

SCOMM

62:8

SENATE COMMITTEE REPORT

FIRST COMMITTEE OF REFERRAL

Date of 5-DAY NOTICE
IN ACCORDANCE WITH UNIFORM RULE 23

FURTHER RES

**FISCAL NOTE(S) MUST BE ATTACHED
IN ACCORDANCE WITH AS 24.08.035

DATE TURNED INTO OFFICE _____

4/5/89

Mr. President:

OIL & GAS

Committee considered

SB 261

requiring the Dept. of Environmental Conservation to prepare and to annually review and revise a master oil and hazardous substance discharge and prevention contingency plan for the state and regional oil and hazardous substance discharge and prevention contingency plans for certain regions of the state, and to implementation of that plan; efd and recommended:

☒ replace with CS Oil & Gas ☐ same title

☐ attached amendment(s) and

☒ new title

☐ _____ letter of intent adopted

☒ do pass

☐ do not pass

☐ no recommendation

☐ individual recommendations

☐ further referral to _____

FISCAL NOTE(S) attached ☐ zero
☐ appropriation no FN attached

☐ fiscal impact
☐ Gov. FN introduced w/ bill

MEMBERS SIGNING DO PASS

OTHER RECOMMENDATIONS

Tim Bell
True Peace

Al Adams - No Rec

True Peace - do pass
Chair : signature and recommendation

☐ Committee backup attached

STATE OF ALASKA
1989 LEGISLATIVE SESSION

BILL VERSION: SB 261
PUBLISH DATE: _____

FISCAL NOTE

REQUEST:

Revision Date: _____ Agency Affected: Environmental Conservation
Title: An Act requiring DEC to prepare and annually review a master contingency plan BRU: Environmental Quality
Sponsor: Duncan, Kerttula, et. al. Components: Environmental Quality
Requestor: _____

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 89	FY 90	FY 91	FY 92	FY 93	FY 94
PERSONAL SERVICES		134.0	134.0	134.0	134.0	134.0
TRAVEL		10.0	10.0	10.0	10.0	10.0
CONTRACTUAL		149.0	149.0	24.0	24.0	24.0
SUPPLIES		3.0	3.0	3.0	3.0	3.0
EQUIPMENT		15.0	15.0	15.0	15.0	15.0
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING		311.0	311.0	186.0	186.0	186.0

CAPITAL						
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REVENUE						
---------	--	--	--	--	--	--

FUNDING: (Thousands of Dollars)

GENERAL FUND						
FEDERAL FUNDS						
OTHER		311.0	311.0	311.0	311.0	311.0
TOTAL		311.0	311.0	311.0	311.0	311.0

POSITIONS:

FULL-TIME		3.0	3.0	3.0	3.0	3.0
PART-TIME						
TEMPORARY						

ANALYSIS : (Attach a separate page if necessary)

(See Attached)

Prepared by: Dan Easton Phone: 465-2640
Division: Environmental Quality Date: April 10, 1989

Approved by Commissioner: ADK Date: 4/12/89
Agency: Alaska Department of Environmental Conservation

Distribution (by preparer):

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

STATE OF ALASKA

DEPT. OF ENVIRONMENTAL CONSERVATION

STEVE COWPER, GOVERNOR

Telephone:
(907) 465-2640

April 10, 1989

Contact: Dan Easton

FISCAL NOTE ANALYSIS

SB 261

The Department estimates that two new technical positions and one clerical position would be required to evaluate the existing state contingency plan, to oversee a contract to expand the existing plan to incorporate the additional items specified by the legislation, to annually review and revise the plan, to annually conduct hearings on the plan, and to develop and revise regional plans. For the first two years, contractual services in the amount of \$125.0 would be required for a consultant to develop the initial plans.

STATE OF ALASKA
1989 LEGISLATIVE SESSION

BILL VERSION: CSSB 261
PUBLISH DATE: 4-13-89 WORK DRAFT

REQUEST: draft **FISCAL NOTE**

Revision Date: _____
Title: An Act relating to oil and hazardous substance discharges, etc.
Sponsor: Duncan, Kerttula, Szymanski, et.
Requestor: _____
Agency Affected: Environmental Conservation
BRU: Environmental Quality
Administrative Services
Components: Environmental Quality
Administrative Services

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 89	FY 90	FY 91	FY 92	FY 93	FY 94
PERSONAL SERVICES		975.0	975.0	975.0	975.0	975.0
TRAVEL		85.0	85.0	85.0	85.0	85.0
CONTRACTUAL		2,595.0	2,595.0	1,370.0	1,370.0	1,370.0
SUPPLIES		275.0	275.0	25.0	25.0	25.0
EQUIPMENT		390.0	390.0	140.0	140.0	140.0
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING		4,320.0	4,320.0	2,595.0	2,595.0	2,595.0

CAPITAL						
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REVENUE						
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FUNDING: (Thousands of Dollars)

GENERAL FUND						
FEDERAL FUNDS						
OTHER		4,320.0	4,320.0	2,595.0	2,595.0	2,595.0
TOTAL		4,320.0	4,320.0	2,595.0	2,595.0	2,595.0

POSITIONS:

FULL-TIME		15	15	15	15	15
PART-TIME		-0-	-0-	-0-	-0-	-0-
TEMPORARY		-0-	-0-	-0-	-0-	-0-

ANALYSIS : (Attach a separate page if necessary)

(See Attached)

Prepared by: Dan Easton Phone: 465-2640
Division: Environmental Quality Date: April 14, 1989

Approved by Commissioner: AD/gle Date: 4/14/89
Agency: Alaska Department of Environmental Conservation

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

STATE OF ALASKA

STEVE COWPER, GOVERNOR

DEPT. OF ENVIRONMENTAL CONSERVATION

DRAFT

FISCAL ANALYSIS

CSSB 261

(4-14 WORK DRAFT)

April 14, 1989

THE FOLLOWING IS A VERY PRELIMINARY ANALYSIS BASED ON A BRIEF REVIEW OF THE PROPOSED LEGISLATION. THE ANALYSIS AND INCLUDED ESTIMATES WILL BE REFINED DURING THE COMMITTEE PROCESS.

ESTABLISH DEPOTS AND RESPONSE STATIONS (\$2,000.0)

The Department estimates that \$2,000.0 will be required for each of the first two years to establish and stock depots and response stations at a minimum of two locations: Valdez and on the Kenai Peninsula. Once established, subsequent year costs are expected to decline to \$500.0 for contracted services to maintain inventories and response readiness.

100	\$ -0-
200	\$ -0-
300	\$1,500.0
400	\$ 250.0
500	\$ 250.0
Total	<u>\$2,000.0*</u>

*includes \$1,500.0 in first- and second-year costs

PREPARE MASTER AND REGIONAL CONTINGENCY PLANS (\$350.0)

The Department estimates that four technical positions and one clerical position would be required to evaluate the existing state contingency plan, to oversee a contract to expand the existing plan to incorporate the additional items specified by the legislation, to annually review and revise the plan, to annually conduct hearings on the plan, and to develop and revise regional plans. For the first two years, contractual services in the amount of \$125.0 would be required for a consultant to assist in developing the initial plans.

100	\$ 235.0
200	\$ 20.0
300	\$ 65.0
400	\$ 5.0
500	\$ 25.0
Total	<u>\$ 350.0*</u>

*includes \$125.0 in first- and second-year costs

ADMINISTER OIL AND HAZARDOUS SUBSTANCE SPILL CONTAINMENT FUND (\$170.0)

The Department projects the need for an accountant and an accounting technician to set up and administer the fund, and to track and approve payments from the fund (\$120.0).

The Department also foresees a need for \$50.0 in contractual funds to prepare, publish and distribute the annual report on discharges, environmental effects, the operational status of the response corps, and needed changes.

100	\$ 80.0
200	\$ 5.0
300	\$ 60.0
400	\$ 5.0
500	\$ 20.0
Total	<u>\$ 170.0</u>

ESTABLISH OIL AND HAZARDOUS SUBSTANCE RESPONSE OFFICE (\$1,800.0)

The Response Office would consist of a full-time staff of nine agency personnel: a director, six response specialists, one clerk-typist and one administrative assistant. First-year costs to establish and staff the office are estimated at \$700.0. Subsequent year costs are estimated at \$600.0. Other costs include training contracts (\$200.0), contracts with local governments (\$500.0), wages and per diem for volunteer training (\$300.0), and contracts with private response specialists (\$100.0).

100	\$ 660.0
200	\$ 60.0
300	\$ 970.0
400	\$ 15.0
500	\$ 95.0
Total	<u>\$1,800.0*</u>

*includes \$100.0 in first- and second-year costs

SUMMARY

	100	200	300	400	500	TOTAL
Depots/Response Stations	-0-	-0-	\$1,500.0	\$250.0	\$250.0	\$2,000.0
Master Contingency Plans	\$235.0	\$20.0	\$ 650.0	\$ 5.0	\$ 25.0	\$ 350.0
Administer Spill Fund	\$ 80.0	\$ 5.0	\$ 60.0	\$ 5.0	\$ 20.0	\$ 170.0
Response Office	\$660.0	\$60.0	\$ 970.0	\$ 15.0	\$ 95.0	\$1,800.0
TOTAL	\$975.0	\$85.0	\$2,595.0	\$275.0	\$390.0	\$4,320.0*

*Includes \$1,725.0 in first- and second-year, one-time costs

6-1161E✓
Chenoweth
4/15/89

Original sponsors: Duncan, Kerttula,
Szymanski, et al.

1 IN THE SENATE

BY THE SENATE SPECIAL
COMMITTEE ON OIL AND GAS

2 CS FOR SENATE BILL NO. 261 (Oil & Gas)

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 SIXTEENTH LEGISLATURE - FIRST SESSION

5 A BILL

6 For an Act entitled: "An Act relating to oil and hazardous substance
7 discharges, and imposing a fee on certain crude oil;
8 and providing for an effective date."

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

10 * Section 1. AS 43 is amended by adding a new chapter to read:

11 CHAPTER 59. FEE ON CRUDE OIL DELIVERED

12 FOR VESSEL TRANSPORTATION.

13 Sec. 43.59.010. FEE LEVIED. Every person who delivers crude oil
14 to a port for transportation by a vessel that transits the navigable
15 waters of the state shall pay a fee of \$.05 per barrel of the crude
16 oil delivered, less royalty oil the ownership or right to which is
17 exempt from taxation under this title.

18 Sec. 43.59.020. ADMINISTRATION OF THE FEE. (a) The fee on
19 crude oil shall be paid quarterly. The fee is due on the 20th day of
20 the month following the close of the calendar quarter on crude oil
21 delivered to the port during the preceding calendar quarter. If the
22 fee is not paid before the end of the month in which it becomes due,
23 the fee becomes delinquent.

24 (b) The fee shall be paid by the person delivering the crude oil
25 to the port for transportation.

26 (c) In making settlement with the royalty owner the person
27 paying the fee may deduct the amount of the fee paid on royalty oil,
28 or may at the time the fee becomes due deduct royalty oil equivalent
29 in value to the amount of the fee paid.

1 (d) The fee shall be paid to the department, and the person
2 paying the fee shall file with the department at the time the fee is
3 required to be paid a report, under oath, on forms prescribed by or
4 acceptable to the department, giving with other information required,
5 the following:

6 (1) the name of the person paying the fee;

7 (2) the total volume of the crude oil delivered for trans-
8 portation; and

9 (3) the name of the first purchaser and the price received
10 for the crude oil if sold in the state.

11 (e) Reports by or on behalf of the person required to report
12 under (d) of this section are delinquent the first day following the
13 day the fee is due. Each person required to report under (d) of this
14 section is subject to a penalty of \$1,000 a day for each day during
15 which the report is not filed. The penalty for failure to file a
16 report is in addition to the penalty for delinquent fees under (h) of
17 this section, and is a lien against the assets of the person required
18 to report under (d) of this section.

19 (f) The department may

20 (1) require a person who is obligated to pay the fee due
21 under this chapter, the agent or employee of the person, or the owner
22 or former owner of a royalty interest in crude oil, to furnish addi-
23 tional information that is considered by the department as necessary
24 to compute the amount of the fee;

25 (2) examine the books, records, and files of a person
26 identified in (1) of this subsection;

27 (3) conduct hearings and compel the attendance of witnesses
28 and the production of books, records, and papers of any person identi-
29 fied in (1) of this subsection; and

1 (4) make an investigation or hold an inquiry that is con-
2 sidered necessary to a disclosure of the facts as to the volume of
3 crude oil transported.

4 (g) The department may determine whether or not a report re-
5 quired under this chapter is correct. If a person makes an untrue or
6 incorrect report, or fails or refuses to make a report, the department
7 shall, under regulations prescribed by it, determine the correct
8 amount of crude oil on which the fee is payable and compute the fee.

9 (h) When the fee provided for in this chapter becomes delin-
10 quent, it bears interest at the rate prescribed in AS 43.05.225. If a
11 person fails to make a report required by this chapter within the time
12 prescribed by law for the report, the department shall examine the
13 books, records, and files of the person to determine the amount and
14 value of the crude oil delivered to compute the fee, and the depart-
15 ment shall add to the fee the cost of the examination, together with
16 any penalties accrued.

17 (i) In case of overpayment, duplicate payment, or payment made
18 in error, the department may issue a certificate stating the facts and
19 the amount of the refund to which the person required to pay the fee
20 is entitled. Upon presentation of the certificate to the Department
21 of Administration, the Department of Administration shall issue a
22 warrant for the refund.

23 (j) The department may adopt regulations for the purpose of
24 making and filing reports required by this chapter and otherwise
25 necessary to the enforcement of this chapter. The department may
26 require a sufficient bond from every person charged with the making
27 and filing of reports and the payment of the fee. The bond shall run
28 to the state and shall be conditioned upon the making and filing of
29 reports as required by law, upon compliance with the regulations of

1 the department, and for the prompt payment, by the principal on the
2 bond, of all fees due the state by virtue of this chapter.

3 (k) If reports required have not been filed or are insufficient
4 to furnish the information required by the department, the Department
5 of Law shall institute, in the name of the state upon relation of the
6 department, the necessary action or proceedings to enjoin the person
7 from continuing operations until the reports are filed.

8 Sec. 43.59.030. DISPOSITION OF PROCEEDS OF FEE. (a) The com-
9 missioner shall deposit the proceeds of the fee into the general fund.

10 (b) The commissioner of administration shall separately account
11 for all proceeds of the fee deposited into the general fund.

12 Sec. 43.59.040. USE OF REVENUE DERIVED FROM FEE. The legisla-
13 ture may appropriate the annual estimated balance of the account
14 established under AS 43.59.030 to the oil and hazardous substance
15 emergency containment fund under AS 46.04.300.

16 Sec. 43.59.050. SUSPENSION AND REIMPOSITION OF THE FEE. (a)
17 Not later than 30 days after the end of each calendar quarter, the
18 commissioner of administration shall determine the cumulative total of
19 money

20 (1) that has been deposited through that calendar quarter
21 into the general fund under AS 43.59.030;

22 (2) expended through that calendar quarter from the oil and
23 hazardous substance emergency containment fund under AS 46.04.300.

24 (b) Within 15 days after making the determinations required by
25 (a) of this section, the commissioner of administration shall report
26 to the commissioner the difference between the amount determined under
27 (a)(1) of this section and amount determined under (a)(2) of this
28 section.

29 (c) If the commissioner of administration reports that the

1 difference determined under (b) of this section equals or exceeds
2 \$20,000,000, the commissioner of revenue shall suspend imposition and
3 collection of the fee levied and collected under AS 43.59.010. Sus-
4 pension of the imposition and collection of the fee begins on the
5 first day of the calendar quarter next following the commissioner's
6 receipt of the commissioner of administration's report under (b) of
7 this section. Before the first day of a suspension authorized by this
8 subsection, the commissioner shall make a reasonable effort to notify
9 all persons who are known to the department to be paying the fee under
10 this chapter that the fee will be suspended.

11 (d) Except as provided in AS 43.59.060, if the commissioner of
12 administration reports that the difference determined under (b) of
13 this section is less than \$20,000,000, the commissioner of revenue
14 shall require imposition and collection of the fee authorized under
15 AS 43.59.010. Reimposition of the fee begins on the first day of the
16 calendar quarter next following the commissioner's receipt of the
17 commissioner of administration's report under (b) of this section.
18 Before the first day of reimposition of the fee authorized by this
19 subsection, the commissioner shall make a reasonable effort to notify
20 all persons who are known to the department to be required to pay the
21 fee under this chapter that the fee will be reimposed.

22 Sec. 43.59.060. FEE NOT IMPOSED. The fee authorized by this
23 chapter is not levied during any fiscal year for which the estimated
24 revenue from the fee would be sufficient to restore the balance of the
25 oil and hazardous substance emergency containment fund on the first
26 day of the fiscal year to at least \$20,000,000, and the legislature
27 does not, during the regular legislative session preceding the first
28 day of the fiscal year, appropriate money from the general fund to the
29 oil and hazardous substance emergency containment fund sufficient to

1 restore the balance of the oil and hazardous substance emergency
2 containment fund on the first day of the fiscal year to at least
3 \$20,000,000.

4 Sec. 43.59.100. DEFINITIONS. In this chapter

5 (1) "barrel of oil" has the meaning given in AS 43.55.140;

6 (2) "fee" means the fee levied by AS 43.59.010;

7 (3) "lease or property" has the meaning given in AS 43.55.-
8 140;

9 (4) "navigable water" has the meaning given in AS 38.05.-
10 965;

11 (5) "oil" has the meaning given in AS 43.55.140;

12 (6) "ownership or right to which is exempt from taxation"
13 has the meaning given in AS 43.55.140;

14 (7) "vessel" has the meaning given in AS 46.04.900.

15 * Sec. 2. AS 46.04.090(a) is amended to read:

16 (a) The department, when feasible, shall enter into contracts
17 with persons or private organizations to provide the personnel, equip-
18 ment, or other services or supplies that [WHICH] may be required to
19 carry out this chapter. Contracts under this section are governed by
20 AS 36.30 (State Procurement Code). When private contracting is not
21 feasible, the department shall [MAY] establish and maintain at ports,
22 harbors, or other locations in the state from which crude oil is
23 regularly transported by vessel and may establish at other locations
24 [.] the cleanup personnel, equipment, and supplies that [WHICH], in
25 its judgment, are necessary to carry out this chapter.

26 * Sec. 3. AS 46.04.120 is amended by adding a new paragraph to read:

27 (18) "navigable water" has the meaning given in AS 38.05.-
28 965.

29 * Sec. 4. AS 46.04 is amended by adding new sections to read:

ARTICLE 2. OIL AND HAZARDOUS SUBSTANCE DISCHARGE AND
PREVENTION CONTINGENCY PLANS.

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 contingency plan.

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

(1) take into consideration the elements of an oil discharge 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 releases.

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

(1) shall consult with municipal and community officials,

1 and with representatives of affected regional organizations;

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

4 (3) may require or schedule unannounced oil spill drills to
5 test the sufficiency of an oil discharge contingency plan approved
6 under AS 46.04.030 or of the cleanup plans of a party identified under
7 (b)(2) of this section.

8 Sec. 46.04.210. REGIONAL MASTER PLAN. (a) For any region of
9 the state, the boundaries of which are determined by the commissioner
10 by regulation, in which the department is required to review and
11 approve an oil discharge contingency plan submitted by a person under
12 AS 46.04.030, the department shall prepare and annually review and
13 revise a regional master oil and hazardous substance discharge and
14 prevention contingency plan.

15 (b) The provisions of AS 46.04.200(b) and (c) apply to prepara-
16 tion and review of a regional master plan under this section.

17 ARTICLE 3. OIL AND HAZARDOUS SUBSTANCE SPILL CONTAINMENT FUND.

18 Sec. 46.04.300. OIL AND HAZARDOUS SUBSTANCE EMERGENCY CONTAIN-
19 MENT FUND. (a) The oil and hazardous substance emergency containment
20 fund is established. The fund is a nonlapsing, revolving fund in the
21 department.

22 (b) The legislature may appropriate to the fund established in
23 (a) of this section the revenue annually derived from the fee levied
24 and collected under AS 43.59.

25 Sec. 46.04.310. DUTIES OF COMMISSIONER. The commissioner shall

26 (1) administer the fund;

27 (2) pay from the fund, without regard to fault, all direct
28 costs of emergency evaluation, containment, and cleanup efforts in-
29 curred by the state that relate to natural resources of the state

1 caused by discharge of oil or a hazardous substance into the navigable
2 waters of the state; and

3 (3) make an annual report to the legislature and governor
4 that

5 (A) describes the quality and quantity of discharges
6 of oil and hazardous substances into the navigable waters of the
7 state;

8 (B) relates the costs paid for from the fund;

9 (C) relates the environmental effect on the resources
10 of the state as a result of the discharges;

11 (D) describes the operational status of the oil and
12 hazardous substance response office and corps established under
13 AS 46.08.100 - 46.08.120, the condition of its equipment, and
14 whether additional personnel, equipment, supplies, or other
15 materials are required for the oil and hazardous substance
16 response office and corps to function effectively; and

17 (E) recommends whether there are changes necessary in
18 the legislation relating to the office, the corps, or the fund.

19 Sec. 46.04.320. USE OF FUND. (a) The commissioner may expend
20 money from the fund under AS 46.04.310(2) only if

21 (1) the discharge is a catastrophic oil discharge that
22 constitutes an emergency under AS 46.04.080(a);

23 (2) the discharge of oil or a hazardous substance is de-
24 clared to be an emergency under AS 46.03.865;

25 (3) the governor declares the discharge an emergency under
26 AS 26.23; or

27 (4) the commissioner reasonably believes that there has
28 been a discharge of oil or a hazardous substance, or that there is a
29 potential discharge of oil or a hazardous substance, and the discharge

1 may qualify under (1) - (3) of this subsection.

2 (b) Subject to legislative appropriation, the commissioner may
3 use money in the fund to pay

4 (1) costs of personal services or contracts incurred to
5 establish and maintain the oil and hazardous substance response of-
6 fice;

7 (2) expenses incurred by that office for purchases of
8 necessary equipment, supplies, and transportation;

9 (3) the expenses of the oil and hazardous substance re-
10 sponse corps established under AS 46.08.110 by that office; and

11 (4) the preparation and annual revision of the state master
12 plan under AS 46.04.200 and regional master plans under AS 46.04.210.

13 (c) The commissioner may not use money in the fund to

14 (1) make grants; or

15 (2) reimburse parties for expenditures incurred by a person
16 that did not have the prior approval of the commissioner.

17 * Sec. 5. AS 46.08 is amended by adding new sections to read:

18 ARTICLE 2. OIL AND HAZARDOUS SUBSTANCE RESPONSE OFFICE.

19 Sec. 46.08.100. OFFICE ESTABLISHED. (a) There is established in
20 the department the oil and hazardous substance response office. The
21 office consists of a director and specialists who are trained in
22 programs and technologies related to the containment and cleanup of
23 releases or threatened releases of oil and hazardous substances.

24 (b) The commissioner may establish and maintain the office by

25 (1) direct employment;

26 (2) contract with political subdivisions, the University of
27 Alaska, transporters, and other private persons; or

28 (3) any combination of (1) and (2) of this subsection.

29 Sec. 46.08.110. RESPONSE CORPS. (a) The office shall establish

1 an oil and hazardous substance response corps.

2 (b) The corps consists of volunteers who register with the
3 office and agree to be trained by the office in techniques for con-
4 tainment and cleanup and to be available on short notice to assist the
5 office in containment and cleanup.

6 (c) Members of the corps are entitled to wages, per diem, and
7 expenses as determined by the commissioner for training and for days
8 spent in service to the state in containment and cleanup actions.

9 Sec. 46.08.120. DUTIES OF THE OFFICE. (a) The office shall be
10 prepared to respond promptly to a discharge of oil or a hazardous
11 substance into the navigable waters of the state.

12 (b) The office may respond under (a) of this section to an oil
13 or hazardous substance discharge only if:

14 (1) the oil discharge is a catastrophic oil discharge that
15 constitutes an emergency under AS 46.04.080(a);

16 (2) the discharge of oil or a hazardous substance is de-
17 clared to be an emergency under AS 46.03.865;

18 (3) the governor declares the discharge an emergency under
19 AS 26.23; or

20 (4) the commissioner reasonably believes that there has
21 been a discharge of oil or a hazardous substance, or that there is a
22 potential discharge of oil or a hazardous substance, and the discharge
23 may qualify under (1) - (3) of this subsection.

24 Sec. 46.08.130. EMERGENCY POWERS. (a) When the office has
25 reasonable grounds to believe that a release of oil or a hazardous
26 substance has occurred or is threatened to occur which, in the judg-
27 ment of its director, presents an imminent or present danger to the
28 health or welfare of the people of the state or would result in or is
29 likely to result in irreversible or irreparable damage to the natural

1 resources or environment, and it appears to be prejudicial to the
2 interest of the people of the state to delay action until an oppor-
3 tunity for a hearing can be provided, state employees or members of
4 the corps may, with permission of the director and without prior
5 hearing, enter private property for the purpose of containment or
6 cleanup.

7 (b) The property owner affected by a response action taken under
8 (a) of this section has the right to be heard as soon as practicable
9 and to present proof to the office that the containment or cleanup
10 action is unnecessary or that it is not necessary to enter the per-
11 son's property for the containment or cleanup action.

12 Sec. 46.08.190. DEFINITIONS. In AS 46.08.100 - 46.08.190

13 (1) "corps" means the oil and hazardous substance response
14 corps;

15 (2) "office" means the oil and hazardous substance response
16 office.

17 * Sec. 6. PREPARATION OF INITIAL PLANS. The commissioner of environ-
18 mental conservation shall present the initial statewide master plan pre-
19 pared under AS 46.04.200, enacted by sec. 4 of this Act, and any initial
20 regional master plans required by AS 46.04.210, enacted by sec. 4 of this
21 Act, to the governor by July 1, 1990.

22 * Sec. 7. This Act takes effect immediately under AS 01.10.070(c).
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Alaska State Legislature

Senator Drue Pearce, Chair

Senator Tim Kelly

Senator Rick Halford

Senator Paul Fischer

Senator Al Adams



WHILE IN JUNEAU
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SENATE SPECIAL COMMITTEE ON OIL AND GAS

To: Members of the Senate Special
Committee on Oil and Gas

From: Committee staff

Re: SB 261, Sectional Analysis

Date: April 11, 1989

Section 1. Purpose:

The purpose of this act is to provide the state's residents with assurance that their health and safety needs will be protected from the effects of oil and hazardous substance releases.

Section 2. AS. 46.04

Chapter 4, Oil Pollution Control, is amended by adding new sections to require oil and hazardous substance discharge and prevention contingency plans.

AS 46.04.200. State Master Plans

The Department of Environmental Conservation shall prepare and annually review and revise a statewide master oil and hazardous substance discharge and prevention plan. This plan must consider the elements of the oil discharge contingency plan required to be submitted for oil terminal facilities, offshore exploration or production facilities, or for tank vessels or barges.

The plan should clarify and specify the responsibilities of state, federal and municipal agencies, the operators of facilities and other private parties regarding assessment, containment, and cleanup of a catastrophic oil discharge or a significant discharge. The master plan should specify the responsibilities of the above groups in an emergency response and identify the actions necessary to reduce the likelihood of catastrophic releases.

The commissioner shall consult with local officials and regional representatives of organizations and may submit a draft plan for public review.

AS 46.04.210. Regional Master Plan

The department shall prepare and annually review a regional master plan for an area where a oil discharge contingency plan is required. The commissioner will determine the boundaries of the area by regulation. The regional plan is subject to the criteria specified for the master state plan.

Section 3. AS 46.08.040. Purposes of the Fund.

This section of existing law, dealing with the uses of the oil and hazardous substance release fund, is amended to include the cost of preparing, revising and reviewing the master and regional oil discharge and prevention contingency plans. It also amends the section to allow restoration of the environment as a purpose for which the fund can be used.

Section 4. Preparation of Initial Plans.

The plans should be presented to the legislature and the governor by July 1, 1990.

RECEIVED APR 11 1989

STATE OF ALASKA
THE LEGISLATURE

POUCH Y STATE CAPITOL
JUNEAU ALASKA 99811
907 465 3800

LEGISLATIVE AFFAIRS AGENCY

MEMORANDUM

April 11, 1989

SUBJECT: Senate Bill 261, relating to preparation and annual review of oil and hazardous substance discharge and contingency plans, and to their implementation -- sectional analysis

TO: Senator Jim Duncan

FROM: Jack Chenoweth
Legislative Counsel



This legislation adds to the duties of the Department of Environmental Conservation responsibility to prepare and annually review and revise (1) a master oil and hazardous substance discharge and prevention contingency plan for the state, and (2) regional oil and hazardous substance discharge and prevention contingency plans for certain regions of the state. The legislation identifies a source of money for that preparation, review, and revision, and makes related changes.

Bill section 1 states the purpose of the legislation.

The principal substantive additions are set out in bill section 2. Proposed AS 46.04.200 adds the requirement of a state master oil and hazardous substance discharge and prevention contingency plan and specifies the contents of that plan, the assignment of responsibilities made under the plan, and action that agencies should take to implement the plan. Preparation of the plan should take into consideration the content of oil discharge contingency plans filed by companies required to develop and obtain approval of those plans under AS 46.04.030. The section directs that, in the preparation and annual revision of the plan, the commissioner shall consult with parties designated and may submit the proposed draft for public review and comment.

Proposed AS 46.04.210, also added by bill section 2, adds parallel provisions for the development, revision, and re-

view of regional master plans. Under AS 46.04.210(a), the commissioner is to develop a regional master plan for a region, whose boundaries are determined by the commissioner, "in which the department is required to review and approve an oil discharge contingency plan submitted . . . under AS 46.04.030."

Bill section 3 amends AS 46.08.040, a section of state law defining the objectives or purposes of the state's oil and hazardous substance release response fund. The amendment made by the bill section adds to the purposes for which use of the fund balance is authorized the preparation, review, and revision of these plans, the investigation and evaluation of a release or threatened release of oil or a hazardous substance, and the restoration of the environment following a release of oil or a hazardous substance.

Bill section 4, an uncodified section, directs the commissioner of environmental conservation to prepare the initial state master plan and any initial regional master plans by July 1, 1990.

The legislation is given an immediate effective date by bill section 5.

JC:gc
WKG9/043

NEWS RELEASE

APRIL 5, 1989

SENATOR JIM DUNCAN

P.O. Box V, JUNEAU, ALASKA 99811

465-4766

INTRODUCTION OF SENATE BILL 261,
AN ACT REQUIRING THE DEPARTMENT OF ENVIRONMENTAL CONSERVATION TO
PREPARE AND ANNUALLY REVIEW AND REVISE A MASTER OIL AND HAZARDOUS
SUBSTANCE DISCHARGE AND PREVENTION CONTINGENCY PLAN FOR THE STATE
AND REGIONAL OIL AND HAZARDOUS SUBSTANCE DISCHARGE AND PREVENTION
CONTINGENCY PLANS FOR CERTAIN REGIONS OF THE STATE.

SENATOR JIM DUNCAN (D), JUNEAU, TODAY INTRODUCED LEGISLATION
WHICH WILL REQUIRE THE DEPARTMENT OF ENVIRONMENTAL CONSERVATION
TO PREPARE AND MAINTAIN A MASTER PLAN SPECIFYING RESPONSIBILITIES
OF ALL PARTIES AFFECTED BY AN OIL OR HAZARDOUS SUBSTANCE
DISCHARGE. UNDER CURRENT LAW, THE DEPARTMENT OF ENVIRONMENTAL
CONSERVATION IS REQUIRED TO REVIEW THE OIL DISCHARGE CONTINGENCY
PLANS FOR OIL TERMINAL FACILITIES, BUT NO STATE MASTER PLAN ON
HOW TO DEAL WITH OIL SPILLS CURRENTLY EXISTS.

NEWS RELEASE
SENATE BILL 261
APRIL 5, 1989

"I THINK IT IS WOEFULLY APPARENT THAT THE STATE MUST BE THE POLICY MAKER AND LEADER IN THE AREA OF SPILL CLEANUPS," SAID DUNCAN TODAY IN JUNEAU. DUNCAN CONTINUED, "WE MUST TAKE A PRO-ACTIVE APPROACH TO THE PROTECTION OF OUR ENVIRONMENT, WE CANNOT SIMPLY REACT AFTER THE FACT TO OIL SPILLS SUCH AS THE RECENT DISASTER IN VALDEZ."

SENATE BILL 261 WILL REQUIRE THAT THE DEPARTMENT OF ENVIRONMENTAL CONSERVATION PREPARE STATE-WIDE AND REGIONAL PLANS BY JULY 1, 1990 WHICH CLEARLY STATE THE RESPONSIBILITIES OF ALL PARTIES WITH RESPECT TO CATASTROPHIC OIL OR HAZARDOUS SUBSTANCE DISCHARGE. "I, FOR ONE, DO NOT WANT TO SEE ANOTHER CATASTROPHE OCCUR WHERE THE STATE AGENCIES, MUNICIPALITIES AND THE OIL COMPANIES DON'T CLEARLY KNOW WHAT ACTIONS EACH SHOULD TAKE IMMEDIATELY TO MITIGATE THE DAMAGE", SAID DUNCAN.

IN ADDITION, DUNCAN'S BILL WILL ALLOW THE DEPARTMENT OF ENVIRONMENTAL CONSERVATION TO USE FUNDS FROM THE OIL AND HAZARDOUS SUBSTANCE RELEASE RESPONSE FUND TO INVESTIGATE AND EVALUATE THE RELEASE OF THREATENED RELEASE OF OIL OR HAZARDOUS SUBSTANCES AND TO PREPARE THE STATE AND REGIONAL MASTER PLANS FOR SPILL CONTAINMENT. THE FUND COULD ALSO BE USED TO RESTORE THE ENVIRONMENT BY ADDRESSING THE EFFECTS OF AN OIL OR HAZARDOUS SUBSTANCE RELEASE.

NEWS RELEASE
SENATE BILL 261
APRIL 5, 1989

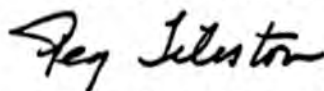
"THIS BILL ESTABLISHES WHAT THE RULES WILL BE FROM HERE ON OUT FOR ANYONE EXTRACTING, TRANSPORTING, OR USING OIL OR HAZARDOUS SUBSTANCES IN THE STATE OF ALASKA," SAID DUNCAN. HE CONTINUED, " IT SETS UP REQUIREMENTS FOR PREVENTION, CONTAINMENT, CLEAN-UP AND RESTORATION IN THE CASE OF AN ACCIDENT. I FEEL THAT WE OWE IT TO THE RESIDENTS OF THIS STATE TO PROTECT ALASKA'S ENVIRONMENT."

Alaska Water Resources Board
Resolution No. 89-17

Authority For Immediate Oil Spill Response by
State or Federal Authorities

- WHEREAS: Recent oil spills by tankers and other vessels in Alaska waters have demonstrated that immediate and effective response may make a critical difference between success or failure of the eventual containment and clean-up of the spill; and
- WHEREAS: Conventional assumptions regarding the vessel and cargo owner's responsibility hold that the owners must be given first opportunity to take effective measures to contain and clean-up the spill, and that only after a demonstrated failure to do so may the state or federal agencies assume control of the clean-up and control strategy; and
- WHEREAS: The vessel and cargo owners' motivations and actions regarding clean-up may in some instances be influenced by economic rather than environmental considerations; and
- WHEREAS: The potential for delay while inadequate or ineffective control measures are attempted has potentially drastic consequences for the natural environment and the economic livelihood of Alaskans.
- NOW THEREFORE BE IT RESOLVED: The Alaska Water Resources Board urges the Governor to request that the Attorney General analyze any legal constraints on the ability of the State to enact legislation permitting the Alaska Department of Environmental Conservation or the U.S. Coast Guard, as appropriate, to take control of the containment and clean-up of an oil spill immediately after it is discovered, if the agency has reason to believe that effective response may otherwise be delayed, or the resources potentially affected are of such high value, that immediate governmental direction is required.

Adopted this 9th day of March, 1989
Alaska Water Resources Board



Peg Tileston, Chairwoman
Alaska Water Resources Board