, pipeline, tank vessel, or oil barge for which it is issued and the expiration date of the certificate.

(k) It is a defense to an action brought for violation of (a) - (c) of this section that the person charged relied on a certificate of approval issued under (j) of this section unless the person knew or had reason to know at the time of the alleged violation that the approval had been revoked or was expired.

(l) Notwithstanding the requirements of (e) of this section, the applicant may provide evidence of financial responsibility provided by an insurer or other person who does not agree to be subject to direct action in state courts or to appoint an agent for service of process if

(1) the department is satisfied that the insurance or other form of financial responsibility covers judgments under the statutes listed in (e) of this section;

(2) the applicant provides proof of $50,000,000, or the amount required by (a) - (c) of this section, whichever is less, in insurance or other form of financial responsibility that meets the requirements of (e) of this section; and

(3) the applicant provides a sworn statement or affidavit

that insurance or other form of financial responsibility that meets the requirements of (e) of this section is not available in greater amounts.

(m) A tank vessel or oil barge that is conducting, or is available only for conducting, oil discharge response operations is exempt from the requirements of (c) of this section if the tank vessel or oil barge has received prior approval of the department. The department may approve an exemption under this subsection upon application and presentation of information required by the department.

* Sec. 19. AS 46.04 is amended by adding a new section to read:

Sec. 46.04.045. ADJUSTMENT OF DOLLAR AMOUNTS. (a) The dollar amounts in AS 46.04.040 change, as provided in this section, according to and to the extent of changes in the Consumer Price Index for all urban consumers for the Anchorage metropolitan area compiled by the Bureau of Labor Statistics, United States Department of Labor (the index). The index for January of the year in which this section becomes effective is the reference base index.

(b) The dollar amounts change on October 1 of each third year according to the percentage change between the index for January of that year and the most recent index used to determine whether to change the dollar amounts. After calculation of the new amounts, the resulting amounts shall be rounded to the nearest cent.

(c) If the index is revised, the percentage of change is calculated on the basis of the revised index. If a revision of the index changes the reference base index, a revised reference base index is determined by multiplying the reference base index applicable by the rebasing factor furnished by the United States Bureau of Labor Statistics. If the index is superseded, the index referred to in this section is the one represented by the Bureau of Labor Statistics as reflecting most accurately changes in the purchasing power of the dollar for Alaskan consumers.

(d) The department shall adopt a regulation announcing

(1) on or before June 30 of each third year, the changes in dollar amounts required by (b) of this section; and

(2) promptly after the changes occur, changes in the index required by (c) of this section, including, if applicable, the numerical equivalent of the reference base index under a revised reference base index and the designation or title of any index superseding the index.

(e) The department shall also provide notification of a change in dollar amounts required under (b) of this section to the clerks of court in each judicial district of the state.

* Sec. 20. AS 46.04.050 is amended to read:

Sec. 46.04.050. EXEMPTIONS. <u>The provisions of</u> [BECAUSE OF THE RESTRICTED NATURE OF THE OPERATIONS AND THE MINIMAL DANGER TO THE ENVIRONMENT POSED BY THE ACTIVITIES,] AS 46.04.030, 46.04.040<u>,</u> and 46.04.060 do not apply to an oil terminal facility that has an effective storage capacity of less than <u>5,000</u> [10,000] barrels of <u>crude</u> oil <u>or less than 10,000 barrels of noncrude oil</u>.

* Sec. 21. AS 46.04.060 is amended to read:

Sec. 46.04.060. INSPECTIONS. <u>In addition to other rights of access or inspection conferred upon the department by law or otherwise, the department may at reasonable times and in a safe manner enter and inspect oil</u> [OIL] terminal facilities, <u>pipelines,</u> [OFFSHORE] exploration and production facilities, tank vessels, and oil barges in <u>order</u> [ARE SUBJECT TO INSPECTION BY THE DEPARTMENT] to

<u>(1)</u> ensure compliance with the provisions of this chapter<u>; or</u>

(2) participate in an examination of the structural integrity and the operating and mechanical systems of those vessels, barges, pipelines, and facilities by federal and state agencies with jurisdiction.

* Sec. 22. AS 46.04.060 is amended by adding a new subsection to read:

(b) When the department determines that no federal or state agencies with jurisdiction are performing timely and adequate inspections of an oil terminal facility, pipeline, exploration or production facility, tank vessel, or oil barge, it may perform its own inspection of the structural integrity and operating and mechanical systems of a facility, pipeline, tank vessel, or oil barge by using personnel with qualifications in the areas being inspected.

* Sec. 23. AS 46.04.200 is amended to read:

Sec. 46.04.200. STATE MASTER PLAN. (a) The department shall prepare and annually review and revise a statewide master oil and hazardous substance discharge [AND] prevention and contingency plan.

(b) The state master plan prepared under this section must

(1) take into consideration the elements of an oil discharge prevention and contingency plan approved or submitted for approval under AS 46.04.030;

(2) clarify and specify the respective responsibilities of each of the following in the assessment, containment, and cleanup of a catastrophic oil discharge or of a significant discharge of a hazardous substance into the environment of the state:

(A) agencies of the state;

(B) municipalities of the state;

(C) appropriate federal agencies;

(D) operators of facilities;

(E) private parties whose land and other property may be affected by the oil or hazardous substance discharge; and

(F) other parties identified by the commissioner as having an interest in or the resources to assist in the containment and cleanup of an oil or hazardous substance discharge;

(3) specify the respective responsibilities of parties identified in (2) of this subsection in an emergency response; and

(4) identify actions necessary to reduce the likelihood of catastrophic oil discharges and significant discharges of hazardous substances.

(c) In preparing and annually reviewing the state master plan, the commissioner shall

(1) consult with municipal and community officials, and with representatives of affected regional organizations;

(2) submit the draft plan to the public for review and comment;

(3) submit to the legislature for review, not later than the 10th day following the convening of each regular session, the plan and any annual revision of the plan; and

(4) require or schedule unannounced oil spill drills to test the sufficiency of an oil discharge <u>prevention and</u> contingency plan approved under AS 46.04.030 or of the cleanup plans of a party identified under (b)(2) of this section.

* Sec. 24. AS 46.04.210(a) is amended to read:

(a) For any region of the state, the boundaries of which are determined by the commissioner by regulation, in which the department is required to review and approve an oil discharge <u>prevention and</u> contingency plan submitted by a person under AS 46.04.030, the department shall prepare and annually review and revise a regional master oil and hazardous substance discharge [AND] prevention <u>and</u> contingency plan.

* Sec. 25. AS 46.04.900(8) is amended to read:

(8) "[OFFSHORE] exploration [OR PRODUCTION] facility" means a platform, vessel, or other facility used to explore for [OR PRODUCE] hydrocarbons in or on the waters of the state or in or on land in the state; the term does not include platforms or vessels used for stratigraphic drilling or other operations that [WHICH] are not authorized or intended to drill to a producing formation;

* Sec. 26. AS 46.04.900(15) is amended to read:

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

* Sec. 27. AS 46.04.900 is amended by adding new paragraphs to read:

(18) "pipeline" means the facilities, including piping, compressors, pump stations, and storage tanks, used to transport crude oil and associated hydrocarbons between production facilities or from one or more production facilities to marine vessels;

(19) "production facility" means a drilling rig, drill site, flow station, gathering center, pump station, storage tank, well, and related appurtenances on other facilities to produce, gather, clean, dehydrate, condition, or store crude oil and associated hydrocarbons in or on the water of the state or on land in the state, and gathering and flow lines used to transport crude oil and associated hydrocarbons to the inlet of a pipeline system for delivery to a marine facility, refinery, or other production facility.

* Sec. 28. AS 46.08.040 is amended to read:

Sec. 46.08.040. PURPOSES OF THE FUND. The commissioner may use money from the fund to

(1) 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;

(2) pay all costs incurred

(A) to establish and maintain the oil and hazardous substance response office and for the expenses of the oil and hazardous substance response corps and the oil and hazardous substance response depots established by that office;

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

(C) 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

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

(3) provide matching funds for participation in federal oil [illegible] discharge cleanup activities and under 42 U.S.C. 9601 - 9657 (Comprehensive Environmental Response, Compensation, and Liability Act of 1980); [AND]

(4) recover the costs to the state or to a municipality of

a containment and cleanup resulting from the release or the threatened release of oil or a hazardous substance; [.]

(5) prepare, review, and revise

(A) the state's master oil and hazardous substance discharge [AND] prevention and contingency plan required by AS 46.04.200; and

(B) a regional master oil and hazardous substance discharge [AND] prevention and contingency plan required by AS 46.04.210; and

(6) restore the environment by addressing the effects of an oil or hazardous substance release.

* Sec. 29. AS 46.08.060(a) is amended to read:

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

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

(2) the amount and source of money received and money recovered during the preceding fiscal year as specified in AS 46.08.-020;

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

(4) a detailed summary of department activities in responses funded by the fund during the preceding fiscal year, including response descriptions, and statements outlining the nature of the threat; in this paragraph, "detailed" includes information describing each personal services position and total compensation for that position, each contract in excess of $20,000, and each purchase in excess

of $10,000; and

(5) the projected cost for the next fiscal year of monitoring, operating, and maintaining sites where response has been completed or is expected to be continued during the fiscal year.

* Sec. 30. SURVEY OF SMALL NONCRUDE OIL TERMINAL FACILITIES. (a) By January 31, 1992, the Department of Environmental Conservation shall survey, inspect, and prepare an inventory of noncrude oil terminal facilities in the state with an effective storage capacity of 5,000 to 10,000 barrels in order to determine for each facility

(1) its actual storage capacity;

(2) the type of noncrude oil products stored;

(3) its age, design, construction, and general condition;

(4) the design and construction standards applicable or relevant;

(5) the presence or absence of containment structures and equipment;

(6) its ability to respond to a release or threatened release;

(7) the environmental sensitivity of the surrounding area and the potential risk to the environment if a release occurs;

(8) the presence or absence of surface and subsurface pipelines and storage tanks; and

(9) other appropriate information.

(b) By January 31, 1992, the Department of Environmental Conservation shall report to the legislature the results of the survey required under (a) of this section and its written recommendations concerning discharge prevention and contingency requirements or design review requirements that should be enacted for noncrude oil terminal facilities with storage capacities of less than 10,000 barrels.

(c) Upon completion of the survey required under (a) of this section, the Department of Environmental Conservation may

(1) notify each facility of the results of the facility's inspection; and

(2) provide each facility with recommendations and technical assistance concerning identified deficiencies.

(d) The Department of Environmental Conservation may conduct the inspections required under this section notwithstanding the provisions of AS 46.04.050. The department shall conduct the inspections at reasonable times.

* Sec. 31. STUDY RELATING TO NONCRUDE OIL TANKERS AND BARGES. By July 1, 1991, the Department of Environmental Conservation shall conduct a study and report to the legislature its recommendations concerning the following issues related to oil discharge prevention and contingency planning for tank vessels and oil barges carrying noncrude oil in bulk as cargo:

(1) appropriate locations for regional response depots, based on an assessment of historical evidence of where noncrude oil discharges are most likely to occur and the needs of remote areas of the state such as western and northern Alaska and the Aleutians;

(2) appropriate discharge response times;

(3) requirements for personnel and equipment that should be imposed on contingency plan holders;

(4) appropriate roles for industry and state and local governments in the purchase, ownership, and positioning of discharge response efforts.

* Sec. 32. TRANSITIONAL PROVISIONS. (a) AS 46.04.030(k) - (m), enacted by sec. 10 of this Act, do not apply to oil discharge prevention and contingency plans until June 1, 1991. On and after June 1, 1991, a contingency plan must comply with AS 46.04.030(k) - (m), enacted by sec. 10 of

this Act, regardless of whether the contingency plan is due for renewal under AS 46.04.030(d), as amended by sec. 9 of this Act.

(b) The amendments to AS 46.04.040, made by secs. 11 - 18 of this Act, do not apply to persons required to show proof of financial responsibility until June 1, 1991. On and after June 1, 1991, proof of financial responsibility must comply with AS 46.04.040, as amended by secs. 11 - 18 of this Act, regardless of whether acceptance of proof of financial responsibility has expired under AS 46.04.040(f), as amended by sec. 16 of this Act.

* Sec. 33. This Act takes effect immediately under AS 01.10.070(c).

STEVE COWPER
GOVERNOR

STATE OF ALASKA
OFFICE OF THE GOVERNOR
JUNEAU

HB 565
HB 566
HB 567

February 21, 1990

The Honorable Sam Cotten
Speaker of the House
Alaska State Legislature
P.O. Box V
Juneau, AK 99811

Dear Mr. Speaker:

Under the authority of art. III, sec. 18, of the Alaska Constitution, I am transmitting three bills implementing recommendations made by the Alaska Oil Spill Commission.

One bill authorizes the governor to use the oil and hazardous substance release response fund, established under AS 46.08.010, to respond to declared disaster emergencies under AS 26.23.020(c). The bill also repeals the exception in AS 46.04.080(a) that requires the Department of Environmental Conservation (DEC) to perform the duties of the Division of Emergency Services during a catastrophic oil discharge. Finally, the bill creates in statute the State Emergency Response Commission, presently established by an administrative order.

Another bill extensively revises AS 46.03.758 - 46.03.763, which deals with civil penalties for oil spills. In general, the bill increases penalties for spills and eliminates unwarranted exemptions and defenses.

The third bill strengthens DEC's authority to require compliance with oil discharge contingency plans. Of particular significance is the requirement that applicants for contingency plans must maintain sufficient resources to contain and remove, within the shortest possible time, a realistic maximum oil discharge. Next, this bill increases the financial responsibility requirements for offshore oil exploration and production activities, to guarantee that in the event of another spill, significant financial resources will exist to compensate damaged parties, including the state. Finally, this bill authorizes DEC to inspect oil industry facilities and tankers to guarantee compliance with contingency plans and to assure structural integrity of the equipment.

Sectional analyses of each bill, describing the bills in detail, will be provided by my staff.

As you know, the Oil Spill Commission "Executive Summary," issued last month, includes over 50 recommendations. Through this legislation, as well as other bills already under consideration by the legislature (House Bill 409, Senate Bills 359, 421, and 497), most of those recommendations are being addressed. Furthermore, additional legislative proposals based upon these recommendations are still under consideration, and, after review of the full commission report, just released, additional proposals might be forthcoming.

The Oil Spill Commission, after extensive study, has identified several ways for the state to improve its ability to prevent future spills and to better respond if a serious bill occurs again. These bills are critical to prevent another disaster like the Exxon Valdez spill. I therefore urge your serious discussion, consideration, and passage of these measures.

Sincerely,

Steve Cowper
Governor

Letter of Intent for HB 567

Subsection (k) (3) (C) of HB 567 provides that a contingency plan holder must demonstrate that the equipment, personnel, and other resources maintained outside of the plan holder's region of operation will be deployed and operating at the discharge site within 72 hours.

Like all other provisions in Section (k), subsection (k) (3) (C) is subject to Section (l) which provides that the Section (k) provisions are not clean up or performance standards for the discharge response. Rather, the Section (k) requirements, including those in subsection (k) (3) (C), are planning requirements for determining what will be in any particular contingency plan.

The subsection (k) (3) (C) planning provisions require a demonstrated plan for moving equipment, personnel, and other resources necessary to deploy and operate that equipment and personnel to the discharge site. The provision includes deployment and operation of the equipment and personnel to ensure that there are systems and plans to actually use the additional equipment in a manner that is well orchestrated to supplement and enhance the equipment and personnel from the plan holder's region of operation.

However, both segments of the contingency plan -- the deployment of the in-region equipment and the transportation and deployment of the out-of-region equipment -- are subject to Section (l). Neither segment creates a performance standard under the terms of HB 567. So, if a contingency plan has been approved, based upon a demonstrated plan of action to get equipment, personnel, and other resources to the site, it would not be a violation of the terms of A.S. 46.04.030 if unforeseeable circumstances result in a failure to actually deploy and operate all equipment within 72 hours.

go0530hPb
Lauterbach

AMENDMENT

OFFERED IN THE SENATE

TO: SCS CSHB 567(O&G)

Page 11, after line 11:

Insert a new subsection to read:

"(p) A person who intends to commence operations for which an approved contingency plan is required under this section shall submit the proposed contingency plan to the department so that it is received by the department at least 65 days before the date on which the person intends to commence the operations. The department shall approve or disapprove the proposed contingency plan within 65 days after it receives a complete application for approval under this subsection."

Reletter the following subsections accordingly.

5/8/90

TO: SCS CS HB 567 (Oil and Gas)

AMENDMENT

page 12, line 3, insert after "of the"

"tank vessel, oil barge,"

page 12, line 4, insert after "of the"

"tank vessel, oil barge,"

page 12, line 5, insert after "with the"

"tank vessel, oil barge,"

page 12, line 6, insert after "similar"

"tank vessels, oil barges,"

page 12, line 7, insert after "mishaps"

"to the tank vessel or oil barge, or"

page 12, line 7, insert after "pipeline or"

"to similar tank vessels or oil barges, or"

DATE: May 1, 1990

TO: Senator Drue Pearce

FROM: Walter B. Parker WBP

RE: Draft 4-30-90 by DL on CS for HB 567

P. 4 OK

P. 6 (1), (2), (3), (4) appears OK

(5) Has some problems. It simply in effect extends 72 hours to 144 hours. Nothing in the 4/29 markup inhibits utilization of out of region equipment if 72 hours is met. Most airborne response will be from out of region. Paragraph (l) in the 4/29 markup takes care of that. Also paragraph (k) holds the CP holder harmless if a good faith effort fails for extreme weather or other unforseen causes.

VALDEZ TANKER TRADE
AND 72 HOUR RECOVERY

Walter B. Parker
Chairman
Alaska Oil Spill Commission

Destinations	1989 Share Shipped Oil	Average Tanker Load in BBL.	% recovered in *1 72 Hours using Alyeska Present Plan
Puget Sound	24.9%	531,000	54.2%
San Francisco	16.1%	570,000	50.2%
Los Angeles	28.9%	875,000	32.9%
Virgin Island	5.7%	1,741,000	16.5%
Panama	18.1%	1,394,000	20.7%
Nikiski	3.8%	335,000	86.0%
Hawaii	2.5%	456,000	63.1%
Average Load		910,000	31.8%

*1 Utilizing 4,000 BBLS per hour recovery based on Skimmers in Alyeska Contingency Plan under review having a nameplate capacity of 14,000 BBLS per hour gives a total of 288,000 recovered in 72 hours.

Utilizing 4,000 BBLS per hour plus ARCO Skimmer 45,000 BBLS per hour gives a total 3,528,000 recovered in 72 hours or 100% recovery for all the above.

FINANCIAL RESPONSIBILITY REQUIREMENTS
NON-CRUDE BARGES

Barge Size (BBLS)	Existing Requirements	Proposed Requirements
< 5,000	$1 million	None
5,000 - 10,000	$1 million	$1 million
20,000	$1 million	$2 million
30,000	$1 million	$3 million
40,000	$1 million	$4 million
50,000	$1 million	$5 million
75,000	$1 million	$7.5 million
100,000	$1 million	$10 million
150,000	$1 million	$15 million

FINANCIAL RESPONSIBILITY REQUIREMENTS

EXISTING NON-CRUDE BARGE COMPANIES

COMPANY	LARGEST BARGE SIZE (BBLS)	EXISTING REQUIREMENTS	NEW REQUIREMENTS
Crowley	154,608	$ 1 million	$15.5 million
Foss	75,510	$ 1 million	$ 7.6 million
United Marine	74,100	$ 1 million	$ 7.4 million
Delta Western	50,000	$ 1 million	$ 5.0 million
Northland	39,000	$ 1 million	$ 3.9 million
Brix Maritime	21,750	$ 1 million	$ 2.1 million
Alaska Marine	16,031	$ 1 million	$ 1.6 million
White Pass	12,828	$ 1 million	$ 1.3 million
Yutana	7,600	$ 1 million	$ 1 million
Moody's	5,476	$ 1 million	$ 1 million
Kugkaktlike	3,600	$ 1 million	None
Smith	1,768	$ 1 million	None

Note: Barges listed are only those that have fulfilled financial responsibility requirements through June 30, 1990, and submitted contingency plans.

FINANCIAL RESPONSIBILITY REQUIREMENTS
NON-CRUDE TERMINALS

Terminal Size (BBLS)	Existing Requirements	Proposed Requirements
<10,000	None	None
10,000-40,000	$1 million	$1 million
50,000	$1 million	$1.25 million
100,000	$1 million	$2.5 million
500,000	$5 million	$12.5 million
1,000,000	$10 million	$25.0 million
1,500,000	$15 million	$37.5 million

FINANCIAL RESPONSIBILITY REQUIREMENTS

BARROW NON-CRUDE TERMINALS

FACILITY	SIZE (BBLS)	EXISTING REQUIREMENTS	NEW REQUIREMENTS
Block B Tank Farm (Eskimo Inc)	68,095	$ 1 million	$ 1.7 million
Barrow Oil Terminal (NSB)	24,240	$ 1 million	$ 1 million
Browerville (Eskimo Inc)	1,430	None	None

Block B Tank Farm and the Barrow terminal are currently required to have contingency plans and have submitted them to DEC for approval. The Browerville facility had a contingency plan in the past, but reduced its capacity and is no longer required to have a plan.

STATE OF ALASKA
1990 LEGISLATIVE SESSION

BILL VERSION : SCSCSHB 567 (O&G)
PUBLISH DATE :

FISCAL NOTE

REQUEST:

Revision Date: 5/3/90
Title: An Act relating to contingency plan requirements, financial responsibility...
Sponsor: Rules/Governor
Requestor: Senate Oil and Gas

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

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 91	FY 92	FY 93	FY 94	FY 95	FY 96
PERSONAL SERVICES	665.0	614.0	563.0	563.0	563.0	563.0
TRAVEL	60.0	52.5	45.0	45.0	45.0	45.0
CONTRACTUAL	562.0	554.0	546.0	546.0	546.0	546.0
SUPPLIES	14.0	13.0	12.0	12.0	12.0	12.0
EQUIPMENT	70.0	65.0	60.0	60.0	60.0	60.0
LAND&STRUCTURES	0.0	0.0	0.0	0.0	0.0	0.0
GRANTS,CLAIMS	0.0	0.0	0.0	0.0	0.0	0.0
MISCELLANEOUS	0.0	0.0	0.0	0.0	0.0	0.0
TOTAL OPERATING	1,371.0	1,298.5	1,226.0	1,226.0	1,226.0	1,226.0
CAPITAL	0.0	1,298.5	1,226.0	1,226.0	1,226.0	1,226.0
REVENUE	0.0	0.0	0.0	0.0	0.0	0.0

FUNDING: (Thousands of Dollars)

GENERAL FUND	0.0	0.0	0.0	0.0	0.0	0.0
FEDERAL FUNDS	0.0	0.0	0.0	0.0	0.0	0.0
OTHER	1,371.0	1,298.5	1,226.0	1,226.0	1,226.0	1,226.0
TOTAL	1,371.0	1,298.5	1,226.0	1,226.0	1,226.0	1,226.0

POSITIONS:

FULL-TIME	12.0	12.0	12.0	12.0	12.0	12.0
PART-TIME	0.0	0.0	0.0	0.0	0.0	0.0
TEMPORARY	2.0	1.0	0.0	0.0	0.0	0.0

ANALYSIS: (Attach a separate page if necessary)

Further analysis attached.

Prepared by: Larry Dietrick
Division: Environmental Quality
Phone : 465-2640
Date : 5/4/90

Approved by Commissioner: a.D.Kyle
Agency: Environmental Conservation
Date: 5/4/90

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

FISCAL ANALYSIS

The legislation requires certain facilities and vessels to include prevention measures in their contingency plans. One Ecologist II is necessary to develop prevention regulations such as design, construction and operation standards for the various types of facilities and vessels. In addition, field staff will require additional time to review the prevention portions of the plan and to perform more detailed facility inspections. Statewide, this will increase the workload by two FTE (Environmental Field Officer II's).

In addition, this legislation this section requires a new class of facilities - onshore exploration and production facilities - to develop oil discharge prevention and contingency plans. There are approximately 60 sites with multiple facilities currently operating in the state. Two Environmental Field Officers are necessary to evaluate these contingency plans, inspect facilities for compliance with the approved contingency plans, and to develop and participate in spill drills designed to test the ability of the contingency plans.

The legislation requires the Department to provide a copy of a contingency plan to the Departments of Fish and Game and Natural Resources and provide those agencies with an opportunity to review and comment on the plans. The coordination of review for over 70 plan reviews annually will require one additional FTE (Ecologist II).

The legislation requires proof of financial responsibility for responding to discharge incidents. One-half of an Administrative Assistant III is necessary to carry out the additional workload reviewing and approving the financial responsibility documentation for facilities covered by the section.

The legislation broadens the forms of security acceptable to demonstrate financial responsibility. The Department will need to evaluate what forms of security will be acceptable to the state and define those by regulation (.5 Administrative Assistant III).

The legislation provides authority to the Department to inspect the structural integrity of tank vessels, oil barges, oil terminal facilities, and pipelines. Outside expertise is necessary for some inspections. The Department will require two FTE (Environmental Field Officer III) and contractual funds ($350.0) to implement this section.

The legislation requires the Department to conduct a survey of small non-crude oil terminal facilities with storage capacities between 5,000 and 10,000 barrels. There are over 30 of these facilities, most of which are located in rural areas. The inspections will involve a technical review of facility design and construction, prevention measures, and spill response capability. The Department will provide technical assistance to the facility owners/operators to enhance their spill prevention and response capabilities. In addition, the Department will submit a report to the legislature outlining the types of problems at these facilities and suggestions for improvement. The inspections and technical assistance will require two Environmental Field Officers. Compilation of the statewide inspection information and recommendations report to the legislature will require one Ecologist II. The survey is required to be done within two years.

The legislation requires the Department to study oil discharge prevention and contingency planning issues associated with tank vessels and oil barges carrying noncrude oil. Based on the study results, the Department must report to the legislature with recommendations for locating regional response depots, defining operator response times including equipment and personnel requirements, and assigning industry and government roles in response efforts. The study must be completed no later than July 1, 1991. The Department will require contractual funds ($100.0) to manage the study required by this section and prepare a report to the legislature.

Position	**100**	**200**	**300**	**400**	**500**	**Total**
1 Ecologist II	51.0	5.0	8.0	1.0	5.0	70.0
2 Env. Field Ofc II's	102.0	10.0	16.0	2.0	10.0	140.0
2 Env. Field Ofc III's	102.0	10.0	16.0	2.0	20.0	140.0
1 Ecologist II	51.0	5.0	8.0	1.0	5.0	70.0
1 Admin. Asst. III	36.0	0.0	8.0	1.0	5.0	50.0
2 Env. Field Ofc III	102.0	10.0	16.0	2.0	10.0	140.0
Contractual (inspections)			450.0			450.0
2 Env. Field Ofc III	102.0	15.0	16.0	2.0	10.0	145.0
1 Ecologist II	51.0	5.0	8.0	1.0	5.0	70.0
2 Clerk Typist III's	68.0	0.0	16.0	2.0	10.0	96.0
TOTALS	**665.0**	**60.0**	**562.0**	**14.0**	**70.0**	**$1,371.0**

STATE OF ALASKA
1990 LEGISLATIVE SESSION

BILL VERSION : SCSCS HB 567 (O&G)
PUBLISH DATE : ______

FISCAL NOTE

REQUEST:

Revision Date: 5/5/90
Title : Oil Spill Contingency Plans

Sponsor : Rules Committee (Governor)
Requestor : Senate Oil & Gas

Agency Affected : Natural Resources
BRU : Petroleum Management

Components : ______

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 91	FY 92	FY 93	FY 94	FY 95	FY 96
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	-0-	-0-	-0-	-0-	-0-	-0-

CAPITAL						

REVENUE						

FUNDING: (Thousands of Dollars)

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

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

ANALYSIS : (Attach a separate page if necessary)

Prepared by : Carol Wilson
Phone : 465-2400
Division : Commissioner's Office
Date : 5/5/90

Approved by Commissioner : Lennie Gorsuch
Date : 5/5/90
Agency : Natural Resources

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

No. 4

STATE OF ALASKA
1990 LEGISLATIVE SESSION

BILL VERSION: SCS CSHB 567(O&G)
PUBLISH DATE: 5/8/90

FISCAL NOTE

Cc

REQUEST:

Revision Date:
Title: An Act strenghtening DEC's contingency plan and inspection requirements.
Sponsor: Rules Committee/Governor
Requestor: House Finance

Agency Affected: Fish and Game
BRU: Habitat Division
Components: Habitat

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 91	FY 92	FY 93	FY 94	FY 95	FY 96
PERSONAL SERVICES	135.9					
TRAVEL	6.0					
CONTRACTUAL	13.6					
SUPPLIES	1.0					
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	156.5					
CAPITAL	0					
REVENUE	0					

FUNDING: (Thousands of Dollars)

GENERAL FUND	0					
FEDERAL FUNDS	0					
OTHER *	156.5					
TOTAL	156.5					

POSITIONS:

FULL-TIME	2					
PART-TIME	1					
TEMPORARY	0					

ANALYSIS: (Attach a separate page if necessary)

* Oil and Hazardous Substance Release Response Fund

Prepared by: House Finance Committee
Phone: 465-3727
Division: Co-Chairman Ron Larson
Date: 4/23/90
Co-Chairman Lyman Hoffman
Approved by Commissioner:
Date: 4/23/90
Agency:

5/8/90

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

Continuation of fiscal note analysis

FY91 Line Itemization -

PCN/NEW	RANGE/STEP	CLASSIFICATION	NO. MONTHS (COST)	LOCATION
New	18C	Habitat Biologist III	12 (54.0)	Anchorage
New	18C	Habitat Biologist III	12 (61.1)	Fairbanks
6118	16J	Cartographer III	3 (13.5)	Anchorage
New	8C	Clerk/Typist III	1.5 (3.8)	Anchorage
6131	7A	Clerk/Typist III	1.5 (3.5)	Fairbanks
TOTAL			$135.9	

EXPLANATION

As a result of the Exxon Valdez oil spill, it has become apparent that existing oil spill contingency plans are inadequate. Consequently, the U.S. Coast Guard (USCG) is reviewing and updating its regional contingency plans, and the state intends to re-evaluate the adequacy of at least the major nongovernmental contingency plans. This effort has already been initiated and we anticipate that, at a minimum, the state will participate in planning projects for Prince William Sound, Cook Inlet, the Beaufort Sea, and possibly other areas such as the Chukchi Sea. the state will also be involved in re-evaluating and potentially expanding the Dispersant Use Guidelines and Wildlife Protection Guidelines, which have incorporated into the USCG Alaska Region spill contingency plan. In order to protect the state's interests in fish and wildlife populations, habitats, and public uses of these resources, ADF&G will require additional staff to dedicate specifically to contingency planning.

The principal resources at risk because of oil and other hazardous substance releases are fish and wildlife, and the ADF&G is the state agency with the expertise and statutory mandate to provide information and recommendations regarding these resources. The department must compile and provide information on the distribution, abundance, and critical life function needs of fish and wildlife populations that may be affected by a spill or other release. Based on this information, the department must recommend mitigation measures that will afford the highest possible level of fish and wildlife protection. Examples of mitigation decisions are

Continuation of Explanation

the identification of areas that are biologically suitable for oil dispersant use, identification of areas of highest priority for containment or defensive booming, identification of criteria for deploying shoreline cleanup equipment and crews, and the selection of shoreline cleanup techniques that will maximize biological benefits and minimize biological costs.

At present, ADF&G has no funding allocated to perform this function. Between February 16 and June 30 of FY90, ADF&G will need: 9 months of HBIII, 2.25 months of CTIII, and 1.0 month of CartIII. ADF&G will also require two computers and funding for other support services as noted above.

No. 4

STATE OF ALASKA
1990 LEGISLATIVE SESSION

BILL VERSION: CSHB 567(Fin)
PUBLISH DATE: HOUSE 4/24/90

FISCAL NOTE

Cc

REQUEST:

Revision Date:
Title: An Act strenghtening DEC's contingency plan and inspection requirements.
Sponsor: Rules Committee/Governor
Requestor: House Finance

Agency Affected: Fish and Game
BRU: Habitat Division
Components: Habitat

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 91	FY 92	FY 93	FY 94	FY 95	FY 96
PERSONAL SERVICES	135.9					
TRAVEL	6.0					
CONTRACTUAL	13.6					
SUPPLIES	1.0					
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	156.5					
CAPITAL	0					
REVENUE	0					

FUNDING: (Thousands of Dollars)

GENERAL FUND	0					
FEDERAL FUNDS	0					
OTHER *	156.5					
TOTAL	156.5					

POSITIONS:

FULL-TIME	2					
PART-TIME	1					
TEMPORARY	0					

ANALYSIS: (Attach a separate page if necessary)

* Oil and Hazardous Substance Release Response Fund

Prepared by: House Finance Committee
Phone: 465-3727
Division: Co-Chairman Ron Larson
Date: 4/23/90
Co-Chairman Lyman Hoffman
Approved by Commissioner:
Date: 4/23/90
Agency:

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

Continuation of fiscal note analysis

FY91 Line Itemization -

PCN/NEW	RANGE/STEP	CLASSIFICATION	NO. MONTHS (COST)	LOCATION
New	18C	Habitat Biologist III	12 (54.0)	Anchorage
New	18C	Habitat Biologist III	12 (61.1)	Fairbanks
6118	16J	Cartographer III	3 (13.5)	Anchorage
New	8C	Clerk/Typist III	1.5 (3.8)	Anchorage
6131	7A	Clerk/Typist III	1.5 (3.5)	Fairbanks
TOTAL			$135.9	

EXPLANATION

As a result of the Exxon Valdez oil spill, it has become apparent that existing oil spill contingency plans are inadequate. Consequently, the U.S. Coast Guard (USCG) is reviewing and updating its regional contingency plans, and the state intends to re-evaluate the adequacy of at least the major nongovernmental contingency plans. This effort has already been initiated and we anticipate that, at a minimum, the state will participate in planning projects for Prince William Sound, Cook Inlet, the Beaufort Sea, and possibly other areas such as the Chukchi Sea. the state will also be involved in re-evaluating and potentially expanding the Dispersant Use Guidelines and Wildlife Protection Guidelines, which have incorporated into the USCG Alaska Region spill contingency plan. In order to protect the state's interests in fish and wildlife populations, habitats, and public uses of these resources, ADF&G will require additional staff to dedicate specifically to contingency planning.

The principal resources at risk because of oil and other hazardous substance releases are fish and wildlife, and the ADF&G is the state agency with the expertise and statutory mandate to provide information and recommendations regarding these resources. The department must compile and provide information on the distribution, abundance, and critical life function needs of fish and wildlife populations that may be affected by a spill or other release. Based on this information, the department must recommend mitigation measures that will afford the highest possible level of fish and wildlife protection. Examples of mitigation decisions are

Continuation of Explanation

the identification of areas that are biologically suitable for oil dispersant use, identification of areas of highest priority for containment or defensive booming, identification of criteria for deploying shoreline cleanup equipment and crews, and the selection of shoreline cleanup techniques that will maximize biological benefits and minimize biological costs.

At present, ADF&G has no funding allocated to perform this function. Between February 16 and June 30 of FY90, ADF&G will need: 9 months of HBIII, 2.25 months of CTIII, and 1.0 month of CartIII. ADF&G will also require two computers and funding for other support services as noted above.

No. 3

STATE OF ALASKA
1990 LEGISLATIVE SESSION

BILL VERSION: CSHB 567(Fin)

PUBLISH DATE: HOUSE 4/24/90

FISCAL NOTE

6

REQUEST:

Revision Date 4/2/90

Title: An act relating to contingency plan requirements, financial responsibility...

Sponsor: Rules/Governor

Requestor: HFinance

Agency Affected: Environ. Conservation

BRU: Environmental Quality

Components: Environmental Quality

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 91	FY 92	FY 93	FY 94	FY 95	FY 96
PERSONAL SERVICES	665.0	614.0	563.0	563.0	563.0	563.0
TRAVEL	60.0	52.5	45.0	45.0	45.0	45.0
CONTRACTUAL	562.0	554.0	546.0	546.0	546.0	546.0
SUPPLIES	14.0	13.0	12.0	12.0	12.0	12.0
EQUIPMENT	70.0	65.0	60.0	60.0	60.0	60.0
LAND&STRUCTURES						
GRANTS,CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	1,371.0	1,298.5	1,226.0	1,226.0	1,226.0	1,226.0
CAPITAL	0.0	1,298.5	1,226.0	1,226.0	1,226.0	1,226.0
REVENUE	0.0	0.0	0.0	0.0	0.0	0.0

FUNDING: (Thousands of Dollars)

GENERAL FUND	0.0	0.0	0.0	0.0	0.0	0.0
FEDERAL FUNDS	0.0	0.0	0.0	0.0	0.0	0.0
OTHER response funds	1,371.0	1,298.5	1,226.0	1,226.0	1,226.0	1,226.0
TOTAL	1,371.0	1,298.5	1,226.0	1,226.0	1,226.0	1,226.0

POSITIONS:

FULL-TIME	12.0	12.0	12.0	12.0	12.0	12.0
PART-TIME	0.0	0.0	0.0	0.0	0.0	0.0
TEMPORARY	2.0	1.0	0.0	0.0	0.0	0.0

ANALYSIS: (Attach a separate page if necessary)

Further analysis attached.

Prepared by: Lynn Kent
Division: Environmental Quality

Phone: 465-2630
Date: 4/2/90

Approved by Commissioner: A D Kyle
Agency: Environmental Conservation

Date: 4/2/90

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

FISCAL ANALYSIS

Sections 1, 2, and 3

These sections allow the Department and municipalities to enter into agreements relating to vessel traffic control and monitoring systems and alter penalty provisions. There is no fiscal impact to the Department from these sections.

Section 4

This section requires certain facilities and vessels to include prevention measures in their contingency plans. One Ecologist II is necessary to develop prevention regulations such as design, construction and operation standards for the various types of facilities and vessels. In addition, field staff will require additional time to review the prevention portions of the plan and to perform more detailed facility inspections. Statewide, this will increase the workload by two FTE (Environmental Field Officer II's)

In addition, this section requires a new class of facilities - onshore exploration and production facilities - to develop oil discharge prevention and contingency plans. There are approximately 60 sites with multiple currently operating in the state. Two Environmental Field Officers are necessary to evaluate these contingency plans, inspect facilities for compliance with the approved contingency plans, and to develop and participate in spill drills designed to test the ability of the contingency plans.

Section 5

Section 5 of the bill requires the Department to provide a copy of a contingency plan to the Departments of Fish and Game and Natural Resources and provide those agencies with an opportunity to review and comment on the plans. The coordination of review for over 70 plan reviews annually will require one additional FTE (Ecologist II).

Section 6

Section 6 has no fiscal impact on the Department.

Section 7

Section 7 requires approximately 60 additional facilities (onshore exploration and production facilities) to demonstrate proof of financial responsibility. One-half of an Administrative Assistant III is necessary to carry out the additional workload of reviewing and approving the financial responsibility documentation for these facilities.

Sections 8 and 9

Sections 8 and 9 have no fiscal impact on the Department.

Sections 10, 11 and 12

These sections broaden the forms of security acceptable to demonstrate financial responsibility. The Department will need to evaluate what forms of security will be acceptable to the state and define those by regulation (.5 Administrative Assistant III)

Section 13

Section 13 has no fiscal impact on the Department.

Section 14

This section requires crude oil terminals with a capacity between 5,000 and 10,000 barrels to have approved contingency plans. This will not significantly increase the workload for the Department.

Section 15

This section provides authority to the Department to inspect the structural integrity of tank vessels, oil barges, oil terminal facilities, pipelines. Outside expertise is necessary for some of this activity. The Department will require two FTE (Environmental Field Officer III) and contractual funds ($450.0) to implement this section.

Sections 16 and 17

Sections 16 and 17 are for drafting clarification and do not have a fiscal impact on the Department.

Section 18

Section 18 has no fiscal impact on the Department.

Section 19

Section 19 broadens the use of the Oil and Hazardous Substance Release Response Fund. The fiscal impact to the Department comprises the total of this fiscal note.

Section 20

This section requires the Department to conduct a survey of small non-crude oil terminal facilities with storage capacities between 5,000 and 10,000 barrels. There are over 30 of these facilities, most of which are located in rural areas. The inspections will involve a technical review of facility design and construction, prevention measures, and spill response capability. The Department will provide technical assistance to the facility owners/operators to enhance their spill prevention and response capabilities. In addition the Department will submit a report to the legislature outlining the types of problems at these facilities and suggestions for improvement. The inspections and technical assistance will require two Environmental Field Officers. Compilation of the statewide inspection information and recommendations report to the legislature will require one Ecologist II. The survey is required to be done within two years. One EFO position is for just one year, while the other one is for the two years of the survey. The Department proposes to keep the Ecologist II for subsequent years to initiate implementation of accepted recommendations.

Position	100	200	300	400	500	Total
Ecologist II	51.0	5.0	8.0	1.0	5.0	70.0
2 Env. Field Ofc II's	102.0	10.0	16.0	2.0	10.0	140.0
2 Env. Field Ofc III's	102.0	10.0	16.0	2.0	10.0	140.0
Ecologist II	51.0	5.0	8.0	1.0	5.0	70.0
Admin. Asst. III	36.0	0.0	8.0	1.0	5.0	50.0
2 Env. Field Ofc III	102.0	10.0	16.0	2.0	10.0	140.0
Contractual (inspections)			450.0			450.0
2 Env. Field Ofc III	102.0	15.0	16.0	2.0	10.0	145.0
Ecologist II	51.0	5.0	8.0	1.0	5.0	70.0
2 Clerk Typist III's	68.0	0.0	16.0	2.0	10.0	96.0
TOTALS	665.0	60.0	562.0	14.0	70.0	$1,371.0