

ALASKA LEGISLATURE SPECIAL COMMITTEE/SUBJECT FILE 8672
2040 SCOMM 78: SENATE SPEC. COMM. ON OIL & GAS, 1991-1992

58

(ii) an oil discharge equal to 80 percent of the total cargo capacity, or 300,000 barrels, whichever is less, within the shortest possible time beyond 72 hours; the plan must demonstrate that any equipment, personnel, and other resources maintained outside the region of operation for response to an oil discharge of this magnitude are immediately accessible to the plan holder and will be deployed and operating at the discharge site within 72 hours;

(B) if the vessel or barge has a total cargo capacity of 500,000 barrels or more:

(i) a discharge equal to 300,000 barrels, within 72 hours; and

(ii) a discharge equal to 60 percent of the total cargo capacity, within the shortest possible time beyond 72 hours; the plan must demonstrate that any equipment, personnel, and other resources maintained outside the region of operation for response to a discharge of this magnitude are immediately accessible to the plan holder and will be deployed and operating at the discharge site within 72 hours;

(6) for a non-crude oil tank vessel or oil barge, contain and control 15 percent of the total cargo capacity within 48 hours, and clean up the discharge within the shortest possible time consistent with keeping damage to the environment at a minimum.

(b) Except for a spill size described in (a)(5)(A)(ii) or (a)(5)(B)(ii) of this section, the response equipment, personnel, and other resources necessary to meet the oil spill response standards in (a) of this section must be maintained within the plan holder's region of operation. (Eff. / /91, Register)

Authority: AS 46.03.020
AS 46.04.030
AS 46.04.070

18 AAC 75.345. CONTAINMENT, CONTROL, AND CLEANUP REQUIREMENTS. (a) The contingency plan must provide for the use of mechanical response methods of oil control, containment, and cleanup to meet the spill volume preparedness standards in 18 AAC 75.340(a). Mechanical response equipment used to meet the requirements of this subsection must consist of the best available technology. For use in water, response equipment and vessels must be designed to operate effectively in 30-knot winds, 1.5-knot currents, and 10-foot waves, except in areas where the plan demonstrates that environmental conditions of that severity do not occur. The department will, in its discretion, require, as a condition of plan approval, that the plan holder take specific prevention measures, including the temporary cessation of operations until environmental conditions improve, to eliminate or significantly reduce the risk and magnitude of an oil discharge during periods when mechanical spill response methods are rendered ineffective by environmental conditions.

(b) For an oil discharge greater than 500 gallons into water, the response procedures section described at 18 AAC 75.320(c)(3) must include procedures for surveillance, including overflights during daylight hours, or other appropriate means to track movement of the oil, followed by immediate reporting of the spill trajectory information to spill response personnel identified in the plan. The information obtained from spill surveillance and tracking must be used to provide continually updated maps to guide the spill response, based on predictive information regarding currents, tides, and winds, the trajectory of the oil, and expected points and times of contact with the shoreline or other sensitive environmental areas.

(c) For a facility or operation with the potential for discharge into water, the plan must commit to storing and maintaining enough types and amounts of boom, boom connectors, and anchorage devices of the appropriate design for the particular oil product, type of environment, and environmental conditions experienced at the facility or operation. The boom must be of sufficient length to contain the volumes of discharged oil described at 18 AAC 75.340 for each type of facility or operation.

(d) The contingency plan must demonstrate that vessels used to deploy and tow boom must be of a number and size adequate to deploy the boom to meet the response standards of 18 AAC 75.340, and be capable of operating in the manner and at the speeds necessary for the effective use of boom.

(e) The contingency plan must demonstrate that enough oil discharge response equipment, personnel, and other resources are available to exclude spilled oil from sensitive environmental areas and areas of public concern identified in the plan or included as a condition of plan approval by the department. The equipment and other resources for this purpose must be maintained separately from other response resources for the specific purpose of protecting environmentally sensitive areas and areas of public concern. A separate team of response personnel must be identified who will be responsible for deploying the exclusion equipment during a spill. The plan must demonstrate that the exclusion equipment and personnel will be deployed on a time schedule that will protect the identified sensitive environmental areas and areas of public concern before oil reaches those areas under the predicted oil trajectories for an oil discharge of the volume set out at 18 AAC 75.340.

(f) The contingency plan must demonstrate that sufficient lightering equipment and personnel are available to transfer all oil from damaged and undamaged tanks which may be at risk if a spill occurs. Lightering must be completed within 48 hours. Lightering equipment and connecting valves and pumps must be compatible with the facility or vessel to be lightered. The equipment, personnel, and other lightering resources must be maintained separately from other spill response resources and identified for that purpose.

(g) The contingency plan must describe the procedure and the schedule for stopping the discharge from an exploration or production well blowout in the shortest possible time. For an exploration facility, drilling below threshold depths must cease each year in enough time to stop the discharge within the same season and before ice or other environmental conditions make relief well drilling impossible.

(h) The contingency plan must demonstrate that the number and size of skimmers and pumps to be used is adequate for recovery of the type of oil product, the volume of discharged oil, and within the time set for cleanup in 18 AAC 75.340 for each type of facility or operation. Transfer pumps must be compatible with the oil recovery equipment used. In demonstrating the adequacy of the oil recovery equipment, the contingency plan must use realistic efficiency rates for the type of cleanup operation involved to account for the loss in efficiency from the manufacturer's nameplate efficiency rates in actual field recovery operations.

(i) The contingency plan must demonstrate the availability of adequate temporary storage and removal capacity for recovered oil and oily wastes at the site of the spill or nearby to keep up with the skimming and recovery operations and to meet the applicable time limit for control, containment, and cleanup in 18 AAC 75.340.

(j) The contingency plan must demonstrate the onsite ability to separate water from recovered oily water so that any discharge of the recovered water to state waters will meet the requirements of 18 AAC 70. (Eff. / /91, Register)

Authority: AS 46.03.020

AS 46.04.030

AS 46.04.070

18 AAC 75.350. REQUIREMENTS FOR TRANSFERS BETWEEN PLAN HOLDERS. (a) If approved by the department under this section, a plan holder may furnish to another plan holder, equipment, materials, or personnel to assist in a response to an oil discharge. A description of the proposed transfer which addresses each of the considerations set out in (b) of this section must be included as part of the contingency plan submitted for approval for each plan holder.

(b) The department will, in its discretion, approve a transfer under this section after considering

(1) for a plan holder providing equipment, materials, or personnel:

(A) the amount and types of equipment, personnel, or other resources to be transferred in response to a spill and where it will be transferred;

(B) the number and type of other plan holders reliant upon the provider's response equipment, personnel, and other resources;

(C) the percentage of the provider's response capability that will be reduced by the transfer;

(D) the ability of the provider to replace the response equipment if it is not returned as required by (d) of this section, and an estimate of the time required to replace the equipment;

(E) an estimate of equipment and material breakdown, failure, loss, or destruction that might delay or prevent its return to the provider; and

(F) the ability of the provider to acquire and deploy alternate response equipment if an emergency discharge occurs while equipment, materials, or personnel are transferred;

(2) for a plan holder receiving the equipment:

(A) whether the transfer is part of the recipient's approved contingency plan; and

(B) the time estimated for the response equipment to reach the discharge.

(c) The department will, in its discretion, attach terms and conditions to an approval issued under (b) of this section.

(d) A transfer of equipment, materials, or personnel must be returned or replaced to the provider within 30 days unless the department approves a continuation of the transfer.

(e) The provider shall reorder and replace

(1) equipment or materials exhausted, lost, destroyed, or rendered inoperable as soon the condition is known by the provider; and

(2) equipment and materials expected not to be returned, such as sorbent boom, sorbent pads, dispersant, as soon as they are transferred.

(f) If equipment or materials are not replaced within 30 days from the date of known inoperability or transfer, the plan holder may request an extension from the department. If the extension is denied, the provider shall file for an amendment of its approved contingency plan under 18 AAC 75.310.

(g) Except in response to a major or catastrophic discharge, a plan holder may not transfer response resources to another plan holder if the provider's spill response capability would be reduced to less than 40 percent of the response planning standard established in its contingency plan. If a major or catastrophic oil discharge occurs, the department will, in its discretion, approve an immediate transfer of up to 100 percent of the response equipment, personnel, and other resources.

(h) The department will issue a verbal approval of transfer if the discharge poses an imminent threat to life, property, the environment or other significant public concerns. If the verbal approval is not confirmed in writing within 10 days, the verbal approval is considered withdrawn.
(Eff. / /91, Register)

Authority: AS 46.03.020
AS 46.04.030
AS 46.04.070

18 AAC 75.355. TRAINING. The plan holder shall provide training for designated oil spill response personnel. Training must, at a minimum, be equal to the standards set by the U.S. Occupational Safety and Health Administration or the Alaska Department of Labor, whichever is more stringent, for personnel engaged in oil spill response. In addition, the plan holder shall ensure that personnel are trained and kept current in the specifics of implementation of the contingency plan, including deployment of containment boom, operation of skimmers and lightering equipment, and organization and mobilization of personnel and resources. (Eff. / /91, Register)

Authority: AS 46.03.020
AS 46.04.030
AS 46.04.070

18 AAC 75.360. DEPARTMENT REVIEW PROCEDURES. (a)
Within 10 days after receipt of an application for approval, the department will review the application and the accompanying contingency plan to determine if they are complete. If the department finds that the content or organization of the application or plan is incomplete, it will notify the applicant, identifying the information required to complete the application or plan.

(b) If the application and the accompanying contingency plan are complete, the department will then begin a 65-day review of the application and the plan, and will

(1) send one copy of the application and the contingency plan, with a notice setting a 34-day comment deadline to

- (A) the Department of Natural Resources;
- (B) the Department of Fish and Game; and
- (C) any affected coastal resource district if the facility or operation is in or directly affects Alaska's coastal zone.

(2) publish two consecutive public notices of the application in a newspaper of general circulation in the area that would be affected by the facility or operation. The notice will include

- (A) the name of the applicant, and the location of the facility or operation covered by the contingency plan;
- (B) a brief description of the proposed facility or operation;
- (C) a statement that copies of the plan are available for review at the department's regional office;
- (D) a statement that any person may comment on the application and the contingency plan by filing written comments with the department's regional office before the deadline stated in the notice; and
- (E) a statement that the state's review of the plan for consistency with the Alaska Coastal Management Program for a facility or operation in or directly affecting Alaska's coastal zone will be coordinated by
 - (i) the department for a facility or operation that does not require federal authorization, or state authorization other than the department's; or

(ii) the division of governmental coordination for a facility or operation which requires state or federal authorizations in addition to the department's approval under this chapter.

(c) If, during the review period, the department finds, on its own initiative, or at the request of a resource agency, affected local government, or affected coastal resource district, that additional information is needed to evaluate the plan, the department will notify the applicant of the information needed by the department and the deadline for submitting the information. The time period for review of the contingency plan will be suspended until the additional information is received. If the applicant fails to provide the requested information within 60 days after receiving the department's request, the department will disapprove the plan.

(Eff. / /91, Register)

Authority: AS 46.03.020

AS 46.04.030

AS 46.04.070

18 AAC 75.365. DEPARTMENT DECISION. (a) After considering the information, analyses, and commitments contained in a complete application for a contingency plan approval, and timely comments submitted by resource agencies, coastal resource districts, and the public, the department will use the criteria set out in this section, and its best professional judgment, in its decision to approve, disapprove, or conditionally approve the contingency plan.

(b) The department's decision on an application for approval of a contingency plan will be issued within 65 days after the application was found to be complete under 18 AAC 75.360, unless an extension is required under 18 AAC 75.360(c). The decision will include

(1) the department's certification approving the plan required by AS 46.04.030(d), including any terms and conditions necessary for approval, or a written disapproval of the plan; and

(2) a statement that a person aggrieved by the department's decision may request an adjudicatory hearing under 18 AAC 15.200.

(c) The department's decision will also be sent to each person who submitted timely comments on the application for approval of the plan.

(d) The department's approval of a contingency plan is effective for no more than three years after the date it is issued. (Eff. / /91, Register)

Authority: AS 46.03.020
AS 46.04.030
AS 46.04.070

18 AAC 75.370. PROOF OF APPROVED CONTINGENCY PLAN. (a)

The owner or operator of an oil terminal facility may not load oil onto, or unload oil from, a tank vessel or oil barge unless

(1) the operator of the vessel or barge has certified to the facility owner or operator, on a form supplied by the department, that

(A) the tank vessel or oil barge is operating under a current contingency plan approved under this chapter; and

(B) a copy of the current emergency action plan section of the approved plan is on board the tank vessel or oil barge; and

(2) the operator of the vessel or barge has produced for inspection by the facility owner or operator the original, or a true and authentic photocopy of the original, of the department certificate approving the plan.

(b) The owner or operator of an oil terminal facility shall verify on the certification form received from the vessel or barge operator under (a)(1) of this section that the department certificate approving the plan was inspected and found to be a valid, current approval under this chapter, and that the approved emergency action plan was on board the vessel. The facility owner or operator shall then submit the original certification form to the nearest district office within seven days. Service is effective upon personal delivery or transmittal by facsimile to the nearest district office, or on the date of mailing by certified mail to the nearest district office. The department will retain copies of all forms received under this subsection for at least three years after receipt.

(c) On the first working day after a failure or refusal of an operator of a tank vessel or oil barge to comply with the requirements of this section, the facility owner or operator shall report that refusal to the nearest district office by telephone or facsimile.

(d) Verification of the approved contingency plan is required for each separate loading or unloading operation of a tank vessel or oil barge.
(Eff. / /91, Register)

Authority: AS 46.03.020
AS 46.04.030
AS 46.04.050
AS 46.04.070
AS 46.04.900

18 AAC 75.375. CONTINGENCY PLAN MAINTENANCE AND PERFORMANCE REQUIREMENTS. (a) If a significant change is made to any component of a contingency plan which would affect the plan holder's response capability, the plan holder shall, within 24 hours, notify the department in writing and provide a schedule for its prompt return to operational status. A facsimile delivered to the nearest regional office will be considered written notice for the purposes of this subsection. If the department finds that, as a result of the change, the plan holder is no longer able to execute the contingency plan, it will, in its discretion,

- (1) revoke its approval in accordance with 18 AAC 75.390; or
- (2) amend its approval of the plan in accordance with 18 AAC 75.310.

(b) At least every six months, the plan holder shall

- (1) review and update the names, addresses, and telephone numbers of personnel listed in the contingency plan;
- (2) submit a letter notifying the regional office of any changes since the last update;
- (3) update all copies of its response procedures and emergency action plan; and

(4) test communications equipment listed in the contingency plan.

(c) Equipment to be used for control, containment, or cleanup must be maintained in operational condition. Any equipment, including communications equipment, found not to be operating properly must be repaired or replaced immediately. (Eff. / /91, Register)

Authority: AS 46.03.020
AS 46.04.030
AS 46.04.070

18 AAC 75.380. INSPECTIONS. To verify compliance with the contingency plan provisions of AS 46.04.030 and this chapter, the department will, in its discretion, conduct announced and unannounced inspections of oil facilities and operations. (Eff. / /91, Register)

Authority: AS 46.03.020
AS 46.04.030
AS 46.04.060
AS 46.04.070

18 AAC 75.385. DISCHARGE EXERCISES. (a) The department will, in its discretion, conduct announced and unannounced discharge exercises to assure that the contingency plan is adequate in its content and execution. No more than two exercises will be required of a plan holder in each 12-month period, unless an exercise demonstrates, in the department's judgment, the plan holder's failure to effectively implement the contingency plan.

(b) The plan holder will be considered to have failed a discharge exercise if there is a significant shortfall in the readiness for response and response performance stated in the plan, due to inadequate mobilization or performance of personnel, equipment, other resources, or other factors.

(c) If the plan holder fails a discharge exercise, the department will, in its discretion, require additional exercises until it is satisfied that the contingency plan and its execution are adequate, or will take other appropriate action as described at 18 AAC 75.390.

(d) If the department finds, through a discharge exercise, that the plan holder is unable to execute the contingency plan, it will, in its discretion, take the appropriate action described at 18 AAC 75.390.

(e) The department will, in its discretion, consider a regularly scheduled training exercise initiated by the plan holder as a discharge exercise if the department monitors, evaluates, or participates in the exercise and concurs that it is equivalent to a discharge exercise conducted by the department. The plan holder shall notify the department in advance of the exercise, and provide an opportunity for a representative of the department to be present and participate. (Eff. / /91, Register)

Authority: AS 46.03.020
AS 46.04.030
AS 46.04.070

18 AAC 75.390. FAILURE TO COMPLY. (a) If a plan holder fails to comply with an approved contingency plan, demonstrates an inability to carry out the approved plan, or is in any other way subject to the requirements of AS 46.04.030(f)(1)--(4), the department will, in its discretion,

(1) revoke its approval of a contingency plan after notice and opportunity for hearing under (d) of this section;

(2) order the plan holder to file an application to amend the plan under 18 AAC 75.3__; or

(3) take other necessary action to correct the failure to comply.

(b) If the plan holder's performance during an oil spill response, inspection, or drill fails to demonstrate an ability to implement the contingency plan, the department will, in its discretion, require the applicant to take corrective action as is necessary to achieve compliance with the approved plan.

(c) If the plan holder's performance during an oil spill response, inspection, or drill discloses shortcomings in the plan as approved, the department will, in its discretion, require the plan holder to apply under 18 AAC 75.310 for an amendment to the plan within 60 days after receiving notice from the department under this subsection. If the plan holder fails to apply for an amendment as requested, the department will revoke its approval of the plan after notice and opportunity for hearing under (d) of this section.

(d) If the department issues a notice of intent to revoke an approval under this chapter, the plan holder may request a hearing to review that decision. The request for review must be made in writing within 10 days after the plan holder receives the department's notice, must be submitted to the regional supervisor, and must include

(1) the name, mailing, address, and telephone number of the plan holder; and

(2) a brief, clear summary of the reasons for requesting the review.

(e) A hearing under this section will be held within 10 working days after the department receives a request for hearing, unless the department and the plan holder agree that the hearing will be held at another time. Immediately after receiving a request for review under (d) of this section, the department will send notice by facsimile to the plan holder of the time and place of the hearing.

(f) If the plan holder fails to appear for the hearing at the time and place stated by in the notice issued under (e) of this section, and if a delay has not been granted by the department, the failure to appear will be considered a waiver of the plan holder's right to a hearing.

(g) A hearing under this section will be recorded, will be heard by the regional supervisor or a designee, and will be informal. The plan holder may

(1) present witnesses and evidence in his or her own behalf;
and

(2) question witnesses, and seek to disprove evidence presented by the department.

(h) Within 10 working days after a hearing under this section, the regional supervisor will issue a final decision, stating the reasons for the decision, and indicating the evidence relied upon in reaching that decision. (Eff. / /91, Register)

Authority: AS 46.03.020
AS 46.04.030
AS 46.04.070

18 AAC 75.395 and 18 AAC 75.600 are repealed and consolidated with 18 AAC 75.900

18 AAC 75.395. Repealed / /91.

18 AAC 75.600. Repealed / /91.

18 AAC 75.395. REGIONAL MASTER CONTINGENCY PLAN. (a)
The regions described in (1) -- (10) of this subsection, and depicted on the map at Figure 1, are established for the purpose of preparing Regional Master Oil and Hazardous Substance Discharge and Prevention Contingency Plans as required by AS 46.04.210:

(1) **Southeast Alaska Region:** that area of the state east of 142° W. longitude and south of a line just west of Icy Bay that connects the U.S.-Canadian border with the Gulf of Alaska, including adjacent shorelines and state waters, and having as its seaward boundary a line drawn in such a manner that each point on it is 200 nautical miles from the baseline from which the territorial sea is measured;

(2) **Prince William Sound Region:** that area south of 63°30' N. latitude, west of the region described in (1) of this subsection, and east of the region described in (3) of this subsection, including adjacent shorelines and state waters, and having as its seaward boundary a line drawn in such a manner that each point on it is 200 nautical miles from the baseline from which the territorial sea is measured;

(3) **Cook Inlet Region:** that area encompassed by the boundaries of the Kenai Peninsula Borough, the Municipality of Anchorage, and the Matanuska-Susitna Borough, including adjacent shorelines and state waters, and having as its seaward boundary a line drawn in such a manner that each point on it is 200 nautical miles from the baseline from which the territorial sea is measured;

(4) **Kodiak Island Region:** that area encompassed by the boundaries of the Kodiak Island Borough, including adjacent shorelines and state waters, and having as its seaward boundary a line drawn in such a manner that each point on it is 200 nautical miles from the baseline from which the territorial sea is measured;

(5) **Aleutian Region:** that area encompassed by the boundaries of the Aleutians East Borough and the Aleutians West Coastal Resource Service Area, including adjacent shorelines and state waters, and having as its seaward boundary a line drawn in such a manner that each point on it is 200 nautical miles from the baseline from which the territorial sea is measured;

(6) **Bristol Bay Region:** that area encompassed by the boundaries of the Bristol Bay Coastal Resource Service Area, the Bristol Bay Borough, and the Lake and Peninsula Borough, including adjacent shorelines and state waters, and having as its seaward boundary a line drawn in such a manner that each point on it is 200 nautical miles from the baseline from which the territorial sea is measured;

(7) **Western Alaska Region:** that area north of the area described in (6) of this subsection, encompassed by the boundaries of the southernmost boundary of the Bering Straits Regional Corporation, and Regional Education Attendance Area 11 and 5, including adjacent shorelines and state waters, and having as its seaward boundary a line drawn in such a manner that each point on it is 200 nautical miles from the baseline from which the territorial sea is measured;

(8) **Northwest Arctic Region:** that area encompassed by the Northwest Arctic Borough and the Bering Straits Regional Corporation, including adjacent shorelines and state waters, and having as its seaward boundary a line drawn in such a manner that each point on it is 200 nautical miles from the baseline from which the territorial sea is measured;

(9) **North Slope Region:** that area encompassed by the boundaries of the North Slope Borough, including adjacent shorelines and state waters, and having as its seaward boundary a line drawn in such a manner that each point on it is 200 nautical miles from the baseline from which the territorial sea is measured; and

(10) **Interior Alaska Region:** that area of the state not included in (1) -- (9) of this subsection.

(b) If the department finds that the realistic maximum discharge that could occur in an area beyond the territorial sea would not have a significant adverse impact on the resources of the state or on other interests of the state, the department will, in its discretion, adjust the seaward boundary of a region established in (a) of this section to exclude that area. (Eff. 1/1/91, Register)

Authority: AS 46.04.210

18 AAC 75.900 is repealed and readopted to read:

18 AAC 75.900. DEFINITIONS. Unless the context indicates otherwise, in this chapter

(1) "applicant" means a person, including a public or private corporation, partnership, association, or any federal, state, or local government, who files an application for approval of an oil discharge prevention and contingency plan as follows:

(A) for a corporation, a principal executive officer of at least the level of vice president or the corporation's duly authorized representative;

(B) for a partnership, a general partner;

(C) for a sole proprietorship, the proprietor; and

(D) for a municipal, state, federal, or other public facility, either a principal executive officer, ranking elected official, or other duly authorized employee;

(2) "area of public concern" means a geographic area which, because of its value to the public, deserves protection from an oil discharge, including

(A) an area of unique cultural value, historical significance, or scenic importance;

(B) an area of substantial public recreational value or opportunity;

(C) an area where facilities such as fish hatcheries and farms are dependant upon the use of potentially affected water; and

(D) an area used for commercial, sport, or subsistence hunting, fishing, and gathering;

(3) "complete and appropriate response" means a response to an oil discharge that meets the requirements of AS 46.04.030 and this chapter;

(4) "contingency plan" means an oil discharge prevention and contingency plan approved under this chapter;

(5) "control" means to stop or restrict the movement of an oil discharge;

(6) "department" means the Alaska Department of Environmental Conservation;

(7) "dispersant" means a chemical agent used to enhance the breakup of concentrations of discharged oil into droplets, thereby promoting mixing of oil into the water column and accelerating dilution and degradation rates;

(8) "environmentally sensitive area" means a geographic area that is sensitive to change or alteration, including

(A) an area of unique, scarce, fragile, or vulnerable natural habitat;

(B) an area of high natural productivity or essential habitat for living resources;

(C) an area of unique geologic or topographic significance which is susceptible to an oil discharge; and

(D) an area needed to protect, maintain, or replenish land or resources, including flood plains, aquifer recharge areas, beaches, and offshore sand deposits;

(9) "estuary" means a semi-enclosed, coastal body of water which has a free connection with the sea and within which seawater is measurably diluted with freshwater derived from land drainage;

(10) "facility" or "facility or operation" mean an oil terminal facility, a tank vessel or oil barge, a pipeline, or an exploration or production facility;

(11) "freshwater wetlands" means those environments characterized by rooted vegetation that is partially submerged either continuously or periodically by surface freshwater with less than .5 parts per thousand salt content and not exceeding three meters in depth;

(12) "hazardous substance" means an element or compound that, when it enters into or upon the water or surface or subsurface land of the state, presents an imminent and substantial danger to the public health or welfare or to fish, animals, vegetation, or any part of the natural habitat in which they are found, and includes poisons, pesticides, acids, caustics, infectious or pathological wastes, chemical toilet wastes, radioactive materials, solvents, toxic heavy metals, and oil;

(13) "inside waters of Southeast Alaska" includes all those marine waters lying inside the boundary line established in 33 C.F.R. 82.1705-1730, 42 Federal Register 35791 (July 11, 1977);

(14) "lightering" means pumping or transferring of oil from the cargo compartment of one vessel, barge, storage tank, or container to another vessel, barge, storage tank, or container;

(15) "local government" means any borough, city, town, village, or other political subdivision of the state, any Indian tribe or authorized tribal organization, and includes any rural community or unincorporated town or village;

(16) "major discharge" means a discharge of oil

(A) over 10,000 gallons on inland waters;

(B) over 100,000 gallons on coastal waters; or

(C) in any amount that results in a release that

(i) might require evacuation or sheltering of nearby residents or businesses; or

(ii) causes a serious environmental threat;

(17) "marine water" means all saltwater environments, including saltwater wetlands, estuaries, and the intertidal zone;

(18) "mechanical response method" means the use of containment booms, skimmers, and other apparatus, and equipment required for deployment and operation, to contain, recover, transfer, store, or dispose of oil;

(19) "minor discharge" means a discharge of oil

(20) "oily waste" means any material, including water, that has been contaminated by or mixed with oil in other than naturally occurring circumstances;

(21) "open burning" means the burning of any material so that the products of combustion are emitted directly into the ambient air without passing through a stack or flare;

(22) "operations" means the structures, equipment, and activities included in AS 46.04.900 for exploration facilities, tank vessels, barges, pipelines, production facilities, and oil terminal facilities;

(23) "person in charge" includes, in addition to the person causing or permitting the discharge

(A) for vessels, the master;

(B) for vehicles, the operator; and

(C) the person exercising a possessory interest in the facility or operation at the time of the discharge, unless the possessory interest is being exercised solely for the purpose of providing a place of residence for the person;

(24) "permafrost" means soil or other earth material supporting vegetation with a temperature that remains below 32 degrees Fahrenheit for two or more years;

(25) "pesticide" means any chemical or biological agent intended for preventing, destroying, repelling, or mitigating plant or animal life, and any substance intended for use as a plant regulator, defoliant, or desiccant, including insecticides, fungicides, rodenticides, herbicides, nematocides, and biocides;

(26) "plan" means contingency plan;

(27) "plan holder" means an applicant who has received department approval for an oil discharge prevention and contingency plan, and who is responsible for compliance with the plan as approved;

(28) "Prince William Sound" includes all marine water lying inside the boundary line established in 33 C.F.R. 82.1705-1730, 42 Federal Register 35791 (July 11, 1977);

(29) "resource agencies" means the Alaska Department of Natural Resources and the Alaska Department of Fish and Game;

(30) "saltwater wetlands" means those coastal areas along sheltered shorelines characterized by halophytic hydrophytes and macroalgae extending from extreme low tide to an area above extreme high tide which is influenced by sea spray or tidally induced water table changes;

(31) "sheen" means an iridescent appearance on the surface of the water;

(32) "significant change" means

(A) a nonoperation or removal from designated storage of significant equipment or materials;

(B) a management or ownership change resulting in new chain-of-command or lead response personnel,;

(C) a change in response contractors;

(D) a change in spill control or cleanup strategies; or

(E) any factor which significantly alters or reduces the ability of the plan holder to respond according to the provisions of the approved contingency plan;

(33) "sludge" means a combination of solids and liquids, including an aggregate of oil or oil and matter of any other kind having a combined specific gravity equivalent to or greater than that of water;

(34) "threshold depth" means the exploratory well depth above which major accumulations of hydrocarbons are not likely. (Eff. 4/23/77, Register 62; am / /91, Register)

Authority: AS 46.03.020
AS 46.03.050
AS 46.03.710
AS 46.03.740
AS 46.03.745
AS 46.03.755
AS 46.03.900
AS 46.04.030
AS 46.04.070
AS 46.04.210
AS 46.04.900

Editor's note: Other definitions applicable to this chapter appear at AS 46.04.900.

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DIVISION OF ENVIRONMENTAL QUALITY
P.O. BOX 0, JUNEAU, AK 99811-1800

Telephone No.
(907) 465-2630

February 8, 1991

IMPLEMENTATION SCHEDULE
FOR
FINANCIAL RESPONSIBILITY REQUIREMENTS

Dear Petroleum ~~Companies~~:
Interested Parties:

The amendments to Alaska Statutes 46.04.040 that were approved in House Bill 567 during the last legislative session were signed into law and are scheduled to become effective on June 1, 1991, until this time new applications for proof of financial responsibility for vessels and facilities must meet existing statutes and regulations.

New regulations are being drafted but because of required reviews and public hearings will not be ready for formal approval until about December of this year, copies will be distributed as soon as printed.

Use of "Letters of Credit" for proof of financial responsibility is approved in the new statutes. The format has yet to be defined in the new regulations. They may not be a viable option at this time; however, we will consider them on an individual basis after June 1, 1991. There should be documentation which verifies that the letter of credit is in the form of an "irrevocable standby letter of credit" specifically to respond to damages required by AS 46.04.040. In addition, letters of credit may also be considered as part of a package for self-insurance.

All current approvals will expire on June 1, 1991. Renewal of approval requires a new application form to be completed and submitted for all vessels and facilities, along with proof of financial responsibility to meet the new financial amounts required for the next yearly period. Upon approval a certificate will be issued for each vessel and facility to show that required proof of financial responsibility has been met.

This notice will give you about 90 days to comply with the May 30 deadline for renewal of the application. The following information will help to answer questions on who must apply and the amounts of proof required under AS 46.04.040.

All vessels and facilities that are not approved by June 30, 1991 will be declared delinquent and will require a letter of

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explanation as to the reason for noncompliance. No action is anticipated to be taken against the applicant for noncompliance at this time (unless circumstances warrant action) if: the applicant shows in writing, to the department, that all means of providing proof have been exhausted; and whatever evidence of coverage that you do have is submitted (even if it does not comply to State requirements). We will assist as much as possible.

APPLICATION FOR APPROVAL

(a) Applications for approval of proof of financial responsibility must be submitted to the department by the following responsible parties:

(1) for an oil terminal facility, by the owner or the operator of facility;

(2) for an oil tanker, oil barge, or any other vessel transporting liquid bulk oil cargo (including landing craft, tenders, and factory processors as defined in AS 46.04.900), by the following responsible parties;

(A) the charterer, if the vessel or barge is chartered by demise (leased);

(B) the owner of the vessel or barge, if the agents or employees of the owner retain control and responsibility for the operation of the vessel or barge;

(C) in any other case by the person with primary operational control;

(3) for an exploration or production facility, whether mobile or fixed, by the lease holder or the operator;

(4) for a pipeline, by the lease holder or the operator.

(b) Application for approval of proof of financial responsibility must be made on forms prescribed by the department. as follows:

(1) Applicants must furnish the department with documents listed on back side of the "financial responsibility application and checklist" available from the Department of Environmental Conservation.

(2) If the applicant is an agency of the United States or the State of Alaska, evidence of financial responsibility is not required. However, the "financial responsibility application and checklist" must be submitted to the department by such agencies.

(3) If the applicant is a tank vessel or barge that is conducting, or is available only for conducting oil discharge response operations, proof of financial responsibility requirements may be exempted by the department providing,

(A) a written explanation giving details of the oil discharge response operations or proposed operations and a completed "financial responsibility application and checklist" form are submitted to the department requesting the exemption, and;

(B) the department reviews and approves the

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request.

(4) An applicant may submit a consolidated application for approval for more than one vessel, barge, terminal, pipeline, or exploration or production facility.

(5) An approval may not be transferred from one vessel, barge, terminal, pipeline, or exploration or production facility to another one or assigned to another person. An attempted transfer or assignment of an approval voids the approval.

(c) All applications described in this section must be signed upon oath or affirmation by the following persons:

(1) in the case of corporations, by a duly authorized representative responsible for the overall management of the project or operation, or his/her designee;

(2) in the case of a partnership, by a general partner;

(3) in the case of a sole proprietorship, by the proprietor; and

(4) in the case of a municipal, state, federal, or other public facility, by a duly authorized official or employee.

RENEWALS

(a) Application for renewal of financial responsibility must be made once a year. A proof of financial responsibility which extends beyond a one year period must be submitted on an annual basis by a renewal application to verify and update all current information regarding the status of the proof of financial responsibility.

(b) For a proof of financial responsibility which extends beyond a one year period the due date of the annual renewal application will be on the annual anniversary date of its effective date. An application for renewal must contain the information required by 18 AAC 20.005.

PROOF OF FINANCIAL RESPONSIBILITY, REQUIRED AMOUNTS

(a) Proof of financial responsibility must be provided to and approved by the department in the manner prescribed by 18 AAC 20.005 and 18 AAC 20.025 in the following amounts for oil terminal facilities;

(1) for crude oil terminals, \$50,000,000 per incident;

(2) for noncrude oil terminals, for each incident, \$25 per barrel of storage capacity, subject to a minimum of \$1,000,000 and a maximum of \$50,000,000;

(3) for oil terminals storing both crude and noncrude oil the following;

(A) for those with greater noncrude storage capacity than crude storage capacity, \$25 per barrel of combined storage capacity, per incident, subject to a minimum of \$1,000,000 and a maximum of \$50,000,000;

(B) for those with greater crude storage capacity the amount required is \$50,000,000.

(b) Proof of financial responsibility must be provided to and approved by the department in the manner prescribed by 18 AAC

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20.005 and 18 AAC 20.025 in the following amounts for pipelines, exploration facilities, and production facilities:

- (1) \$50,000,000 per incident for a pipeline, offshore exploration facility, or offshore production facility;
- (2) \$20,000,000 per incident for an onshore production facility;
- (3) \$5,000,000 per incident for an onshore exploration facility.

(c) Proof of financial responsibility must be provided to and approved by the department in the manner prescribed by 18 AAC 20.005 and 18 AAC 20.025 in the following amounts for tank vessels and oil barges:

- (1) for a tank vessel or barge carrying crude oil, per incident, \$300 per barrel of storage capacity subject to a minimum of \$100,000,000;
- (2) for tank vessel or barge carrying noncrude oil, per incident, \$100 per barrel of storage capacity subject to a minimum of \$1,000,000 and a maximum of \$35,000,000.

(d) An applicant who owns, operates, leases or charters more than one or any combination of a tank vessel, oil barge, oil terminal facility, pipeline, production facility or exploration facility must provide proof of financial responsibility in an amount equal to the greatest applicable requirements as prescribed in (a), (b), or (c) of this section. The department may approve such proof of financial responsibility as being applicable to all combined operations listed above providing each is named as being specifically covered by the submitted proof of financial responsibility. Additional owned, operated, leased or chartered tank vessels, oil barges, oil terminal facilities, pipelines, production facilities and exploration facilities may be added to the proof of financial responsibility by submitting a letter requesting an amendment to the application accompanied by documents that verify, to the department's satisfaction, that the additional operation is covered by the current proof of financial responsibility.

Please contact this office if you have questions.

Sincerely,

Glenn Adams
Oil Pollution Control

Deborah Voss

IMPLEMENTATION SCHEDULE
FOR INDUSTRY CONTINGENCY PLANS

TO MEET THE NEW RESPONSE PLANNING STANDARDS

- *These guidelines are intended for the transition period between the present time and the final adoption of the revised Oil Pollution Control regulations on or about December 1, 1991.*
- *These guidelines are necessary to accommodate the June 1, 1991 effective date of the planning standards provisions of HB 567.*

Existing Facilities

- *Under HB 567, all facilities are required to meet new planning standards by June 1, 1991. HB 567 requires that all contingency plans comply with these standards, whether or not they are due for renewal.*
- *In order to ensure continuing approval, existing contingency plan holders must submit to the department any necessary amendments to demonstrate compliance with the new standards by June 1, 1991. The appropriate regional offices will review these amendments and extend approvals if the amended plans meet the provisions of the new law.*
- *Upon adoption of final regulations, the plan holder must, within 60 days, notify the department of what additional amendments to the plan, if any, are necessary to demonstrate full compliance with the final regulations and prepare a contingency plan that incorporates these amendments. Each regional office will develop a schedule for submission and review of these amended plans and notify the plan holders of their required submission date.*

Newly Regulated Facilities

- *The provisions of HB 567 governing newly regulated facilities (pipelines and onshore exploration and production facilities) took effect immediately and these facilities currently must have an approved contingency plan to operate. Facilities without an approved plan will be allowed to continue operations but must submit a plan application no later than March 25, 1991. Newly regulated facilities which have already submitted a contingency plan under the current regulations must prepare and submit any necessary amendments to comply with the new standards by June 1, 1991.*
- *These contingency plans will be reviewed under the current regulations and the new planning standards set by HB 567 and, if they meet these standards, will be granted approvals by the department.*
- *Upon adoption of final regulations, the plan holder must, within 60 days, notify the department of what additional amendments to the plan, if any, are necessary to demonstrate full compliance with the final regulations and prepare a contingency plan that incorporates these amendments. Each regional office will develop a schedule for submission and review of these amended plans and notify the plan holders of their required submission date.*

REQUEST FOR ADDITION TO MAILING LIST

We have made every attempt to reach all affected parties and interested citizens in the mailing of this packet. However, if you or someone you know did not receive this packet, please complete the information below and your name will be added to our mailing list for this packet and for future mailings:

Name_____

Company/Organization_____

Address_____

City_____State_____Zip_____

Affiliation: ☐ Contingency Plan Holder

☐ Government Agency

☐ Citizens' Group

☐ Private Organization

☐ Private Citizen

☐ Other_____

Please return this form to: Willie Howard
Spill Prevention Planning and Management
Dept. of Environmental Conservation
P.O. Box O
Juneau, Alaska 99802
FAX : (907) 789-5673
PHONE : (907) 465-2630

April 3, 1991

Section Analysis - Working Draft, 18 AAC Chapter 20

005 APPLICATION FOR APPROVAL - Subsection (a) outlines "who" must submit an application for approval of financial responsibility to the department. It refers to "responsible parties" for clarification.

~~Subsection (b) explains the general "how" and "when" of the~~ application procedure and also references deviations in the process due to special circumstances.

One significant change in this subsection is the clear statement that the application "must be made on forms prescribed by the department,". You will note that section 105 - **Applicable Forms** located near the end of the current regulations has been deleted in this draft. The language inserted in subsection (b) allows the Department better flexibility in creating or changing the forms to meet the changing needs of the Department and the applicants. Forms are available upon request from the Department's Financial Responsibility Office, P.O. Box O, Juneau, AK 99811.

This subsection also makes reference to parts A & B of the Application. The drafters propose to make minor change to the current Application form, creating a Part A on the front page and Part B on the reverse. This helps to better clarify in the regulations which parts are required to be completed in various circumstances.

Subsection (c) describes "who must sign the application". It also prescribes that the applications be signed under oath or affirmation.

015 TELEXED AND TELECOPIED APPLICATIONS - This section allows for the flexibility on the part of the Department to accept applications via telex or telecopy (fax). The previous section (b) and the latter section of (a) were eliminated as redundant, since an application form includes the information outlined in (b) and the statute is clear in requiring acceptance and approval by the Department of proof of financial responsibility before any operations subject to the statute can be commenced.

025 RENEWALS - This section sets requirements for renewal of previously approved applications as they expire. The language was clarified for readability and to improve the organization of the regulations.

035 PROOF OF FINANCIAL RESPONSIBILITY, REQUIRED AMOUNTS - The title was changed from "AMOUNT AND EVIDENCE OF FINANCIAL RESPONSIBILITY" to better reflect the contents of the section. This section was

rewritten to provide clear guidelines for the specific amount of financial responsibility which must be shown for each type of entity. There are different requirements for various sizes and categories of facilities and vessels.

Subsection (a) outlines the requirements for oil terminal facilities. Part (4) includes the exemption found in AS 46.04.050 for terminals with minimum storage capacities.

~~Subsection (b) outlines the requirements for pipelines, exploration facilities and production facilities.~~

Subsection (c) outlines the requirements for tank vessels and oil barges.

Subsection (d) describes which amounts are required for applicants who own, operate, lease or charters any combination of the above.

Subsection (e) describes additional requirements in the event an applicant is involved in a pollution incident to which the proof of financial responsibility must respond.

Subsection (f) restates AS 46.04.040(e) with respect to the general methods an applicant can use to demonstrate financial responsibility.

Finally, subsection (g) was added to clarify a concern expressed by many applicants and insurers regarding the issue of "unlimited liability". This subsection clearly states that the requirement of an insurance policy or bond to respond to the damages applicable to the statutes listed in AS 46.04.040(e) are subject to the limit of liability contained in such insurance policy or bond submitted as proof of financial responsibility. It does not remove any liability or responsibility which the applicant may be subject to above the limits contained in an insurance policy or bond. This is necessary so that insurers can determine their risk exposure and base a premium upon set limits of liability, which is a fundamental mechanism of insurance. AS 46.04.040 deals only with amounts which must be shown as proof of financial responsibility, and does not affect the liability provisions of other sections of the statutes which apply to the polluter, but which do not apply to an insurer above the set limits in the policy.

036 CERTIFICATE FOR PROOF OF FINANCIAL RESPONSIBILITY - This is a new section implementing AS 46.04.040(j). Additional provisions have been included setting requirements for the display, use, notice of changes and validation of the certificates.

045 FEDERAL MARITIME COMMISSION CERTIFICATE - This section has been repealed. The FMC certificates do not meet all of the requirements contained in AS 46.04.040.

055 SELF-INSURANCE - Language in this section has been changed for clarity and readability. Subsection (e) was added to set standards for the submission of required documents on a timely basis.

065 INSURANCE - This section has been updated and reorganized for clarity. Subsection (a) has been changed to reference the correct statute in Title 21, the Insurance code. ~~AS 21.34.040(c)~~ is the correct statute. AS 21.33.180 was repealed in 1984. Language was also changed to better reflect current insurance terminology and to provide consistency. A specific time period of 90 days replaces the "as soon as possible" language for the requirement to submit a copy of the insurance policy to the Department if the initial proof is in the form of a certificate or binder of insurance. The deductible section in the last paragraph of subsection (a) was removed, revised and placed by itself in a new subsection (d).

An important note: One of HB 567's revisions to AS 46.04.040(e) slightly changed the language regarding the qualifications of an insurer. The change is contained in the sentence reading;

"For purposes of this subsection, 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."

The regulations currently refer to the "listing" of approved unauthorized insurers by the Division of Insurance (DCED). This has not been changed in this proposed draft as the Division of Insurance does not currently keep a listing of "disapproved" insurers even though it is permitted to do so, on an optional basis, by statute. Instead, it keeps an "approved" listing. Therefore, it is in the best interests of the public to maintain the current standards for insurers. The statute change can be applied to those few insurers who are not on the authorized list but who form part of a "water quality syndicate" formed to provide pollution coverage. These groups are addressed in 18 AAC 20.087 OTHER PROOF OF FINANCIAL RESPONSIBILITY and are allowed to be used even though some of the insurers making up the syndicate may not be on the approved list of the Division of Insurance.

Subsection (b) contains the endorsement language required for all policies issued to meet the purposes of this chapter. It has been modified slightly to better reflect insurance terminology and to remove inconsistencies. It should be noted that part (3) describing the required notice

provisions for cancellation has been changed from 30 days to 60 days to comply with Alaska's cancellation, renewal and nonrenewal laws, specifically, AS 21.36.220 (b). This law applies to all policies issued on business or commercial risks. This includes all shore based facilities. It does not apply to "wet marine" insurance which is issued for vessels above 50 net displacement tons, nor does it apply to Protection & Indemnity (P&I) club policies since P&I clubs are not regulated by the Division of Insurance. Therefore, ~~the section in the draft that deals with the P&I club usage,~~ 087(a)(1)(A), can use the standard 30 days instead of 60 days for policies issued by an insurer. The important distinction here is that P&I clubs are not defined as an insurer under the Insurance statutes, thus the 60 day requirement is not applicable.

Subsection (c) allows the use of a "claims made" policy, under conditions. The current language is confused in that an extended reporting period provision in a claims made policy is not the same thing as a cancellation notice provision, such as part (3) mentioned in the above paragraph. A claims made policy is under the same requirement that all policies are with respect to AS 21.36.220(b) and the 60 day notice requirement. An extended reporting period is something different altogether, and for the purposes of protecting the public interests, a minimum 6 month extended reporting is required if the qualifying policy is a "claims made" form.

Subsection (d) is the new and revised section on deductibles. Of significance is the addition of part (2) which allows for a first dollar reimbursement plan type of deductible, similar to that currently allowed in workers comp policies. This type of provision protects the public interest in that the insurer is required to pay all claims on a first dollar basis, while still allowing for a deductible of sorts, through the loss reimbursement by the insured to the insurer. It is similar in concept to an insurer issuing a bond or letter of credit to the insured for the deductible.

075 SURETY - Language and organization is changed for clarity and readability. The basic intent has not been altered from the current form.

080 GUARANTY - Language and organization is changed for clarity and readability. The basic intent has not been altered from the current form.

086 LETTERS OF CREDIT - This section is new and responds to the inclusion by H. B. 567 of letters of credit as acceptable means of providing evidence of financial responsibility. This section outlines the requirements for their acceptance by the Department.

087 OTHER PROOF OF FINANCIAL RESPONSIBILITY - This new section responds to the inclusion by HB 567 of "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". It includes provisions and standards for the use of P&I clubs, distinguishing between P&I clubs agreeable to state provisions and direct state action and those that are not. It also includes provisions and standards for use of a water quality insurance syndicate. As other sound methods for proving financial responsibility become known, this section can be expanded to include them.

095 SERVICE OF PROCESS - This section requires all applicants to designate an agent for service of process in the state. It remains unchanged from the original.

096 ENFORCEMENT - This section establishes the enforcement provisions and penalties for non-compliance, and, reaffirms the applicant's rights to the hearing process.

105 APPLICABLE FORMS - This section has been deleted for the reasons already cited in the first part of this paper under 005 APPLICATION FOR APPROVAL.

900 DEFINITIONS - This section was added to further clarify the definition in AS 46.04.900 and the use of a vessel when classified as an oil terminal.

CONCLUSION - The draft regulations analyzed herein comprise a working draft. Suggestions are welcome. The goal is to create a set of guidelines that follow the spirit and letter of the financial responsibility laws and yet is well organized, clear and easy to read. We think this is a good start and welcome your input and suggestions. All suggestions should be addressed to: Director, Division of Environmental Quality, P.O. Box 0, Juneau, AK 99811.

Questions may be directed to Mike Mansker or Glenn Adams at (907) 789-4197.

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3/27/91

Register , 1991 ENVIRONMENTAL CONSERVATION 18 AAC 20.005

18 AAC 20.005 is amended to read:

18 AAC 20.005. APPLICATION FOR APPROVAL. (a) Applications for approval of proof of financial responsibility must be submitted to the department by the following responsible parties:

(1) for an oil terminal facility, by the owner or the operator of the facility;

(2) for an oil tanker, oil barge, or any other vessel transporting liquid bulk oil cargo (including landing craft, tenders, and factory processors as defined in AS 46.04.900), by the following responsible parties;

(A) the charterer, if the vessel or barge is chartered by demise (leased);

(B) the owner of the vessel or barge, if the agents or employees of the owner retain control and responsibility for the operation of the vessel or barge;

(C) in any other case by the person with primary operational control;

(3) for an exploration or production facility, whether mobile or fixed, by the lease holder or the operator;

(4) for a pipeline, by the lease holder or the operator.

(b) Application for approval of proof of financial responsibility must be made on forms prescribed by the department as follows:

(1) Applicants must furnish the department with documents listed in Part B of the "financial responsibility application and checklist" available from the Department of Environmental Conservation. The completed and signed form must be submitted to the department at least 30 days before commencement of operations.

(2) If the applicant is an agency of the United States or the State of Alaska, evidence of financial responsibility is not required. However, Part A of the "financial responsibility application and checklist." must be submitted to the department by such agencies within the time frames listed in (1) above.

(3) If the applicant is a tank vessel or oil barge that is conducting, or is available only for conducting oil discharge response operations, proof of financial responsibility requirements may be exempted by the department providing:

(A) a written explanation requesting the exemption, giving details of the oil discharge response operations, or proposed operations, and a completed Part A of the "financial responsibility application and checklist" form are submitted

to the department, and;

(B) the department reviews and approves the request.

(4) An applicant may submit a consolidated application for approval for more than one vessel, barge, terminal, pipeline, or exploration or production facility.

(5) An approval may not be transferred from one vessel, barge, terminal, pipeline, or exploration or production facility to another one or assigned to another person. An attempted transfer or assignment of an approval voids the approval.

(C) all insurance policies must be in effect, approvals will not be given on pending coverage.

(c) All applications described in this section must be signed upon oath or affirmation by the following persons:

(1) in the case of corporations, by a duly authorized representative responsible for the overall management of the project or operation, or, his/her designee;

(2) in the case of a partnership, by a general partner;

(3) in the case of a sole proprietorship, by the proprietor; and

(4) in the case of a municipal, state, federal, or other public facility, by a duly authorized official or employee.

Authority: AS 46.03.020

AS 46.04.040

AS 46.04.070

18 AAC 20.015 is amended to read:

18 AAC 20.015. TELEXED AND TELECOPIED APPLICATIONS. The department may, at its discretion, accept telexed and telecopied applications when unforeseen events prevent a timely submission of a completed written application pursuant to 18 AAC 20.005(b). Telexed or telecopied applications must be approved provisionally by the department before operations may commence in the state. The completed written application must then be submitted and received by the department no later than 10 working days after commencement of operations.

Authority AS 46.03.020

AS 46.04.040

AS 46.04.070

18 AAC 20.025 is amended to read:

18 AAC 20.025. RENEWALS. (a) Application for renewal of financial responsibility must be made once a year. A proof of financial responsibility which extends beyond a one year period must be submitted on an annual basis by renewal application to verify and update all current information regarding the status of the proof of financial responsibility.

(b) An application for renewal of financial responsibility must be received by the department no earlier than 90 days and

no later than 30 days before the expiration date of the initial approval or previous renewal. For a proof of financial responsibility which extends beyond a one year period the due date of the annual renewal application will be on the annual anniversary date of its effective date. An application for renewal must contain the information required by 18 AAC 20.005(b). Information which remains current and unchanged may be incorporated by reference into Section B of the "financial responsibility application and checklist" form.

Authority: AS 46.03.020

AS 46.04.040

AS 46.04.070

18 AAC 20.035 is amended to read:

18 AAC 20.035 PROOF OF FINANCIAL RESPONSIBILITY, REQUIRED AMOUNTS (a) Proof of financial responsibility must be provided to and approved by the department in the manner prescribed by 18 AAC 20.005 and 18 AAC 20.025 in the following amounts for oil terminal facilities;

(1) for crude oil terminals, \$50,000,000 per incident;
(2) for noncrude oil terminals, for each incident, \$25 per barrel of storage capacity, subject to a minimum of \$1,000,000 and a maximum of \$50,000,000;

(3) for oil terminals storing both crude and noncrude oil the following;

(A) for those with greater noncrude storage capacity than crude storage capacity, \$25 per barrel of combined storage capacity, per incident, subject to a minimum of \$1,000,000 and a maximum of \$50,000,000;

(B) for those with greater crude storage capacity the amount required is \$50,000,000;

(4) oil terminal facilities having effective storage capacities of less than 5,000 barrels of crude oil or less than 10,000 barrels of noncrude oil are exempt from the requirements of this section.

(b) Proof of financial responsibility must be provided to and approved by the department in the manner prescribed by 18 AAC 20.005 and 18 AAC 20.025 in the following amounts for pipelines, exploration facilities and production facilities:

(1) \$50,000,000 per incident for a pipeline, offshore exploration facility or offshore production facility;

(2) \$20,000,000 per incident for an onshore production facility;

(3) \$5,000,000 per incident for an onshore exploration facility.

(c) Proof of financial responsibility must be provided to and approved by the department in the manner prescribed by 18 AAC 20.005 and 18 AAC 20.025 in the following amounts for

tank vessels and oil barges:

(1) for a tank vessel or barge carrying crude oil, per incident, \$300 per barrel of storage capacity subject to a minimum of \$100,000,000;

(2) for a tank vessel or barge carrying noncrude oil, per incident, \$100 per barrel of storage capacity subject to a minimum of \$1,000,000 and a maximum of \$35,000,000.

(d) An applicant who owns, operates, leases or charters ~~more than one or any combination of a tank vessel, oil barge,~~ oil terminal facility, pipeline, production facility or exploration facility must provide proof of financial responsibility in an amount equal to the greatest applicable requirements as prescribed in (a), (b), or (c) of this section. The department may approve such proof of financial responsibility as being applicable to all combined operations listed above providing each is named as being specifically covered by the submitted proof of financial responsibility. Additional owned, operated, leased or chartered tank vessels, oil barges, oil terminal facilities, pipelines, production facilities and exploration facilities may be added to the proof of financial responsibility by submitting a letter requesting an amendment to the application accompanied by documents that verify, to the department's satisfaction, that the additional operation is covered by the current proof of financial responsibility.

(e) If an applicant suffers an incident which results in a claim or probable claim for damages for which the proof of financial responsibility is required to respond, the department may, at its discretion;

(1) require the applicant to demonstrate an additional amount of financial responsibility equal to an amount the department determines that may reasonably be expected to cover the resulting applicable damages from the incident, or;

(2) issue a suspension of the proof of financial responsibility if the applicant fails to satisfactorily comply with (1) of this subsection. An applicant may request an adjudicatory hearing under 18 AAC 10.200 within 20 days after receipt of notification of suspension. Such action shall not defer the requirement set by (1) of this subsection.

(f) Proof of financial responsibility may be demonstrated by any one, or by any combination, of the following mechanisms:

1. Self-insurance;
2. Insurance;
3. Surety bond;
4. Guaranty;
5. Letter of credit, or;

6. Other mechanisms approved by the department.

(g) Only with respect to the stated limit of liability contained in an insurance policy or bond submitted as evidence of financial responsibility, an insurer or surety must respond to damages contained in those statutes listed in AS 46.04.040(e) and or (i).

Authority: AS 46.03.020

AS 46.04.050

~~AS 46.04.040~~

AS 46.04.070

18 AAC 20.036 is a new subsection:

18 AAC 20.036. CERTIFICATE FOR PROOF OF FINANCIAL RESPONSIBILITY. (a) Upon the department's approval of an applicant's proof of financial responsibility, a certificate, stating that the state's proof of financial responsibility requirements have been met, shall be issued to the applicant for facilities and/or vessels named in the proof of financial responsibility application.

(b) All facilities and pipelines must keep a copy of the certificate at the facility available for inspection.

(c) All vessels must keep the original or a copy of the certificate available for inspection while in Alaskan waters. The certificate or a copy must be shown to an oil terminal before loading or unloading liquid bulk oil.

(d) Certificates will be issued each year except for vessels that are approved for a specific time period. The effective date and expiration date shall be clearly marked on each certificate.

(e) A certificate is immediately void if it contains erasures or is altered in any manner.

(f) After a Certificate has been issued, the applicant shall notify the department in writing, as soon as reasonably possible, of any changes in facts contained in the supporting documentation or application for proof of financial responsibility.

(g) A Certificate is immediately revoked and void, without prior notice, where the applicant:

1. is no longer the owner, charterer or responsible operator of the facility or vessel in question, or;
2. fails to furnish acceptable evidence of financial responsibility in support of an application for renewal, or;
3. permits the cancellation or termination of the proof of financial responsibility upon which the validity of the Certificate was based.

(h) Except for (e) or (g) above, the department shall advise the applicant in writing of the department's intent to revoke an applicant's Certificate. Such notice shall include an effective date for, and an explanation of, the revocation.

Authority: AS 46.04.040(j)

18 AAC 20.045 is amended to read:

18 AAC 20.045. FEDERAL MARITIME COMMISSION CERTIFICATE.
Repealed

18 AAC 20.055 is amended to read:

18 AAC 20.055. SELF-INSURANCE. (a) An applicant ~~demonstrating financial responsibility with self-insurance~~ must maintain, in the United States, working capital and net worth, each, in an amount equal to the appropriate amount required in 18 AAC 20.035; or, a lesser amount necessary to supplement other forms of proof, when combined, equal to the required amount in 18 AAC 20.035. In determining working capital or net worth, the department will take into consideration all current contractual requirements to which the applicant is bound. For the purposes of this subsection, "working capital" means the amount of current assets located in the United States, less all current liabilities; and "net worth" means the amount of all assets located in the United States, less all liabilities. All self-insurers must notify the department within 10 days after the self-insurer knows, or has reason to believe, that the amount of working capital or net worth of the self-insurer falls below the amount required in 18 AAC 20.035; or, the lesser amount necessary to supplement other forms of proof. This evidence of financial responsibility must be supported by the following, which are to be submitted with the application for an approval and supplemented as specified: .

(1) annual audited financial statements for nonconsolidated holdings in the United States for the fiscal year ending immediately before each initial or renewal application certified by an independent certified public accountant;

(2) a quarterly affidavit attesting that the amounts of working capital and net worth are equal to the amounts required by AAC 18.20.035, which must be received within 30 days after the close of the quarter being attested to;

(3) instead of an affidavit under (2) of this subsection, a quarterly affidavit showing that sufficient liquid assets and cash flow, other than those assets with a high exposure to damage in a pollution incident, are immediately available to respond to claims in the required self-insured amount, without placing the self-insurer in an insolvent position, and, such affidavits must be received within 30 days after the close of the quarter being attested to; and,

(4) any additional financial information the department considers necessary in particular cases.

(b) In place of the information required by (a)(1)-(4) of this section, a self-insuring applicant may provide the

department with the applicant's Form 10K as filed with the U.S. Securities and Exchange Commission for the fiscal year preceding application or renewal, and each Form 10Q subsequently filed with the commissioner, subject to the following conditions:

(1) if the applicant's fiscal year ended six months or more before initial application, the applicant's Form 10Q for the first quarter of the current fiscal year must also be submitted with the initial application;

(2) if the applicant's Securities and Exchange Commission forms do not specify what portion of the working capital and the net worth are located in the United States, each form must be supplemented by an affidavit from the treasurer or a statement certified by the certified public accountant preparing the form specifying that the working capital and net worth located in the United States are each in an amount equal to the amount of financial responsibility required under AS 46.04.040(a)-(c); and

(3) All 10K and 10Q forms subsequently filed with the Securities and Exchange Commission must be simultaneously provided to the department.

(c) In place of the information required under (a)(1)-(4) and (b) of this section, the self-insuring applicant may file with the department the applicant's Form No.6 as filed with the Federal Energy Regulatory Commission for each fiscal year, commencing with the fiscal year which ended immediately preceding application.

(d) Affidavits referred to in (a)(2) and (a)(3) of this section must be signed:

(1) in the case of corporations, by the treasurer or financial officer;

(2) in the case of a partnership, by a general partner;

(3) in the case of a sole proprietorship, by the proprietor; and

(4) in the case of a municipal, state, federal, or other public facility, by an authorized official or employee.

(e) A certificate issued under this section may be revoked by the department if any statement, data, or affidavit required by this section is not submitted by the appropriate due date for each type of document. The due dates are as follows:

(1) Forms 10Q and 10K are due at the same time they are required to be filed with the U.S. Securities and Exchange Commission.

(2) Form No. 6 is due at the same time it is required to be filed with the Federal Energy Regulatory Commission.

(3) Annual Audited Reports and Quarterly Affidavits are due 30 days after the year or quarter ending.

Authority: AS 46.03.020

AS 46.04.040

AS 46.04.070

18 AAC 20.065 is amended to read:

18 AAC 20.065. INSURANCE. (a) An applicant demonstrating financial responsibility through insurance must provide evidence of insurance issued by an insurer which is either ~~authorized to sell insurance in the State of Alaska under a~~ certificate of authority issued by the Director of the Division of Insurance of the Department of Commerce and Economic Development, or is an unauthorized insurer listed by the division of insurance as meeting the minimum trust or capital and surplus requirements of AS 21.34.040(c). Evidence of insurance may be provided by a binder or certificate of insurance acceptable in form to the department or by a copy of the policy. However, when a binder or certificate of insurance is submitted, a copy of the underlying insurance policy must be provided to the department within 90 days.

(b) If a policy of insurance, certificate or binder is submitted, it must include an endorsement containing the following, or substantially similar language:

"Any other provision of this policy notwithstanding: (1) this policy insures against any liability the insured may incur under Alaska Statutes 46.04.040(i), or any provision cited in it as a result of an unlawful discharge of oil within or affecting land or water within the territorial jurisdiction of the State of Alaska; however, the insurer's liability does not exceed the limits of coverage set out in Section (Article or Clause) _____ of this policy, subject to any deductible as specifically set out in Section (Article or Clause) _____ of this policy (binder, certificate); (2) the insurer agrees that any final judgment against the insured for damages under AS 46.04.040(i) resulting from an unlawful discharge of oil from or by any vessel or facility named in this policy may be enforced or executed, in Alaska state courts, directly against the insurer, subject to the limits of coverage in this policy; the insurer will be bound by such a judgment as if the judgment were against the insurer; any person obtaining such a judgment against the insured is expressly made a third-party beneficiary of this provision; and, (3) termination or cancellation of this policy, insofar as it relates to the insured's liability arising from a discharge of oil within or affecting the land and water within the territorial jurisdiction of the

State of Alaska, shall not become effective until 60 days after notice in writing has been posted (prepaid and certified) by the insurer to the insured and to the Alaska Department of Environmental Conservation at its office in Juneau, Alaska; however, this policy shall apply to all claims occurring before the termination or cancellation date."

(c) ~~An applicant may submit a "claims made" policy~~ providing it contains an extended reporting period of a minimum of 6 months, and it contains the endorsement language required in (b) above.

(d) A deductible provision in any policy of insurance, binder, or certificate shall be acceptable when:

(1) the applicant shows supplemental coverage for the amount of the deductible by means of other acceptable insurance, surety bond, guaranty, self-insurance, letter of credit, or other proof of financial responsibility approved by the department; or,

(2) the deductible provision provides for a "loss reimbursement plan" which contains language guaranteeing that the insurer shall be responsible for the payment of all claims on a "first dollar" basis.

Authority: AS 46.03.020
AS 46.04.040
AS 46.04.070

18 AAC 20.075 is amended to read:

18 AAC 20.075 SURETY (a) An applicant may demonstrate financial responsibility with a contract of surety (Surety bond), in full or in part, as required by 18 AAC 20.035. The applicant must submit the contract of surety (Surety bond) to the department on forms prescribed by the department.

(b) The issuer of the contract of surety (Surety bond) must be registered to do business in the State of Alaska, possess a current certificate of authority to do business with the United States under 31 CFR, and must possess an underwriting capacity at least equal to the amount of the bond or is lesser amounts necessary to supplement other forms of proof of financial responsibility.

(c) An applicant may demonstrate financial responsibility for an amount equal to the "deductible" of an insurance policy submitted under 18 AAC 20.065, by a contract of surety (Surety bond).

Authority: AS 46.03.020
AS 46.04.040
AS 46.04.070

18 AAC 20.080 is amended to read:

18 AAC 20.085 GUARANTY (a) An applicant may demonstrate financial responsibility with a contract of guaranty (Guarantee), in full or in part, as required by 18 AAC 20.035. The applicant must submit the contract of guaranty (Guarantee) to the department upon forms prescribed by the department.

(b) The issuer of the guaranty contract, the guarantor, must meet the working capital and net worth requirements contained in 18 AAC 20.055.

Authority: AS 46.03.020
AS 46.04.040
AS 46.04.070

18 AAC 20.086 is a new section:

18 AAC 20.086. LETTERS OF CREDIT. (a) An applicant may demonstrate financial responsibility with a letter of credit for amounts in full or in part as required by 18 AAC 20.035. The letter of credit submitted must be:

(1) irrevocable for a period of not less than 2 years on the part of the issuer; providing the applicant has had no oil pollution incidents resulting in claims under AS 46.04.040(1) during the 2 year period; and,

(2) irrevocable until satisfaction of a judgement or of claims, subject to the limit of credit, rendered against the applicant as a result of claims under AS 46.04.040(1) which do occur during its term; and,

(3) be a "stand by" letter of credit, to respond specifically to claims as required in AS 46.04.040, subject to its limit of credit; and,

(4) not be used as collateral or be drawn upon by the applicant for any other purposes other than to respond to claims as required in AS 46.04.040 for as long as the letter of credit is used by the applicant as a method of showing proof of financial responsibility under this chapter; and,

(5) issued by a financial institution acceptable to the department as having the financial solvency to satisfactorily meet the obligations contained in the letter of credit.

(b) An applicant using a letter of credit to show full or partial proof of financial responsibility shall appoint an agent for service of process in the state in the manner prescribed by 18 AAC 20.095(a).

Authority: AS 46.03.020
AS 46.04.040
AS 46.04.070

18 AAC 20.087 is a new section:

18 AAC 20.087. OTHER PROOF OF FINANCIAL RESPONSIBILITY.

(a) An applicant may demonstrate financial responsibility

with a contract of indemnity or insurance issued by a group of insureds who have agreed to cover pollution risks of members of the group. This method must be approved by the department under terms prescribes below. The following groups may be considered and approved on an individual basis by the department:

(1) Protection and Indemnity (P&I) Clubs. A P&I club may be acceptable to the department as a method of demonstrating financial responsibility providing;

~~(A) the contract of indemnification issued by the~~ P&I club contains an endorsement or the language required by 18 AAC 20.065(b); and,

(B) is issued by a P&I club acceptable to the department as having the financial solvency and a favorable history of claim handling to satisfactorily meet the obligations contained in the contract of indemnity; and,

(C) the P&I club appoints an agent for service of process in the state in the manner prescribed by 18 AAC 20.095(a).

(2) P&I clubs which do not agree to be subject to direct action in Alaska state courts, or, which do not agree to appoint an agent for service of process in the state may be used to demonstrate financial responsibility only for excess coverage in amounts greater than \$50,000,000. Such P&I clubs may be used to demonstrate financial responsibility only under the following circumstances:

(A) the applicant has demonstrated underlying financial responsibility by other acceptable methods, which contain the language required by 18 AAC 20.20.065(b), in an amount of \$50,000,000; and,

(B) the contract of indemnification issued by the P&I club contains language which verifies that it will respond to damages contained in the statutes listed in AS 46.04.040(e); and,

(C) the applicant provides the department with a sworn statement or affidavit that insurance or other forms of financial responsibility that meet the requirements of AS 46.04.040(e) are not available in amounts necessary to demonstrate financial responsibility as required in 18 AAC 20.035.

(3) Water Quality Insurance Syndicate policies may be used to demonstrate financial responsibility providing:

(A) they contain language required by 18 AAC 20.065(b); and,

(B) the syndicate appoints an agent for service of process in the state in the manner prescribed by 18 AAC 20.095(a); and,

(C) the syndicate is acceptable to the department as having the financial solvency and a favorable history of claim handling to satisfactorily meet the obligations contained in the policy.

Authority: AS 46.03.020

AS 46.04.040

AS 46.04.070

18 AAC 20.095 is amended to read:

18 AAC 20.095. SERVICE OF PROCESS. (a) The applicant shall designate an agent upon whom service of process may be made in this state. The agent must be a resident of this state or a corporation authorized to do business in the state. If ~~no designation is made and filed~~ or if process cannot be served in this state upon the designated agent, process may be served upon the commissioner of the Department of Environmental Conservation.

Authority: AS 46.03.020

AS 46.04.040

AS 46.04.070

18 AAC 20.096 is a new subsection:

18 AAC 20.096. ENFORCEMENT. (a) To ensure that the provisions of AS 46.04.040(a)-(c) are fully complied with, any party required to submit proof of financial responsibility under 18 AAC 20.005, after notice and opportunity for a hearing, who fails to provide evidence of financial responsibility in compliance with this chapter, shall be subject to a maximum penalty of ten thousand dollars per day. In addition, action may be taken by the department to cease operation of a vessel or facility not in compliance with this chapter. The department may levy the maximum penalty for each day during the period between an occurrence of an owner or operator failing to provide evidence of financial responsibility and the receipt by the department of such evidence. The penalty amount may be adjusted to an amount less than the maximum, at the discretion of the department, but in no case shall be reduced below a minimum penalty of one thousand dollars per occurrence.

(b) An oil terminal facility shall not load or provide liquid bulk oil product to any tank vessel or oil barge, if the oil product is declared as cargo (see definitions AS 46.04.90), without the vessel or oil barge providing proof to the terminal operator that the vessel has a current valid certificate of financial responsibility. The owner or operator of an oil terminal facility shall notify the department's nearest district office by phone, within the first working day, after the failure or refusal of a vessel or oil barge operator to comply with the requirements of this section.

(c) The department may deny entry to any tank vessel or oil barge to navigable waters of the state, or may detain any vessel or oil barge that does not produce, upon the department's request, evidence of financial responsibility required for a vessel or oil barge under this chapter.

Authority: AS 46.03.020

AS 46.04.040
AS 46.04.070

18 AAC 20.105 is deleted.

18 AAC 20.900 is a new section:

18 AAC 20.900 DEFINITIONS. (a) OIL TERMINAL FACILITY as defined in AS 46.04.900 states that a "vessel is considered an oil terminal facility only when it is used to make a ship-to-ship transfer of oil and an oil terminal facility." This definition is further defined to include the period of time when the vessel is at the terminal being loaded.

If the vessel is to be classified as an Oil Terminal it must meet the following requirements: Submit a written request detailing the name of the owner/operator, vessel name and official number, oil storage capacity, type of product carried as cargo, and the period of time for such a use.

Upon approval, a certificate will be issued to the vessel, for the prescribed time period, to confirm the vessel as an oil terminal.

The applicant must meet the financial responsibility requirements of AS 46.04.040(a) if the vessel capacity is more than 10,000 barrels, if less than this amount, the vessel is exempt from this requirement.

STATE OF ALASKA

DEPT. OF ENVIRONMENTAL CONSERVATION

Walter J. Hickel, Governor

FEB 07 1991

Molly

HOUSE OF REPRESENTATIVES, OIL AND GAS COMMITTEE MEETING: FEBRUARY 4, 1991 3:00 PM

ADEC PARTICIPANTS: John Sandor, Commissioner Mead Treadwell, Deputy Commissioner
Janice Adair, Special Assistant
Lynn Kent, Oil & Hazardous Response Spill Manager

SUBJECTS: Status of State Emergency Response Commission (SERC)
Status of Oil and Hazardous Substance Contingency Plans (Fed/State/Local/Industry)
Status of Cooperative Programs/Relationships with communities; public involvement
Status of Development of Regulations to implement House Bill 567 (Oil Spill)
Status of implementation of House Bill 220 (Underground Storage Tanks)
Discussion of Budget/Personnel issues
Discussion of related issues

1. INTRODUCTION AND OVERVIEW

A. DEC Areas of Emphasis in 1991-1992

- Cooperative efforts with communities & citizen's groups; technical service
- Cooperative efforts with federal/state/international/public-private groups
- Complete Exxon-Valdez oil spill clean-up
- Contingency planning -Other program emphasis activities

B. Public involvement commitment

- Within-between Federal/State/Local Government; international contacts
- Relationship to development of National, Federal Regional, State and Regional Contingency Plans; Local Response and Industry Plans

2. STATUS OF STATE EMERGENCY RESPONSE COMMISSION (SERC)

- A. Commission Membership and Meeting Plans
- B. Local Emergency Planning Committees
- C. Other Associated Activities

3. STATUS OF OIL AND HAZARDOUS SUBSTANCE CONTINGENCY PLANS

- A. State and Regional Contingency Plan issued in October
- B. Regional Planning Process
- C. Local Response Plans
- D. Industry Plans

4. STATUS OF REGULATIONS TO IMPLEMENT HOUSE BILL 567 PROVISIONS

A. Regulations include three components

- 1. Prevention
- 2. Financial Responsibility
- 3. Response

B. Implementation Schedule for Industry Contingency Plans

- 1. Workshops with working draft of prevention section; Work groups
- 2. Education and Assistance activities
- 3. July 1, 1991 Target date for public notice followed by public hearings
October 1, 1991 target date for Dept. of Law Review
December 1, 1991 target date for Regulations approval

5. STATUS OF IMPLEMENTATION OF HOUSE BILL 220 (UNDERGROUND STORAGE TANKS)

6. DISCUSSION OF OTHER ISSUES

MAJOR STATE & FEDERAL ENVIRONMENTAL LAWS

State

Water, Air, Energy, and Environmental Conservation (Title 46)
Oil Pollution Control
Oil and Hazardous Substance Release Control
Wastewater Disposal
Drinking Water
Water Quality Standards
Hazardous Waste
Environmental Sanitation
Food Service
Fish Inspection
Alaska State Emergency Response Commission
Underground Petroleum Storage Tanks
Certification of Water and Wastewater Operators
The Alaska Coastal Management Program
Low-Level Radioactive Waste Management
Dairy, Meat and Poultry Inspections
Animal Health
Pesticide Control
Recycling and Reduction of Litter
Village Safe Water Act
Management and Use of Water in Mining
Smoking in Public Places

Federal

Clean Air Act
Clean Water Act
Coastal Zone Management Act
Resource Conservation and Recovery Act (RCRA)
Comprehensive Environmental Response, Compensation, & Liability Act (CERCLA)
Safe Drinking Water Act
Toxic Substance Control
Endangered Species Act
Marine Mammal Protection
International Migratory Bird Treaty
Oil Pollution Control Act
Insecticide, Fungicide and Rodenticide
Emergency Planning and Community Right-to-Know Act
National Environmental Policy Act (NEPA)
Solid Waste Regional Act



ADEC

Significant Issues

- 470 Fund
- Funding of UST Grants
- Safe Drinking Water
- Wetlands
- Home Heating Oil Tanks
- Hazardous Substances
- Waste Disposal Sites
- Pollution Prevention

Calendar of Events

December

- New administration
- Personnel audit commissioned
- Reorganization study commissioned

January

- Reorganization study complete
- Budget revisions
- HB 567 draft Regs for public comment
- HB 220 ready to be signed by Commissioner
- Internal 470 audit commissioned
- Personnel audit complete

February

- State - EPA agreement negotiations
- Unalaska model agreement
- District community contacts designation
- "Co - Siting" plan with other resource agencies

March

- 470 fund audit complete
- HB 220 tank registration complete
- SERC meeting
- San Diego Oil Spill Conference
- HB 567 workshops / public hearings

April

- Exxon Valdez joint effort with Coast Guard

June

- Biannual program manager review

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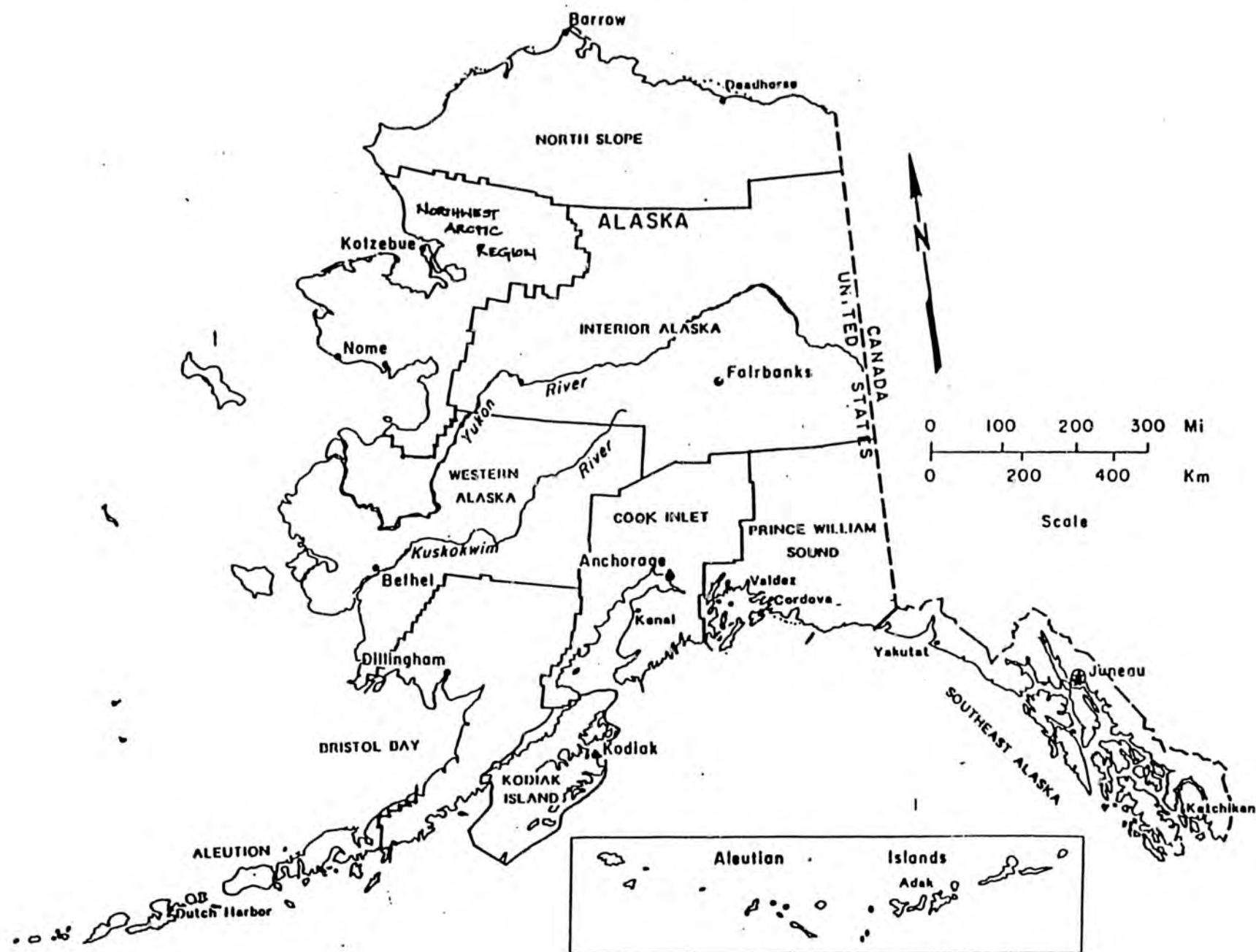
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FIGURE 1



State Emergency Response Commission (SERC)

COMPOSITION

- Nine state agency Commissioners
- Seven Public Members

DUTIES

- Oversee the implementation of the Emergency Planning and Community Right-to-Know Act (SARA, Title III)
- Facilitate the preparation and implementation of oil and hazardous substance response plans prepared by state agencies and Local Emergency Planning Committees (LEPC)
- Ensure that all plans are coordinated and well-integrated

EMERGENCY PLANNING AND COMMUNITY RIGHT-TO-KNOW

- Designate Local Emergency Planning Districts (LEPD)
- Oversee the preparation of local oil and hazardous substance emergency plans
- Establish Local Emergency Planning Committees (LEPCs)
- Make information available to the public on hazardous substances used, stored, or manufactured in the state

Local Involvement

- Establish Local Emergency Planning Committee
- Develop a local oil and hazardous substance emergency response plan
- Implement the plan and maintain preparedness
- Enter into an agreement with the Department for reimbursement of expenditures for spill response

DEPARTMENT OF ENVIRONMENTAL CONSERVATION
ALASKA STATE EMERGENCY RESPONSE COMMISSION

Fact Sheet

Background

The Superfund Amendments and Reauthorization Act (SARA) was enacted by the United States Congress in 1986. Title III, the Emergency Planning and Community Right-to-Know Act, includes provisions intended to prevent chemical disasters such as that which occurred in Bhopal, India in 1984.

SARA Title III has two broad purposes: 1) the law gives citizens the right to know what hazardous substances are being used, stored, or manufactured in their community; and, 2) the law encourages them to prepare emergency plans for responding to chemical releases.

The law sets specific responsibilities for the State, communities, and businesses which use hazardous substances. However, it explicitly does not preempt the State or local governments from enacting Community Right-to-Know laws which better address their particular needs.

As required by federal law, the Alaska State Emergency Response Commission (SERC) was established by Administrative Order 103 in 1987. House Bill 566, passed during the 1990 legislative session, established the SERC in statute (AS 46.13). In addition to the requirements under federal law, the state law:

- requires the SERC to oversee the implementation of SARA Title III in Alaska;
- broadens the definition, as used in the federal law, of hazardous substance to include oil; and
- broadens the SERC's role, giving the Commission the responsibility for ensuring that local, regional, and statewide contingency plans are well-integrated and coordinate with other relevant plans such as the National Contingency Plan, other federal plans, and facility and vessel contingency plans.

With the passage of the state law, the Department's SERC program also gained the budgetary support needed to implement an effective community right-to-know program in the state.

Status of Implementation

- Since its formation in 1987, the SERC has held ten quarterly meetings. Over the past six months, the focus of the Commission's activities has been implementation of the state law i.e., revising the SERC's FY 91 Work Plan, the SERC bylaws, and its internal organization.
- Five Local Emergency Planning Committees (LEPC) have been formally established by the Commission: Fairbanks North Star Borough; Kodiak Island Borough; Kenai Peninsula Borough; City and Borough of Sitka; and City of Yakutat.
- Several communities/boroughs are in the process of establishing LEPCs and have submitted applications to the SERC to be formally recognized: Municipality of Anchorage, Ketchikan Gateway Borough, and Matanuska-Susitna Borough.

Current Issues

- **Funding for communities to establish basic preparedness for oil and hazardous substance releases.** Lack of funding has been a major impediment to implementing the federal law in Alaska. This Fiscal Year \$120.0 has been allocated to provide funding for locals to establish LEPCs; develop local oil and hazardous substance emergency response plans; and maintain preparedness. For FY 92, the Department has requested \$600.0 to continue this assistance program.
- **Establishing Local Emergency Planning Districts (LEPD) in the remainder of the state.** LEPDs and the plans prepared by LEPCs comprise an important component of a comprehensive contingency planning effort. Local spill response plans must be coordinated with Regional and State plans currently under development by the Department. A proposal (Attachment 1) for dividing the state into 20 LEPDs is currently being drafted by Department staff for consideration by the SERC and local governments. The proposal provides a rational basis for establishing LEPDs within a framework which will help ensure that the entire state is covered in accordance with federal and state law, and that local plans coordinate with regional and state plans.
- **Liability of SERC, LEPC members and others.** A recent opinion from the Attorney General's office indicates that, in carrying out their duties under state law, liability may exist for members of the SERC, LEPCs, as well as members of the Hazardous Substance Spill Technology Review Council. As a temporary solution, a proposed memorandum of agreement between the Department of Law and the Department of Administration/Division of Risk Management to indemnify all parties except in cases of gross negligence has been drafted (Attachment 2). Legislation was acknowledged as the preferred solution. We have requested continued assistance from the Attorney General's office to draft this legislation.
- **Regulations.** Under state law, the SERC has the authority to promulgate regulations necessary to implement state law. Preliminary discussions with the Attorney General's office suggest that certain procedures and policies which the SERC has developed or is in the process of developing should be in regulation (e.g., procedures for reviewing local hazardous substance emergency response plans and criteria for approving them). Department staff are working with Department of Law to develop recommendations for draft regulations for review by the SERC.
- **Public outreach.** Although the SERC has been active for over three years, general public awareness of the program is lacking. Staff are currently working to develop public information materials and a public information plan to heighten public awareness. We are targeting both the general public and those businesses which need to report on the amounts and types of chemicals which they use, manufacture, or store.
- **Training for first responders and LEPCs.** In conjunction with the Division of Emergency Services, a funding proposal has been submitted to the Federal Emergency Management Agency (FEMA) to provide training for Alaskans involved in spill response and contingency planning. In addition, there is a need for greater coordination of training between all the state agencies with regulatory authority over hazardous materials training and/or responsibilities for spill response. Since the member agencies of the State Emergency Response Commission (SERC) include all these agencies, the SERC could potentially act as a forum where this could be accomplished. The SERC's Training Committee will be asked to begin developing a comprehensive training plan for response personnel which ensures that all relevant laws and regulations are satisfied and that workers are adequately trained.
- **Development of technical resources.** State and federal laws require the SERC to make information on hazardous materials submitted by businesses available to the public. This information is necessary for communities to develop emergency plans for hazardous substance releases. Department staff are currently developing the Community Right-to-Know Database (CRight) which will contain information submitted by facilities throughout the state in compliance with state and federal laws. In addition, staff are evaluating computerized reference data bases to provide enhanced technical support to LEPCs.

STATE OIL AND HAZARDOUS SUBSTANCE DISCHARGE PREVENTION AND CONTINGENCY PLAN

ADEC

Public
Review
Draft
Released

Public
Meetings

Revise
Draft

Second Draft
transmitted to
Legislature;
begin public
review

Final Draft
Transmitted to
SERC for approval

SERC

Develop
list of
required
plan
elements

Develop
review and
approval
criteria

SERC receives
Draft Plan;
begins public
notice

Emergency
Response
Committee
reviews plan
and makes
recommendations

SERC
Approval

Oct
1990

Nov
1990

Dec
1990

Feb 20
1991

March 29
1991

June
1991

Major Provisions of House Bill 567

- 1) Limits the liability of response action contractors.
- 2) Adds prevention as an element of contingency plans.
- 3) Certificates will be provided to contingency plan holders upon approval of the plan by the department.
- 4) Requires an applicant for a contingency plan to plan for the cleanup of the following discharges:
 - Oil terminal facilities** - Contain or control and clean up a discharge equal to the largest tank at the facility within 72 hours;
 - Exploration or production facilities or pipelines** - Contain or control and clean up to the realistic maximum discharge within 72 hours;
 - Oil tank vessel or barge** - Vessels smaller than 500,000 barrels must plan to contain or control and clean up a 50,000 barrel discharge and have the equipment within the region of operation, while vessels larger than 500,000 barrels must plan to contain or control and clean up a 300,000 barrel discharge and have the equipment within the region of operation; additionally, the plan holder must demonstrate access to other equipment outside of the region of operation to clean up a realistic maximum discharge, and the ability to have that equipment deployed at the discharge site within 72 hours;
 - Non-crude tank vessel or barge** - Contain or control the greater of 15% of the capacity of the vessel or the realistic maximum discharge within 48 hours and clean up the discharge within the shortest possible time consistent with minimizing damage to the environment.
- 5) Sets financial responsibility requirements at the following levels:

Crude oil terminals	\$50 million
Non-crude oil terminals	\$1-50 million @ \$25/bbl capacity
Offshore exploration/production	\$50 million
Pipelines	\$50 million
Onshore production facilities	\$20 million
Onshore exploration facilities	\$ 5 million
Crude oil tank vessels & barges	\$100+ million @ \$300/bbl capacity
Non-crude tank vessels & barges	\$1-35 million @ \$100/bbl capacity
- 6) Proof of financial responsibility will be acknowledged with a certificate of approval. Allows the use of Protection and Indemnity clubs.
- 7) Authorizes DEC to participate in the examination of vessels, barges, pipelines and facilities by federal and state agencies with jurisdiction and to do independent inspections when the department determines that federal or state agencies with jurisdiction are not performing timely or adequate inspections.
- 8) Authorizes DEC to survey non-crude oil terminal facilities with a storage capacity between 5,000 - 10,000 barrels.
- 9) Requires DEC to study and make recommendations to the legislature concerning the oil discharge response capabilities necessary for non-crude tank vessels and barges.
- 10) New planning standards and financial responsibility requirements take effect June 1, 1991.

HOUSE BILL 567 - MAJOR PROVISIONS

- 1. Enhanced industry spill response planning standards / Realistic Maximum Oil Discharge (RMOD)**
- 2. Required incorporation of prevention measures in industry contingency plans and allows the Department to reduce the response planning standards when selected prevention measures are implemented**
- 3. Increased the amount of financial responsibility required of oil handlers and allows for additional methods to demonstrate proof of financial responsibility**

567 Regulations Package

1991

15 FEB.

Public interaction

- Public workshops
- Work group
- Education and assistance

1 JUNE

Significant comments
incorporated

1 JULY (public notice)

Public hearings

1 SEPT.

Final changes

1 OCT.

Dept. of Law review

1 NOV.

to Lt. Governor

1 DEC.

Regs effective

1 JAN.

1992

1 FEB.

Amendments to C-plans are
to be completed

Public Interaction

- (1) **Public workshops and briefings throughout state**
-to address all aspects of the implementation package

(2) **Workgroup**

[Includes representatives from all five categories
of oil facilities; other interests; the public]



- (3) **Educational and assistance materials and activities**

IMPLEMENTATION SCHEDULE
FOR
INDUSTRY CONTINGENCY PLANS
TO MEET THE NEW RESPONSE PLANNING STANDARDS

- These guidelines are intended for the transition period between the present time and the final adoption of the revised regulations on or about December 1, 1991.
- These guidelines do not require any changes to existing law or any of the provisions of HB 567 as adopted.

Existing Facilities:

- Under HB 567, all facilities are required to meet the new planning standards by June 1, 1991. As contingency plans come up for renewal between now and the date of adoption of the new regulations, the department will issue conditional approvals allowing these facilities to continue to operate under their existing or enhanced plan.
- As a condition of approval the plan holder, within 60 days of the date of adoption of the new regulation, must notify the department of what amendments to the plan, if any, are necessary to demonstrate compliance with the new standards and prepare a C-plan that incorporates these amendments.
- Each regional office of the department will develop a schedule for submission and review of the amended C-plans and will notify the plan holders of their required submission date. This will allow flexibility in workload management and allow for a more thorough review of the revised plans.

Newly Regulated Facilities:

- The provisions of HB 567 governing newly regulated facilities (pipelines and on-shore exploration and production facilities) took effect immediately, and these facilities currently must have an approved C-plan to operate. The department will require these newly regulated facilities to submit a contingency plan application no later than June 1, 1991.
- These C-plans will be reviewed under the current regulations and, if they meet current standards, will be granted conditional approval pending promulgations of final regulations as described above. Upon promulgation, newly regulated facilities will have 60 days to notify the department of any necessary changes and prepare an amended plan which meets the new standards.
- The department will notify these facilities of the required submission date of their revised plan according to the review schedule adopted by the regional offices.

Attachment A.

HAZARDOUS SUBSTANCE SPILL TECHNOLOGY REVIEW COUNCIL
BRIEFING PAPER

INTRODUCTION

The Hazardous Substance Spill Technology Review Council (hereafter referred to as "the council") was established by the passage of House Bill No. 566 (HB 566) by the Sixteenth Legislature in 1990. HB 566 is entitled: "An Act relating to state response actions and planning involving the release or threatened release of oil or a hazardous substance; and establishing the Alaska State Emergency Response Commission (SERC); and providing for an effective date." In the sections of HB 566 dealing with the council, it was found that there exists a lack of scientific knowledge concerning the availability, properties, and effectiveness of various hazardous substance containment and cleanup techniques. The council was established to assist in the identification of containment and cleanup products and procedures for arctic and sub-arctic hazardous substance releases. The council is to make recommendations to the departments and agencies of the state regarding the use and deployment of these products and procedures.

COMPOSITION

STATE POSITION MEMBERS

Commissioner of Environmental Conservation
Adjutant General of the Department of
Military and Veterans' Affairs
Governor's Senior Science Advisor

APPOINTED STATE MEMBERS

University of Alaska Representative
Prince William Sound Science Center Representative
Representative from the First Judicial District
Representative from the Second Judicial District
Representative from the Third Judicial District
Representative from the Fourth Judicial District

FEDERAL AGENCY REPRESENTATIVES (NONVOTING)

U. S. Coast Guard Representative
EPA Representative

CURRENT MEMBERSHIP

Revision Date: 1/3/91

BOARDS AND COMMISSIONS CONTACT ROSTER
HAZARDOUS SUBSTANCE SPILL TECHNOLOGY REVIEW COUNCIL

MEMBER	APPT	RAPPT	RAPPT	TERM
Randy Bayliss 119 Seward Street, No. 10 Juneau 99801 (H) 364-3259 (W) 586-6813 (Fax) 586-1001 Public/Restricted/ 1st JD	90/10/30	0/00/00	0/00/00	91/09/24
Edward J. Brown Water Research Center-UAF Fairbanks 99757-1760 (H) (W) 474-7350 (Fax) 474-6087 University of Alaska Rep.	90/10/30	0/00/00	0/00/00	91/09/24
Henry Cole OMB/P.O. Box AM Juneau 99811 (H) (W) 465-3568 (Fax) Governor's Senior Science Advisor	90/10/30	0/00/00	0/00/00	0/00/00
Hugh Cox Adjutant Gen/DMVA 800 E. Dimond, Suite 3-450 Anchorage 99515 (H) (W) 249-1565 (Fax) Adjutant General/DMVA	90/12/27	0/00/00	0/00/00	0/00/00
Gordon W. Ito P. O. Box 307 Kotzebue 99752 (H) 442-3680 (W) (Fax) Public/Restricted/2nd JD	90/10/30	0/00/00	0/00/00	92/09/24
John (Randy) R. McGovern 1611 Carr Fairbanks 99701 (H) 451-0124 (W) 456-4248 (Fax) Public/Restricted/4th JD	90/11/15	0/00/00	0/00/00	93/09/24

CORRECTION

**THIS DOCUMENT
HAS BEEN REPHOTOGRAPHED
TO ASSURE LEGIBILITY**

Attachment A.

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Representative from the Fourth Judicial District

FEDERAL AGENCY REPRESENTATIVES (NONVOTING)

U. S. Coast Guard Representative
EPA Representative

1. Review and recommend to the Department of Environmental Conservation research topics for it to pursue.
2. Establish testing protocols to be used by the Department of Environmental Conservation to evaluate the effectiveness of hazardous substance spill technologies for use in the state.
3. Identify sources of money that may be available for discharge-related research.
4. Make proposals to the governor, State Emergency Response Commission, and other entities to encourage and fund prevention, response, cleanup, and mitigation of future discharges of hazardous substances.
5. Compile and maintain information relating to:
 - A. containment and cleanup technology that is available in the event of a hazardous substance discharge, the extent to which current containment and cleanup technology is available and may be applied in the state, and ways to improve hazardous substance spill response technology and procedures;
 - B. steps that should be taken by government and industry to ensure proper management, handling, and transportation of hazardous substances and to improve the statewide ability of industry and governmental agencies to respond to discharges of hazardous substances;
 - C. the extent to which industry practices and governmental practices or laws should be changed to reduce or minimize the potential for hazardous substance discharges; and
 - D. hazardous substances spill technology research conducted by the Department of Environmental Conservation.
6. Perform other functions as may be requested by the State Emergency Response Commission.

The oil and hazardous substance response office (SRO) is to serve as staff support for the council. Two positions within the SRO, an Environmental Specialist IV and an Environmental Specialist III, are to be devoted primarily to council support. Some activities of other SRO staff (such as the compilation of information specified in 5. above) will also be devoted towards some of the duties of the council. An organization chart of the SRO is attached.

CURRENT MEMBERSHIP

Revision Date: 1/3/91

**BOARDS AND COMMISSIONS CONTACT ROSTER
HAZARDOUS SUBSTANCE SPILL TECHNOLOGY REVIEW COUNCIL**

MEMBER	APPT	RAPPT	RAPPT	TERM
Randy Bayliss 119 Seward Street, No. 10 Juneau 99801 (H) 364-3259 (W) 586-6813 (Fax) 586-1001 Public/Restricted/ 1st JD	90/10/30	0/00/00	0/00/00	91/09/24
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VACANT 00/00/00 0/00/00 0/00/00 0/00/00

(H)
(W)
(Fax)
Coast Guard Rep./Nonvoting

VACANT 00/00/00 0/00/00 0/00/00 0/00/00

(H)
(W)
(Fax)
EPA Rep./Nonvoting

ADMINISTRATIVE DETAILS

Appointed state members serve overlapping three-year terms. State and federal members serve without compensation but are entitled to per diem and travel expenses for attendance at meetings. The council is directed by HB 566 to meet regularly at the call of the State Emergency Response Commission or the chair of the council. The council members are to elect from among themselves a chair and vice-chair. State members of the council are subject to the Conflict of Interest statute (AS 39.50).

OIL AND HAZARDOUS SUBSTANCE LEGISLATION RELATED TO STRC

In 1986 House Bill 470 was enacted to establish a fund to: (1) contain, clean up, and take other necessary action, such as monitoring, assessing, investigating, and evaluating the release or threatened release of oil or a hazardous substance that poses an imminent and substantial threat to the public health or the environment; (2) provide matching funds for participation in federal oil discharge clean up activities and under CERCLA; and (3) recover the cost to the state or to a municipality of a containment and clean up resulting from the release or the threatened release of oil or a hazardous substance.

In 1989, the enactment of House Bills 261 and 264 added the following uses for the fund: 1) to investigate and evaluate the release or threatened release of oil or a hazardous substance; 2) to pay all costs incurred 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; 3) to prepare, review and revise the state's master oil and hazardous substance discharge and prevention contingency plan and a regional master oil and hazardous substance discharge and prevention contingency plan; and 4) restore the environment by addressing the effects of an oil or hazardous substance release.

The Oil Spill Response Office was established as a consequence of House Bill 264 enacted 1989. The duties of the Oil Spill Response Office specified that the office shall be prepared to respond promptly to a discharge of oil or a hazardous substance. Further, the office may enter into agreements with agencies of the state and federal government, political subdivisions, the University of Alaska, or private entities to: 1) establish and maintain regional oil and hazardous substances depots and to acquire the supplies and equipment necessary for response readiness; 2) train members of the response corps; and 3) conduct research into oil and hazardous substances spill technology.

In 1990, House Bills 566 and 567 were enacted and provided for additional uses of the fund: 1) to pay the expenses incurred by the Alaska division of emergency services for the oil and hazardous substance response corps and the oil and hazardous substance response depots when presented with appropriate documentation by the division; 2) to review oil discharge prevention and contingency plans; 3) to conduct training, response exercises, inspections, and tests; and 4) to verify or establish proof of financial responsibility required by AS 46.04.040.

House Bill 566 establishes the Hazardous Substance Spill Technology Review Council along with the Alaska State Emergency Response Commission.

ALASKA STATE EMERGENCY RESPONSE COMMISSION

The Alaska State Emergency Response Commission, which was also established by HB 566, consists of the commissioners of community and regional affairs, environmental conservation, fish and game, health and social services, labor, natural resources, public safety, and transportation and public facilities, or their designees, the adjutant general of the Department of Military and Veterans' Affairs or a designee, and seven public members appointed by the governor. The commission is chaired by the commissioner of environmental conservation or his designee.

The duties of the commission include: 1) designation and revision the boundaries of emergency planning districts; 2) facilitation of the preparation and implementation of emergency plans for hazardous substance response; 3) review and approval or disapproval of emergency plans; 4) establishment and supervision of local planning committees in each district; and 5) establishment of procedures for reviewing and processing requests from the public for information on emergency planning.

According to the Bylaws of the Alaska State Emergency Response Commission (SERC), the SERC may assign functions to the Hazardous Substance Spill Technology Review Council (STRC). Also, at quarterly meetings of the SERC, the STRC shall present briefing reports, recommendations, or other information regarding their activities and findings.

HAZARDOUS SUBSTANCE SPILL TECHNOLOGY REVIEW COUNCIL INVESTIGATIONS

HB 566 provides for the STRC to conduct investigations and to hold hearings (Sec. 46.13.130). The STRC has the authority to issue subpoenas, administer oaths, and conduct investigations related to its duties. On a majority vote of the council, subpoenas may be issued and served. The council may compel the attendance of witnesses and take depositions in a manner prescribed by court rule or law.

TESTING PROTOCOLS

HB 566 specifies that the STRC shall establish the initial testing protocols to be used by the Department of Environmental Conservation to evaluate the effectiveness of hazardous substance spill technologies for use in the state by January 1, 1991. Department of Environmental Conservation staff working in the Oil Spill Response Center have prepared a State of Alaska protocol for approving chemical products and technical clean up methods proposed for shoreline clean up of the T/V Exxon Valdez Oil Spill. This protocol is specific to oil spill clean up techniques, but may serve as a model for protocols to be developed for more widespread applications or for other types of spills.

INFORMATION DATABASES

The Spill Response Office (SRO) has initiated efforts to compile and maintain information relating to containment and cleanup technology and equipment that is available in the event of a hazardous substance discharge. SRO staff are located in Fairbanks, Anchorage, Soldotna, and Juneau. An unfilled position exists for Valdez. Staff in each of these locations are developing databases of response equipment and contractors available in the region. Statewide and global database of major response equipment and organizations will also be developed. SRO staff have acquired a response vendor database and computer literature searches of response technologies developed by the Exxon Valdez Oil Spill Response Center. In addition, the SRO will be developing and maintaining a mini-library of reprints of current and recent literature relative to response technologies.

PROTOCOL, GOVERNING CONDUCT OF PWS CONTINGENCY PLAN--STEERING
COMMITTEE

1. MUTUALLY AGREE ON AGENDA AND SCHEDULE
2. MUTUALLY AGREE ON REPORT OF MEETING
3. ALL MEETINGS SHOULD BE OPEN TO ALL PARTIES; ADEC, USCG, RCAC, ALYESKA AND THEIR CONTRACTORS.
4. MUTUAL CONSENT THAT ALL TECHNICAL REPORTS, SUPPORTING ADEC AND ALYESKA CONCLUSIONS OR RECOMMENDATIONS OR POSITIONS, BE SUBJECT TO WORKING GROUP REVIEW AND DISCUSSION BEFORE DECISIONS ARE MADE.
5. ALL PARTIES RECOGNIZE THE WORLD SIGNIFICANCE OF OUR TASK AND THE ENORMOUS DIFFICULTY.
6. ALL PARTIES RECOGNIZE THE PRECARIOUS BALANCE OF FREEDOM THAT CURRENTLY EXISTS AUTHORIZING THIS WORKING GROUP PROCESS.
7. ALYESKA ACKNOWLEDGES THAT THE "WORKING GROUP" PROCESS CAN ONLY INFLUENCE THOSE DECISIONS SO LONG AS SOUND, TECHNICAL AND DEFENSIBLE PROPOSALS ARE BROUGHT TO BEAR ON A PARTICULAR PROBLEM.
8. ALYESKA FREELY ACKNOWLEDGES ADEC RIGHTS AND AUTHORITY TO MAKE THE FINAL DECISIONS, SUBJECT TO NORMAL DUE PROCESS CRITERIA.
9. MUTUALLY AGREE THE TECHNICAL EQUIPMENT, STRATEGY AND PREVENTION ISSUES RESULTING FROM THESE MEETINGS BE FORWARDED TO PERSONS DEVELOPING REGULATIONS FOR HB 567.
10. MUTUALLY AGREE THE OUTSTANDING ISSUES OF DISPERSANTS, OILY WASTE DISPOSAL AND THE RELATIONSHIPS BETWEEN THE PWS PLAN AND THE TANKER OWNERS PLANS ARE SUBJECT TO ABOVE 1 THROUGH 8.

October 10, 1990

To: PWSTSP&RP Steering Committee

The Steering Committee asked the Valdez Marine Operations Committee to consider various outstanding issues as they relate to approval of the Plan. The committee met on October 3, attending was:

Bob Johnston, PWS Tankers Association
Morris Croce, PWS Tankers Association
Bob Bradley, Southwest Alaska Pilots
Steve Provant, ADEC
Dan Lawn, ADEC
Cdr. Ed Thompson, USCG
Captain Bill Killion, ERV Liberty Service
Graham Lascelles, Alyeska
Mark Hutton, Alyeska
Larry Shire, Alyeska
Tim Plummer, Alyeska (Chairman)

The following is a summary of the various points Addressed:

VESSEL TRACKING SYSTEM

The Prince William Sound Tankers Association will address vessel tracking from a technical perspective and advise of their findings.

Cdr. Ed Thompson will provide an update on the U. S. Coast Guard's efforts towards a vessel tracking program.

Most members felt that the Coast Guard should deal with vessel tracking. ADEC feels that industry could do it.

PREVENTION IN THE NARROWS

It's ~~important~~ ^{important} to first look at the adequacy of the existing system ~~before~~ considering changing it. Larry Shier will take the lead on this topic. He will research the availability of simulator data done on loss of power in the Narrows and develop protocols for conducting tests and coordinate the tests. The tests will involve ERV's and tugs assisting tankers experiencing loss of power, both with and without steering.

Consideration must also be given to improving the existing system as well as reviewing if a better system exists, i.e. tractor tugs connected to a tanker.

PREVENTION BASED OPERATING RESTRICTIONS

ADEC acknowledged that the escort vessels have the ability to tow a disabled tanker, but are concerned in the ability to get connected in bad weather. Larry Shier will develop a protocol for doing an exercise addressing this concern. It may not be necessary to actually make a connection, but simply to ensure that escort vessels are able to maneuver in close enough to make a connection and be a safe working platform for men on deck.

At times it may be desirable for a tanker to have escort vessels go ahead to check for ice. To be effective, this may entail the escort vessel to be more than a half mile from the tanker. Approval to exceed the half mile requirement under these circumstances is requested.

Uniformity on the tankers for rapid deployment of the Prince William Sound emergency towing gear will be discussed by the Tanker Association.

A simple improvement would be for each tanker to have a length of chaffing chain readily available on the bow, connected to the tankers towing bracket, long enough to lead through the bow chock. This would enable an escort vessel to use it's towing gear without concern for chaffing at the bow chock. The Tanker Association will discuss this as well.

COOPERATION OF ALL PARTIES

A program for an "Escort Conference" is being initiated. It will take place on the tanker prior to departure and involve the tanker Master, Pilot, and escort vessel Masters. The intent is to establish the escort plan for the transit and will include, speeds, positioning of the escort vessels, desired communications and radio frequencies, and expected weather conditions; wind, visibility and ice.

PREVENTION CREDITS

Credits should be considered for:

- Double hull tankers
- Double bottom tankers
- Tankers with bow thrusters
- Weather related operating restrictions

VESSEL INSPECTIONS

The Coast Guard is and should remain responsible for conformity to appropriate Federal regulations. ADEC should ensure that state requirements are met and Alyeska needs to ensure that Marine Terminal requirements are met.

SULLOM VOE COMPARISONS

It's important that members better understand what Sullom Voe does, how they do it, and what they do it with. This should be accomplished by Ed Murphy, Ed Thompson, Steve Provant, Larry Shine, Tim Plummer, and a member of the Tankers Association visiting Sullom Voe. Morris Croce was unsure if a representative of the Tankers Association should be included.

STATUS OF THIS COMMITTEE

It's important to establish the importance and credibility of the committee and recommend that this committee be established to meet the requirements of HR 1465 for the Oil Terminal Facilities and Oil Tanker Operations Association.

NEXT MEETING

Valdez Marine Operations Committee: October 26, 0800 at the Terminal Administration Training Room.

PWS Tankers Association: October 30 in Houston.

T. F. Plummer

T. F. Plummer
Chairman

cc: M. F. G. Williams
V. E. Collins
Committee Members

INITIAL RESPONSE AND TRAINING
WORKING GROUP
STATUS REPORT
OCTOBER 11, 1990

PURPOSE

This working group will evaluate response equipment and responders performance in relation to expected performance. The object is to identify "weak links" in response capability, to obtaining realistic data for the various parameters used in evaluating equipment efficiency and to verify our assumptions where ever possible by conducting tests or drills.

MEMBERSHIP

Dan Lawn and Steve Provant with ADEC and Graham Lascelles with Alyeska have been the primary participants on this working group. Representation from RACA and the Coast Guard would also provide valuable input.

PROBLEM DEFINITION

Our problem is to obtain the best information and data available for the various parameters that factor into making performance determinations and capabilities. In some cases it may be necessary to conduct tests or run experiments to obtain the required data.

STATUS

We have agreed on a list of critical factors affecting initial response performance. The list is attached. We need to research these parameters in order to obtain values that we agree are applicable to our situation. Our evaluation will focus on determining the operating limits for each piece of response equipment. We have started by contacting other organisations to find and evaluate the values utilized in other parts of the world. Where values don't apply to our situation we will establish a method to get the necessary data. Where we can accomplish it, data will be verified by performance testing. We are expecting to have data to evaluate a number of performance factors as a result of the October 12 night-time drill.

Exercises we would like to pursue to answer specific questions are:

- Use of the Alyeska impoundment basins to conduct tests of skimmers
- Use a ballasted tank on board a tanker to obtain emulsification data by releasing ANS crude into the tank at depth
- Conduct a test of a barge in the 70,000 bbl range

in rough seas to determine its suitability as a working/skimming platform

- Look into the use of lights on helicopters to improve night-time response operations

FACTORS AFFECTING PERFORMANCE

I. Environmental Conditions

A further complication to the consideration of environmental factors is the way in which many of the parameters change, both within short geographical distances and within short periods of time.

Most of the environmental conditions affecting the performance of equipment are those existing at the precise time and location under consideration. These include:

- A. **WIND:**
 - Speed:
 - Direction:
- B. **WAVES:**
 - Height:
 - Period:
 - Steepness:
- C. **SWELL:**
 - Height:
 - Period:
- D. **CURRENT:**
 - Direction:
 - Speed:
- E. **VISIBILITY:**
 - Surface:
 - 500 ft.:
 - 1,000 ft.:
 - 2,000 ft.:
- F. **PRECIPITATION:**
- G. **TEMPERATURE:**
 - Air:
 - Sea:
 - Windchill:
- H. **ICE CONDITIONS:**
 - Ice bergs:
 - Ice on port surface:
- I. **ICING:**
 - Boats:
 - Aircraft:
- J. **DAYLIGHT HOURS:**

II. Equipment Performance parameters include:

- A. TIME TO DEPLOY:**
- B. RELIABILITY:**
- C. RECOVERY RATES:**
- D. FREE WATER PERCENTAGE:**
- E. OIL POOLING DEPTHS:**
- F. BOOMS:**
 - Holding capacity:
 - Leakage rate:
- G. MAXIMUM SURVIVABLE CONDITIONS:**
- H. MAXIMUM OPERATING CONDITIONS:**
- I. EASE OF MANEUVERING:**

III. Improvements on equipment use:

- A. MAINTENANCE:**
- B. METHOD OF DEPLOYMENT:**
- C. ADAPTATION OF EXISTING EQUIPMENT:**
- D. DESIGN OF NEW EQUIPMENT:**
- E. SURVIVABILITY OF EQUIPMENT:**
- F. SPARES:**

IV. Tactics:

- A. MANEUVERING OF VESSELS:**
- B. BOOM CONFIGURATIONS:**
- C. OPERATING IN LEE OF BARGES:**

V. Nighttime Operation:

- A. CRAB LIGHTS:
Vessels:
Aircraft:
- B. IR:
- C. NIGHT VISION:
- D. RADAR TRACKING:

VI. Oil weathering characteristics:

- A. EMULSIFICATION:
T/V Test:
- B. EVAPORATION:
Impound basin test:
- C. VISCOSITY:
Impound basin test:

VII. Skinner efficiency factors:

VIII. Possible Disposition of Barges and equipment complement by (GL).

1 ea 120,000 barge at Hinchbrook. Skimming capacity. Nameplate. 6-8,000 bbl/hr. 2-5,000 feet boom.

1 ea 70,000 barge at Naked Island. Skimming capacity. Nameplate. 6-8,000 bbl/hr. 2-5,000 feet boom.

1 ea 120,000 barge at Naked Island. Lightering and additional storage or skimming capacity. Suggest fitting barge with large capacity crane to allow equipment to be moved from vessel to vessel within the Sound.

2 ea 70,000 barges at Valdez. Ea Skimming capacity. Nameplate. 6-8,000 bbl/hr. 2-5,000 feet boom.

Maximum TIME to be operation in 80% of cases:

1st	barge:	4 HOURS.	
2nd	barge:	6 HOURS.	
3-4th	barge:	9 HOURS.	
WRY		12 HOURS.	(WRY to discharge to any barge)

MEMORANDUM

DATE: September 13, 1990

TO: ADHC-ALYESKA-USCG-RCAC WORKING GROUP

FROM: Tim Robertson, RCAC

RE: Goals & Objectives for Near Shore Protection and Skimming & On Shore Clean-up Sub-Group

Greetings! I'm sorry that I can not be at your meeting today. Sheila has ask me to give some thought to the goals and objectives of a sub-group to deal with issues related to Shoreline Clean-up. I brought up the issue of RCAC chairing a sub-group at the RCAC meeting on Tuesday this week. The issue was not formally moved, but there did not seem to be any objection. I feel that the idea is workable as long as our role is well defined and does not require a time commitment beyond our abilities.

SCOPE

I feel that this sub-group should deal with all issues in the PNSTOSPR Plan related to Near Shore Protection and Skimming & Shoreline Clean-up both within PWS and along the entire coast affected by the Exxon Valdez spill. Some issues which would fall under the jurisdiction of this sub-group are:

- Shoreline Environmental Sensitivity Surveys
- Hatchery Protection Program
- Community Protection Program
- Near Shore Response
- Sacrificial Beaches
- Shoreline Cleanup Planning
- Shoreline Cleanup Techniques
- Shoreline Cleanup Monitoring

OBJECTIVES

The objectives of this sub-group would be to examine issues of the C-Plan which are within the scope of the sub-group and strive to reach a consensus of opinion on the best method to deal with the issue and provide a recommendation to ADHC on an action to take. If a consensus can not be reached then a majority recommendation and minority recommendation should be issued.