

ALASKA LEGISLATURE SPECIAL COMMITTEE/SUBJECT FILE 8672

2060 SCOMM 78: SENATE SPEC. COMM. ON OIL & GAS, 1991-1992

78

8. Authorizes DEC to survey non-crude oil terminal facilities with a storage capacity between 210,000-420,000 gallons (794-1588 m³)
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 responsibilities requirements take effect June 1, 1991.

House Bill 578 - Citizens' Oversight Council

Introduced by the House Resources Committee, this bill was one of the top recommendations of the Oil Spill Commission. The bill establishes a five member oversight council on oil and other hazardous substances. The council has the following duties:

1. Serve as a watchdog of state and federal agencies with responsibilities for the prevention of and response to oil spills;
2. Recommend appropriate prevention policies;
3. Help develop interstate compacts regarding prevention of oil spills;
4. File and annual assessment of major area of risk and evaluate the performance of state and federal regulatory agencies.

The bill attempts to address the issue of an involved citizenry to help ensure compliance with environmental laws and regulations, as well as providing a forum for citizen participation.

D. OREGON

Existing Plans:

1. Oil and Hazardous Materials Emergency Response Plan. A legislatively mandated statewide plan developed in 1987, the plan:
 - a. Describes local, state and national communications networks for reporting spills of any kind;
 - b. Identifies who is in charge, sets up an incident command system, and details the roles and responsibilities for local, state, and federal agencies as well as industry and volunteer groups during any spill;
 - c. Details where responders may obtain technical information for any type of spill;
 - d. Describes how the response system will work from the local level to the national level for all types of spills.

As part of the state's preparedness program, a system of 10 regional hazardous materials response teams is being established. The teams of local responders will be equipped and trained with state funds and housed at local fire departments. The teams primary focus will be on hazardous materials incidents but they will also be prepared to provide limited initial response to major oil spills. They will be able to respond to most parts of the state in one hour.

The state also has a comprehensive state-funded hazardous materials training program for all responders. The program is managed through the State Fire Marshal's Office. Responders are trained to certified levels of competency.

In addition, a computerized data base of all hazardous materials stored and utilized at facilities in the state is available on call or by computer to all emergency responders. A computer data base of all hazardous materials response equipment also exists. Oil spill response equipment and resources will be added to this data base.

Natural resource protection plans

At present, three coastal areas and one river system have plans specifically designed to protect the sensitive resources of those areas. These areas are: the Columbia River to Bonneville Dam, the Willamette River to Willamette Falls, Yaquina Bay and Coos Bay.

All three plans identify sensitive natural resources, prioritize them for protection on a seasonal basis, suggest methods for protection, identify boom sites and possible containment sites, locate access points, and identify available equipment, personnel and response needs.

New Initiatives

The Oregon legislature recently mandated the Department of Environmental Quality (DEQ) to develop oil spill contingency plans for the entire Oregon coast and all the estuaries, the Columbia River to Pasco, and the Willamette River to Willamette Falls.

The plans will build on and supplement existing planning documents utilizing Geographic Information Systems (GIS) mapping systems. They will focus on natural resource protection, emphasize interstate coordination, and will develop response strategies and guidelines for dealing with wildlife rehabilitation, prevention, volunteer management, debris disposal, dispersant use, and damage assessment. The plans are due to be completed July 1, 1991.

New legislation also required DEQ to develop rules to require all ships carrying bulk petroleum products over 300 gross tons to provide financial assurance of \$1 million or \$150/ton.

Another piece of legislation requires DEQ to develop rules to impose additional civil penalties for the unlawful discharge of oil. All monies collected would be placed in a newly created fund to be used for damages to the environment.

Initiatives under consideration

Legislation will be developed to require all tank vessels and facilities to develop spill prevention and control contingency plans that are exercised and updated on an annual basis. Task Force Recommendations related to state jurisdiction will be incorporated into the new legislation as feasible.

E. CALIFORNIA

On September 22, 1990, Governor Deukmejian signed the Lempert-Keene-Seastrand Oil Spill Prevention and Response Act into law (SB 2040, Statutes 1990-Chapter 1248). The major provisions of this comprehensive law to increase the state's abilities to prevent and respond to oil spills include:

Creation of an Office of Oil Spill Prevention and Response with the Department of Fish and Game or the Resources Agency to centralize the State's oil spill prevention, contingency planning, and response functions;

Requirements for updating and improving state and local government contingency planning;

Requirements for marine oil transporters to have spill response operations in place and to show adequate financial resources available for spill response and liabilities;

Requirements for oil companies and transporters to submit new oil spill contingency plans;

Establishment of funds from fees assessed on oil to support prevention and emergency response activities, with provision for an additional borrowing authority to be replenished by responsible parties or oil fees in the event of a spill;

Creation of harbor safety committees for major state harbors to make plans for the safe operation of vessel traffic;

Provisions for qualified immunity for those, other than the responsible party, who respond to an oil spill;

Development of training programs to certify government and industry personnel and volunteers to be qualified for spill clean-up work;

Coordination with the U.S Coast Guard to determine if additional safety programs or regulations are necessary;

Expansion of vessel traffic systems; and

Enhancement of preventive regulation and inspection programs for oil transport and production operations through Office of Oil Spill Prevention and Response and the State Lands Commission.

The State's policy preferring pipelines as the mode for transporting oil has been implemented by several means. The Governor, in negotiations with the Secretary of the Interior, required in federal lease sales that oil be transported by pipelines to onshore processing facilities where technologically feasible and environmentally preferable. In addition, Section 30265(b) of the California Coastal Act states the legislature's finding that transportation studies conclude pipeline oil transport is generally both economically feasible and environmentally preferable to other methods of transport. The California Coastal Commission in its consistency determinations has made detailed findings documenting the advantages of pipeline transportation of crude over transportation by tanker to reduce the risk of oil spills and reduce the level of air pollutant emissions. These findings are supported by data compiled by the Commission, the Council on Environmental Quality (1975), the Rand Corporation (1975), the California State Lands Commission (1982), the Oil Spill Intelligence Report (1981), the U.S. Coast Guard (1981, 1982), the County of Santa Barbara (1984), and the All American Pipeline Company (1984).

The Office of Emergency Services has convened an Emergency Waste Disposal Task Force to address the disposal of emergency generated hazardous waste including waste from oil spills. The Task Force is looking into the state's current regulatory programs and facilities to see if any improvements are needed to handle foreseeable emergencies.

The Department of Fish and Game, in cooperation with the State Interagency Oil Spill Committee, has released a report to the legislature on the "Evaluation of Capabilities to Respond to Large Oil Spills in California Marine Waters." Their report concludes that tanker spills remain the largest threat of oil spills

in the State's marine waters. Recommendations contained in the report will be used by the legislature in its deliberations on current legislation.

The State is in the process of updating the California Oil Spill Contingency Plan which, among other things, will reflect the use of Incident Command System for response to spills.

The State Lands Commission is developing a Geographic Information System (GIS) to improve response to oil spills. The GIS is in response to permit conditions placed on State offshore lessees which requires the development of a real-time wave, current and wind monitoring system for use in oil spill prediction models. This GIS will be used to integrate oil spill model results with resource data from the surrounding physical environment. The GIS will also provide networking solutions to optimize equipment and manpower response to the location of an oil spill. This system is expected to be operational in June 1992. The State Lands Commission, in cooperation with the Coast Guard and other State agencies, is also planning to conduct a comprehensive review of marine terminals operating under State leases.

The California Coastal Commission, on September 11, 1990, adopted a resolution for improvements in oil spill prevention and response for the California Coastline. The resolution contains recommendations for Commission actions to reduce the number and size of spills in marine waters and to improve response to spills that may occur. The recommendations address the following areas: navigation, oil transportation, geotechnical/engineering, comprehensive national energy policy, contingency planning, and oiled wildlife rehabilitation.

Through funding provided under the Coastal Resources and Energy Assistance Program administered by the Secretary of Environmental Affairs, several local coastal governments have created or updated oil spill contingency plans. To date, nine counties have expended nearly \$600,000 on specific contingency planning efforts. In addition, several coastal cities and counties have conducted planning studies under this grant program related to offshore development and transportation of oil.

The County of Santa Barbara has completed its own Marine Emergency Management Study and a Crude Oil Transportation Analysis, which will be used in making county permitting decisions for offshore oil and marine terminal related projects.

Mendocino County has developed an Offshore Oil Spill Emergency Response Plan, culminating a two year effort in cooperation with federal, state and local agencies, and private organizations. This Plan integrates an incident command system in conjunction with federal and state plans. The County is also constructing a new emergency communications system, purchasing dedicated oil spill clean-up equipment, and developing a training program for commercial fishermen. In addition, the County participated in a coastline emergency response exercise conducted by the U.S. Coast Guard and the California Department of Fish and Game on May 26, 1989.

The major industry oil spill cooperatives are in the process of upgrading and expanding their equipment available for spill response. In Southern California, Clean Coastal Waters is adding four additional vessels, two high capacity recovered oil transfer pumps and a skimming system for vessels () opportunity. In the Santa Barbara Channel area, Clean Seas is adding two open ocean skimmers, three high capacity pumps, and various pieces of support equipment. For Northern California, Clean Bay is adding two boom deployment boats and additional skimmers and semi-inflatable work boats. In addition, Clean Seas and Clean Bay are conducting training programs with commercial fishermen to aid in spill clean up efforts.

F. UNITED STATES

Federal Legislation

On August 18, 1990, President Bush signed the Oil Pollution Act of 1990, which incorporated several elements of bills H.R. 1465 and S. 686 passed by the House and Senate respectively in 1989. Major provisions contained in the new law include:

- o requirement of double hulls on all tankers within a 20-year timeframe
- o increase in limit of liability and financial responsibility evidence to \$1200 per gross ton, or \$10 million for vessels exceeding 3,000 gross tons.
- o establishment of a \$1 billion federal cleanup trust fund
- o requirements for vessel manning and work shifts
- o increase in severity of penalties
- o establishment of an alcohol and drug abuse review program.
- o standards for hull plating thickness
- o review of vessel traffic service systems
- o studies on navigation safety standards
- o develops a national planning and response system

United States Coast Guard

On June 22, 1990, the Thirteenth District of the USCG conducted a one day Public Hearing to consider proposed rule and policy changes that could affect vessel operations and equipment while in the navigable waters of the States of Washington and Oregon. Final comments were due July 22, 1990.

The Coast Guard believes that the current operating practices of tank vessel and chemical carriers in Pacific Northwest waters need to be reviewed to reduce risk of environmental damage due to collisions, groundings and rammings to enhance pollution prevention through increased vessel safety measurers.

The Coast Guard specifically requested comments concerning anticipated economic impact of the proposals being considered to improve accuracy of evaluating costs and potential benefits if the proposals were further developed and implemented.

Also being sought, was input related to factors affecting the implementation of the proposals. An explanation of how much time it might take to implement and the delays which can be anticipated were of particular concern. Initially, the Coast Guard is considering implementing changes in the waters of Puget Sound, the Strait of Juan de Fuca, Rosario Strait, Hood Canal and the Columbia River. The following outlines the topics and rationale for change.

PROPOSAL 1: Tug Escorts (Puget Sound, Strait of Juan de Fuca, Rosario Strait)

Tug escorts could be required for loaded single-propulsion tankships and chemical carriers in the Strait of Juan de Fuca west of Port Angeles and adjacent navigable waters. Washington state law does not presently provide for tankship escorts west of Port Angeles. Tankships with a single means of propulsion

present a greater risk of grounding in the event of a propulsion system casualty due to lack of a backup system. There are no towing resources in the western reaches of the strait of Juan de Fuca dedicated to responding to these types of casualties. Anchoring is difficult due to the depth of the waters. Swift currents increase the likelihood that a grounding would occur before anchoring could be achieved or assistance provided by a tug. Similar conditions exist in other waterways. Providing an escort for these vessels could reduce the risk of groundings.

PROPOSAL 2: Emergency Towing Plan (Puget Sound, Strait of Juan de Fuca, Rosario Strait)

An emergency tow plan could be required for tankships and chemical carriers that are also required to have escorts. Certain tankships already are required to be escorted under Washington state law east of Port Angeles. Other tankships and chemical carriers could be required to have tug escorts under Proposal 1. There is currently no requirement that these vessels have a plan that sets forth how assistance will be rendered by the escort vessel in the event of a casualty. It is believed that such a plan will provide for better communications between the escort vessel and the vessel being escorted and thereby assure a coordinated effective response to a propulsion or steering casualty on the tankship and reduce the risk of grounding or a mishap while assistance is being rendered.

PROPOSAL 3: Speed Criteria (Puget Sound, Strait of Juan de Fuca, Rosario Strait)

Speed criteria could be established for tankships and chemical carriers under escort. Certain tankships are required to be under escort. However, there have been no criteria established relative to the speed at which these vessels must operate. Of major concern is that tankships not exceed a speed which would render their escort ineffective in providing assistance if a steering or propulsion casualty were to occur. The safety of the escorting tug and its operating characteristics are important considerations.

PROPOSAL 4: Additional Bridge Personnel (Puget Sound, Strait of Juan de Fuca, Rosario Strait, Columbia River)

More than one licensed officer could be required on the bridge of tankships and chemical carriers while in the Columbia River, the Strait of Juan de Fuca and adjacent navigable waters. A pilot would be considered one of those officers. Vessel casualties have shown that the presence of a second officer on the bridge of vessels transiting pilotage waters could reduce the risk of groundings and collisions. A second officer on watch, perhaps designated as the navigating officer, could relieve the conning officer from a variety of tasks that can detract from maneuvering the vessel in piloting waters.

PROPOSAL 5: Pilotage (Strait of Juan de Fuca)

In furtherance of the objective of Proposal 4, the requirement for pilotage could be extended through the Strait of Juan de Fuca. This would in effect add a second officer on watch on vessels in the waters west of Port Angeles. Depending upon which action is taken by the state of Washington related to this issue, a federal pilot could be required on both foreign trade vessels and coastwise U.S. vessels or only on coastwise vessels. Vessels navigating the strait west of Port Angeles would benefit from the same level of local expertise as vessels receive inside Puget Sound. It would also reduce the communications difficulties in that area resulting from the varying degrees of competence in speaking and understanding English. Inasmuch as the Coast Guard presently has the authority to require pilotage under 46 USC 8502 for coastwise domestic vessels within their navigable waters of the Strait of Juan de Fuca, the Coast Guard is nevertheless requesting comments on the proposed policy change in view of the operational and economic impacts it could have.

PROPOSAL 6: Emergency Tow Lines on Barges (Puget Sound, Strait of Juan de Fuca, Rosario Strait, Columbia River)

Require emergency tow lines on barges transporting oil and chemicals in the Strait of Juan de Fuca and the Columbia River and adjacent navigable waters. The bars on the coasts of Washington and Oregon are particularly hazardous to tug-barge combinations. Recent casualties involving tow line failures have focused on the need for a backup system to the primary tow line that can be put into use quickly. While prudent barge companies have implemented such systems this practice has not received industry wide acceptance.

U.S. Secretary of the Interior

At its meeting in April 1989, the Outer Continental Shelf (OCS) Policy Committee formed a subcommittee to review analyses of the Exxon Valdez oil spill and to make recommendations to address the policy implications for the OCS oil and gas program. The Policy Committee provides advice to the Secretary of the Interior on discretionary functions of the OCS Lands Act. This subcommittee included representatives from a wide range of coastal states, industry, and the environmental community.

Given that oil spills will occur even with the best safeguards, the subcommittee concluded that a credible national spill prevention and response program for both OCS and non-OCS oil spills in the marine environment is needed. Eight essential elements of such a program were identified:

1. A demonstrated commitment to prevent oil spills;
2. A demonstrated oil spill response capability, especially a command/control structure and decision process adequate to insure timely, coordinated response with clear roles and responsibilities for local, state, and federal government and the private sector;
3. Adequate characterization of the marine and coastal environment, including both information and analysis, accessible to key decision makers;
4. The capacity to restore economic and environmental resources as quickly as possible if damage occurs;
5. Appropriate and timely compensation for damaged parties;
6. A mechanism for research on oil spill impacts;
7. A meaningful role for all interested and responsible parties, including the public, in as many of these activities as possible, from oil spill prevention and contingency planning to environmental oversight of ongoing operations and participation in clean up and restoration activities; and
8. Funding at appropriate levels for all of the above.

Department of Commerce

The National Oceanic and Atmospheric Administration (NOAA) within the U.S. Department of Commerce is continuing its work on the National Marine Sanctuary Program. Federal law authorizes the Secretary of Commerce to designate discrete areas of the marine environment of special national significance as National Marine Sanctuaries to ensure comprehensive management and protection of their resources. Since the Program's inception in 1972, eight marine sanctuaries have been designated nationwide. Offshore the West Coast currently designated sanctuaries include Channel Islands, Gulf of the Farallones, and Cordell Bank, which are all located off California.

Pursuant to legislation passed by Congress in November 1988 (P.L. 100-627), NOAA currently is undertaking a review of an additional ten areas, four of which are located in the Pacific, as active candidates for National Marine Sanctuary designation. Prior to final designation, each area will undergo an environmental impact review pursuant to the National Environmental Policy Act. The four West Coast candidates are:

- o North Puget Sound, offshore Northern Washington;
- o Western Washington Outer Coast, offshore Washington;
- o Monterey Bay, offshore Central California;
- o Santa Monica Bay, offshore Southern California.

G. CANADA

The Government of Canada has taken a number of important initiatives regarding oil spills and transportation during the past year. They are significant because federal agencies have the primary legislative authority to regulate activities at sea and to safeguard fisheries and marine mammals. In particular, the Canadian Coast Guard regulates vessel traffic and shipping and spills of polluting substances through the Canada Shipping Act and the Navigable Waters Protection Act. The Federal Department of Fisheries and Oceans is responsible for marine habitat and fisheries management under the Canada Fisheries Act. Environment Canada has a mandate to coordinate the federal government's efforts to deal with environmental emergencies.

Although no legislative changes have recently been enacted to address the issue of marine oil spills, federal agencies have taken a number of measures aimed at improved spill prevention and response. During 1989, the federal agencies involved in marine oil spills conducted an internal review of spill prevention systems and response capability, and the adequacy of legislation and enforcement. In June of 1989, the Federal Minister of the Environment appointed a 3-person inquiry, headed by David Brander-Smith, to parallel the internal review activities. It included a nationwide public review of Tanker Safety and Marine Spills which was completed in December of 1989. The public review panel reviewed submissions from industry, the public, and from government including the internal review findings as well as studies the panel itself commissioned. Issues addressed in the Brander-Smith inquiry included spill prevention, preparedness, and the legal framework for marine oil and chemical spills. The Brander-Smith report is expected to be made public in October 1990, and will report on specific regional issues across Canada, with emphasis on the West Coast.

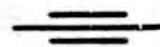
In April of 1990, the federal Ministry of the Environment released a "Framework for Decision Making" as a vehicle for public input to the federal government's "Green Plan". The Green Plan was developed as a strategy to incorporate environmental considerations into the decision making process and programs of government. Among many other issues it devotes a page to the issue to marine spills. It is expected that late 1990, the federal government will announce decisions on programs identified in the draft plan.

The Canadian Coast Guard has been involved in marine spill activities since the 1988 Nestucca spill. It has established two new equipment depots along the B.C. coast, at Ucluelet and Sandspit. Two new response vessels have been purchased for the Victoria and Vancouver harbors. The Coast Guard is actively reviewing the dimensions of the Tanker Exclusion Zone, established on a cooperative basis with U.S. shipping interests to confine Alaskan crude oil tankers to 85 miles off the coast. A new routing system at the entrance to Juan de Fuca Strait is also being discussed with industry, to reduce the navigation risks for all vessel traffic. The Coast Guard is also working on a proposal for enhanced Vessel Traffic Services radar coverage for Vancouver and Prince Rupert harbors. Finally, it has initiated contract discussions with several tribe councils to arrange for native involvement in response to future spills.

ATTACHMENT 1

**OIL SPILL
MEMORANDUM
OF
CO-OPERATION**

Between the
Province of British Columbia
the
State of Washington
the
State of Oregon
the
State of Alaska
and the
State of California



June 1989

OIL SPILL MEMORANDUM OF CO-OPERATION

Whereas the Province of British Columbia (the "Province") and the States of Washington, Alaska, Oregon and California (the "States") have a mandate to enhance the environment and protect it from oil spills; and

Whereas the Province and the States share and manage common transboundary fish and wildlife particularly in and near the waters of the Pacific Ocean; and

Whereas the Province and the States concur that such fish and wildlife and the supporting environment must be given the fullest protection from damage caused by spills and other discharges of oil; and

Whereas it is paramount to maintain and improve a co-ordinated response to prevent, reduce, or overcome the effects of an oil spill in our respective waters, within the framework of the Canada-U.S.A. Joint Marine Pollution Contingency Plan; and

Whereas the future requires continued need for co-operation in preventing or abating oil spills in the aforementioned waters, including the participation of the Federal Governments of Canada and the United States;

Now therefore, in recognition of the spirit of co-operation which has characterized their efforts thus far, the Province of British Columbia, through its Premier, the Honourable W. N. Vander Zalm, and the State of Washington, through its Governor, the Honourable Booth Gardner, the State of Oregon, through its Governor, the Honourable Neil Goldschmidt, the State of Alaska, through its Governor, the Honourable Steve Cowper, and the State of California, through its Governor, the Honourable George Deukmejian, join together in this memorandum of co-operation pertaining to the resolution of mutual problems of oil spill pollution in the aforementioned waters. In this regard the Province and the States have formed an Oil Spill Task Force to develop co-ordinated programs for oil pollution prevention, abatement and response.

The Task Force is chaired jointly by the British Columbia Deputy Minister of Environment, the Washington Director of Department of Ecology, the Oregon Director of Department of Environmental Quality, the California Environmental Affairs Agency, and the Alaska Commissioner of Department of Environmental Conservation. To ensure future effective co-ordination of intergovernmental efforts, representatives of each government will be appointed to maintain this memorandum. This responsibility will be included in the job descriptions of these representatives and written notification of their appointment will be provided to all other parties to this memorandum. These representatives will meet annually to review progress and plan future co-operation. Four subcommittees have been established to address:

- (1) Prevention Alternatives
- (2) Technology Sharing
- (3) Emergency Response
- (4) Financial Recovery.

Issues addressed by the subcommittees will include:

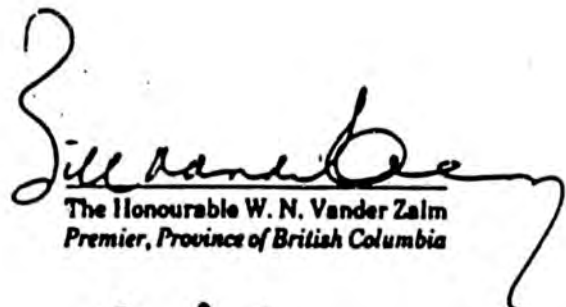
- (1) the creation of a joint emergency response plan;
- (2) an evaluation of capabilities and technologies for spill prevention, response and containment;
- (3) a review of tanker safety, routes and operating requirements;
- (4) an inventory of equipment, material, and personnel available to either the Province or the States for use in oil spill control and clean-up operations;
- (5) joint spill response drills and training.

The duration of this memorandum is intended to be perpetual, but each party may terminate at will its agreement by giving written notice to the other parties.

The parties do not intend by this memorandum to create any separate legal or administrative entity.

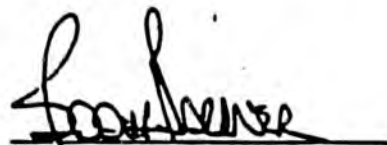
Each party shall bear its own expenses of co-operating pursuant to this memorandum.

Signed this 16th day of June 1989.



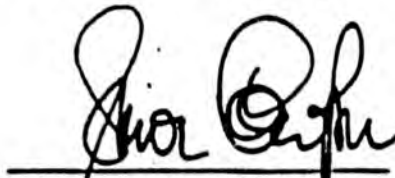
The Honourable W. N. Vander Zalm
Premier, Province of British Columbia

Signed this 16th day of June 1989.



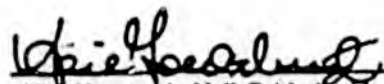
The Honorable Booth Gardner
Governor, State of Washington

Signed this 31st day of August 1989.



The Honorable Steve Cowper
Governor, State of Alaska

Signed this 5th day of July 1989.



The Honorable Neil Goldschmidt
Governor, State of Oregon

Signed this 9th day of November 1989.

George Deukmejian
The Honorable George Deukmejian
Governor, State of California

ATTACHMENT II

States/BC Oil Spill Task Force Special Reports and Related Information

This document is a brief summary of the references utilized by the Task Force in preparing the draft report.

Contact Phone Numbers

Ann Essko, Washington Attorney General's Office (206) 459-6703
(Chair, Financial Recover Subcommittee)

John Bones, BC Ministry of Environment (604) 356-9306
(Chair, Prevention Alternatives Subcommittee)

Dean Monterey, BC Ministry of Environment (604) 356-7721
(Chair, Emergency Response Subcommittee)

Jon Neel, Washington Department of Ecology (206) 459-6039
(Chair, Technology Sharing Subcommittee)

TITLE: Interim Report of the States/British Columbia Task Force on Oil Spills
AUTHOR: Province of British Columbia and States of Washington, Oregon and California
DATE: December 1989
CONTACT: Jon Neel or John Bones
SUMMARY: A progress report for the States/BC Task Force. This document describes progress by each of the four subcommittees (Prevention Alternatives, Emergency Response, Financial Recovery, and Technology Sharing.)

PREVENTION SUBCOMMITTEE

TITLE: Marine Oil Transportation Systems Evaluation of Environmental Risk
AUTHOR: D.F. Dickins Associates, Ltd.
DATE: August, 1990
CONTACT: John Bones
SUMMARY: This study conducts an environmental risk analysis for marine oil transportation in the Puget Sound region and on the B.C. coast, and integrates the studies of risk, tanker safety, traffic systems and supply routes to develop a list of practical alternatives for reducing the risk of oil spills on the west coast.

TITLE: Crude Oil and Petroleum Traffic in British Columbia and Puget Sound
AUTHOR: Marvin Shafer and Associates
DATE: December, 1989
CONTACT: Bill Wolferstan/John Bones
SUMMARY: An analysis of marine oil traffic patterns in the Vancouver Harbor/Puget Sound region, including an evaluation of future trends and alternatives to reduce tanker traffic.

TITLE: Tanker/Barge Onboard Safety

AUTHOR: DF Dickins and K Krajczar

DATE: December 1989

CONTACT: Bill Wolferstan/John Bones

SUMMARY: An analysis of construction and operating standards which will reduce risk of casualty and the volume spilled should a casualty occur. The report reviews data on marine casualties as a basis for its analysis and recommendations.

TITLE: Report to the Premier on Oil Transportation and Oil Spills

AUTHOR: David Anderson, Special Advisor

DATE: November 1989

CONTACT: John Bones

SUMMARY: Addresses a range of issues with a focus on oil spill prevention in B.C. including: reduction of oil consumption; reducing tanker traffic; improving ship safety; oil spill planning, management, organization and response; and compensation. Recommendations directed to both Federal and Provincial agencies.

TITLE: Spill Prevention Issue Paper

AUTHOR: Puget Sound Water Quality Authority

DATE: December 1989

CONTACT: Jerry Boese, PSWQA

SUMMARY: An analysis of what can be done in Puget Sound in preventing spills of Petroleum and other hazardous substances. Includes recommendations for contingency planning, operator training, vessel traffic safety, federal design standards, civil and criminal penalties, liability for cleanup costs and damages, and public education.

TITLE: Oil Spill Risk for Southern B.C./Northern Washington

AUTHOR: Phil Cohen, Richard Aylesworth, Bob Sherwood, (Environment Canada)

DATE: September 1990

CONTACT: John Bones

SUMMARY: This report addresses the following question to the extent that information is currently available. What is the present navigation risk of the petroleum transportation system in the Southern B.C./Northern Washington coast marine area and what potential is there for reducing this risk?

TECHNOLOGY SHARING SUBCOMMITTEE

TITLE: 1988 Petroleum Transportation Estimates for Puget Sound and the Strait of Juan de Fuca

AUTHOR: Scott H. Chadbourne
Thomas M. Leschine

DATE: December 1989

CONTACT: Jon Neel

SUMMARY: Quantifies vessel and petroleum marine transportation in Puget Sound, Grays Harbor and the Strait of Juan de Fuca, and provides the following information:

- Annual volume of petroleum shipped
- Type of petroleum product
- Type of transport vessel
- Transportation routes
- Vessel movements between points (transits)

TITLE: Early Response Estimates for Clean Sound
Cooperative in the Puget Sound Area

AUTHOR: Woodward-Clyde Consultants (Prepared for Clean Sound Cooperative)

DATE: December 5, 1989

CONTACT: Jon Neel

SUMMARY: Provides estimates of the early response capabilities of Clean Sound and private equipment that would be used in various oil spill scenarios. The following items are addressed:

- oil spill response time
- early response oil spill recovery estimates (assuming current equipment inventory)
- response capability estimate for a "worst probable spill" scenario
- additional equipment purchases designed to provide improved capability to a "worst probable spill" scenario.

TITLE: Summary of Technology Proposals Received Through the B.C. Ministry of Environment

AUTHOR: Margaret MacNeill

DATE: March 1990

CONTACT: Bill Wolferstan/John Bones

SUMMARY: Presents a brief summary of all the oil spill cleanup technology proposals reviewed by the British Columbia Ministry of Environment. Evaluations of the technology suggestions by the Environmental Emergency Technology Division of Environment Canada are provided.

RESPONSE SUBCOMMITTEE

TITLE: B.C./States Oil Spill Task Force
Emergency Response Guide

AUTHOR: T.C. Davis

DATE: July, 1990

CONTACT: Dean Monterey

SUMMARY: Provides an effective mechanism to assure the proper notification of provincial, state, federal, and local officials during spills potentially affecting international and state waters. The plan also addresses Contingency Plan coordination and mutual aid in the event of a major spill in waters of one of the jurisdictions.

FINANCIAL RECOVERY SUBCOMMITTEE

TITLE: Selected Cost Recovery Options and Issues
Arising From a Maritime Oil Spill

AUTHOR: Ann Essko

DATE: July, 1990

CONTACT: Ann Essko

SUMMARY: Summarizes the legal authority to recover costs and damages from responsible parties in the four jurisdictions participating in the Task Force. The document discusses provisions of Federal admiralty law; federal and state statutes which apply; and common law.

TITLE: Generic Field Contract

AUTHOR: Ann Essko

DATE: July, 1990

CONTACT: Ann Essko

SUMMARY: A draft agreement between the Task Force jurisdictions and the responsible party (Spiller). The contract will provide a mechanism to allow the owner/operator of the vessel or facility to take full financial responsibility for clean up costs, state oversight costs, and damages.

OTHER ASSOCIATED REPORTS

TITLE: Spill: The Wreck of the Exxon Valdez
(Executive Summary)

AUTHOR: Alaska Oil Spill Commission

DATE: January, 1990

CONTACT: Alaska Oil Spill Commission

SUMMARY: Recommendations of the Commission for improving oil spill prevention and response in Alaska, including:

- A comprehensive prevention policy
- Responsibility of industry
- State and Federal regulation and oversight
- Government response posture
- Implementing the response
- Research and development

TITLE: Special Reports of the Alaska Oil Spill Commission

AUTHOR: Alaska Oil Spill Commission

DATE: November 89 to Jan. 1990

CONTACT: Alaska Oil Spill Commission

SUMMARY: Several papers assessing prevention:

The wreck of the Exxon Valdez - Lessons for prevention
Findings of the Alaska Oil Spill commission - Presented to the National
Transportation Research Board Panel on Oil Transportation issues
International use of Dispersants
Testimony to the joint hearing of Alaska Senate and House Committees

TITLE: Report to the Governor on the Nestucca Oil Spill

AUTHOR: Washington State Department of Ecology

DATE: June 1989

CONTACT: Jon Neel

SUMMARY: This is the formal State "OSC report" (On Scene Coordinator) on the
Nestucca incident, and includes:

Summary of what happened
Analysis of the state's response
Discussion of damages
Recommendations on what the State needs to do to be better prepared for
the next spill.

TITLE: The American Petroleum Institute Task Force Report On Oil Spills

AUTHOR: American Petroleum Institute (API)

DATE: June 1989

CONTACT: Del J. Fogelquist, Western States Petroleum Association (WSPA)

SUMMARY: Recommendations made by the oil industry that it take significant actions in three major areas - prevention of spills, response to spills, and spill related research.

TITLE: Steering Committee report and Recommendations on the Implementation of PIRO

AUTHOR: Petroleum Industry Response Organization (PIRO)

DATE: January 1990

CONTACT: Del Fogelquist, WSPA

SUMMARY: Recommendations by PIRO on establishing and implementing an industry - wide response program, including:

Analysis of key legislative proposals and their impact
Role of PIRO in spill response, contingency planning, and disposal
Structure of PIRO
Funding of PIRO

TITLE: Comparative Assessment of State Pilot Safety

AUTHOR: R.D. Leis (for the American Pilots Association, Inc.)

DATE: June 23, 1989

CONTACT: Author

SUMMARY: An analysis of pilot induced marine casualties which compares state verses non-state pilots.

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S.L. Ross Environmental Research Ltd. Evaluation of Capabilities to Respond to Large Oil Spills in California Marine Waters. California State Interagency Oil Spill Committee. April 1990.

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Other. Report of the OCS Policy Committee Subcommittee to Review Analyses of the Exxon Valdez Oil Spill. Approved May 23, 1990.

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Other. Marine Emergency Management Study. County of Santa Barbara, CA. Energy Division. Final Report. May 1989.

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Other. International Spill Statistics: 1986 - 1988. Oil Spill Intelligence Report. 1990.

ATTACHMENT III

Lists of Subcommittee Members

Prevention Alternatives Subcommittee

B.C. Ministry of Environment (Chair)	John Bones
	Bill Wolferstan
B.C. Ministry of Energy, Mines and Petroleum Resources	Lynn Ewing
B.C. Ministry of Attorney-General	Dennis Doyle
Washington Department of Ecology	Jon Neel
	Cullen Stephenson
Washington Attorney General's Office	Anne Essko
Alaska Environmental Conservation Department	Lynn Kent
Oregon Environmental Quality	Bruce Sutherland
California Environmental Affairs Agency.	Amy Glad

Emergency Response Subcommittee

B.C. Provincial Emergency Program (Chair)	Dean Monterey
Washington Ecology	Jim Oberlander
Washington Emergency Management	Kate Heimbach
Alaska Environmental Conservation	Lynn Kent
Oregon Environmental Quality	Bruce Sutherland
B.C. Environment	Tom Wood/ Ken Lozoway
California Environmental Affairs Agency	Amy Glad
California Department of Fish and Game	Capt. Michael Herlache

Technology Sharing Subcommittee

Washington Department of Ecology (Chair)	Jon Neel
	Cullen Stephenson
British Columbia Ministry of Environment	Margaret McNeill
Alaska Department of Environmental Conservation	Lynn Kent
Oregon Department of Environmental Quality	Bruce Sutherland
Washington Department of Emergency Management	Kate Heimbach
Washington Department of Wildlife	Hal Beecher
California Environmental Affairs Agency	Amy Glad

Financial Recovery Subcommittee

Washington Attorney General Office (Chair)	Ann C. Essko
B.C. Ministry of Attorney General	Dennis Doyle
California Attorney General Office	Mary Hackenbrack
Oregon Attorney General Office	Michael Huston
Alaska Attorney General Office	Douglas K. Mertz
Canadian Justice Department	Alfred H.E. Popp
	Harry Wruck

Advisors/Study Review Panel members to the Prevention Alternatives Subcommittee:

US Coast Guard

US Environmental Protection Agency
Western States Petroleum Association
ARCO
Puget Sound Water Quality Authority

Environment Canada

Canadian Coast Guard
Canada West Petroleum Association
Esso Marine
Trans Mountain Pipe Line Company Ltd.

Rene Roussel
Steve Heath
Chuck Findley
Del Fogelquist
Fielding Formway
Bill Britt
Jerry Boese
Paul Heimowitz
Bob Sherwood
Philip Cohen
Rick Bryant
Martin Greene
Cliff Barber
Grayden Hayward

Advisors to the Financial Recovery Subcommittee:

Washington Attorney General Office
State of Washington

United States Coast Guard
Canadian Coast Guard
Washington Department of Ecology

Doug Mosich
Mary McCre
Mark Bendor
Steve Heath
Shan Prihar
Jon Neel

SCOMM

78:32

Alaska State Legislature

Senate Committee on Oil and Gas

Senator Sam Cotten, Chairman
Senator Drue Pearce, Vice-Chairman
Senator Bettye Fahrenkamp
Senator Lyman F. Hoffman
Senator Dick Shultz



P. O. Box V, State Capital
Juneau, AK 99811
(907) 465-3711

April 24, 1991

To: Members of the Senate Oil and Gas Committee

From: Sam Cotten, Chair

NOTICE OF MEETINGS

1. The Oil and Gas Committee will be meeting on Friday at 9:30 in the Beltz Room to consider S.B. 263 (five day notice waived). The legislation would defer for one year compliance with last session's H.B. 567 for non-crude operations.

2. The confirmation of Lonnie Smith, commissioner of the Alaska Oil and Gas Conservation Commission, was referred to both the Senate Oil and Gas Committee and the Senate Resources Committee. As a result, our committee will be meeting jointly with the Senate Resources Committee on Monday, April 29, 1991 at 1:30 to consider that confirmation. The meeting will be in the Butrovich Room.

3. The Oil and Gas Committee will meet Tuesday, April 30 at 11:00 in the Beltz Room to consider S.J.R. 28, relating to the Presidential Task Force on the TAPS.

cc: Senate Secretary
Senate Records
Commissioner Lonnie Smith
Senator Lyman Hoffman
Senator Jay Kerttula



Senator Lyman F. Hoffman

Alaska State Senate

P.O. Box V • Juneau, Alaska 99811 • (907) 465-4453

District M
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Andreasky
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Arctic Village
Atnautluak
Beaver
Bethel
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Chefnak
Chuathbaluk
Crooked Creek
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Evansville
Fort Yukon
Galena
Goodnews Bay
Grayling
Holy Cross
Hughes
Huslia
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Nightmute
Nikolai
Nulato
Nunapituk
Oscarville
Pilot Station
Pitkas Point
Platinum
Quinhagak
Rampart
Red Devil
Ruby
Russian Mission
Shageluk
Sleetmute
St. Mary's
Stevens Village
Stony River
Taketna
Tanana
Telida
Toksook Bay
Tuluksak
Tunatuliak
Tununak
Tyonek
Venetie
Wiseman

MEMORANDUM

TO: Senator Jay Kerttula, Co-chair
Senator Pat Pourchot, Co-chair
Senate Finance Committee

FROM: Senator Lyman F. Hoffman *LFH*
Senator Al Adams *AA*

DATE: April 30, 1991

RE: Supplemental funding

Last year's HB 567 set new standards and requirements for oil spill cleanup and financial responsibility. As a compromise to the non-crude oil industry, two studies were mandated [Section 30 (a) and (b), ch. 191, SLA 1990 and Section 31, ch. 191, SLA 1990]. In the rush to pass this major piece of legislation, the legislature did not have the opportunity to discuss the economic impacts of these changes in oil spill contingency planning.

For that reason, we would like to request supplemental funding for the Department of Environmental Conservation for \$60.0 from the 470 fund to include an analysis of the probable economic costs and other economic effects that the recommended requirements would impose on all noncrude oil terminal facilities, tankers and barges and on the persons they serve. This report should also include the benefits to the State of Alaska through avoided clean-up costs expected through implementation of this law. The lapse date of this allocation should be July 1, 1992. DEC supports this request.

Senator Lyman F. Hoffman

Alaska State Senate

P.O. Box V • Juneau, Alaska 99811 • (907) 465-4453

MEMORANDUM

TO: Members, Senate Oil and Gas Committee

FROM: Senator Lyman F. Hoffman

DATE: April 24, 1991

RE: SB 263

On Monday I introduced SB 263 which would delay the effective date of last session's HB 567 for one year for noncrude carriers and facilities.

I have introduced this legislation at the request of electric utilities and fuel delivery companies serving rural Alaska. The attached background paper explains the history of the issue, the problem, and how SB 263 would address it.

This bill has been sent to the Senate Oil and Gas Committee, where the issue has already been the subject of several hearings. I am hoping to get a speedy hearing on my bill and would appreciate your support for it.

If you have any questions don't hesitate to contact myself or my aide Molly McCammon at 4453. Thank you.

Alaska State Legislature

Senate Committee on Oil and Gas

Senator Sam Cotten, Chairman
Senator Drue Pearce, Vice-Chairman
Senator Bettye Fahrenkamp
Senator Lyman F. Hoffman
Senator Dick Shultz



P. O. Box V, State Capital
Juneau, AK 99811
(907) 465-3711

April 23, 1991

Senator Dick Eliason
Senate President
P.O. Box V
Juneau, Alaska 99811

Dear Senator Eliason,

Senator Hoffman has introduced a bill -- SB 263 -- that would delay the requirements of last session's HB 567 for one year for non-crude operations.

I am requesting that the bill be referred to the Senate Special Committee on Oil and Gas. This committee has had several hearings this session on the requirements of HB 567, and I believe it would be appropriate for the committee to review Senator Hoffman's bill.

Thank you for your consideration.

Sincerely,

A handwritten signature in cursive script, appearing to read "Sam Cotten".

Sam Cotten
Chair

Senator Lyman F. Hoffman

Alaska State Senate

P.O. Box V • Juneau, Alaska 99811 • (907) 465-4453

MEMORANDUM

TO: Senator Sam Cotten, Chair
Senate Oil and Gas Committee

FROM: Senator Lyman F. Hoffman

DATE: April 19, 1991

RE: HB 567

On Monday I am introducing a bill to extend the effective date of last year's HB 567 for one year (see attached) for noncrude carriers only. Since this issue has already received a hearing in your committee, I respectfully request that you waive the 5-day notice and formally hear this proposed legislation as soon as possible.

I had not originally intended to introduce an extension of this nature. However, after hearing from a number of electrical utilities, fuel co-ops, and others from rural Alaska, it has become obvious to me that many of the smaller, non-crude oil businesses will not be in a position to be in compliance with HB 567, especially in light of the fact that the regulations will not be in place until next December at the earliest.

This legislation does not address the ambiguity of whether unexpired contingency plans must be redrafted and reapproved by DEC by either effective date. I would consider an amendment to do so if it would be considered appropriate.

This legislation does add two new sections to the reports required by HB 567 to include an analysis of the probable economic costs and other economic effects of the new requirements on noncrude facilities and carriers.

SB 263

BACKGROUND PAPER

History: On March 24, 1989 the Exxon Valdez ran aground on Bligh Reef in Prince William Sound, causing the largest crude oil spill in United States history. As a result, the Alaska Legislature and the United States Congress significantly strengthened oil spill prevention and cleanup standards. One bill - HB 567 - passed late last session made three major changes in state oil spill protection: It established new response planning standards; imposed new financial responsibility requirements for contingency plan holders; and required prevention measures to be incorporated into contingency plans. The new law required that existing contingency plan holders comply with these major changes on and after June 1, 1991.

Problem: Although HB 567 was passed as a result of the Exxon Valdez Oil Spill and was aimed at the crude oil industry, non-crude carriers and facilities are also subject to the changes. The Department of Environmental Conservation was charged with implementing this law. DEC failed to complete the implementing regulations in a timely manner however, and now does not expect them to be in place until December 1991, at the earliest. The larger oil companies have been working to meet these new requirements for this last year, and will be prepared to do so by HB 567's June 1, 1991, effective date. Their contingency plans will also receive the highest priority by DEC for review.

The smaller fuel distributors, barge lines, and electric utilities serving rural Alaska are not as prepared. They are having a difficult time meeting the new financial responsibility requirements. Insurance companies have so far not been willing to provide insurance and for most companies, self-insurance is not a feasible option. Due to the absence of implementing regulations, these companies also are not clear on how to approach the response standards. For example, does "realistic maximum discharge" mean the entire capacity of the vessel and the oil terminal facility? If so, this would require having such a large amount of cleanup equipment standing by that it would become prohibitively expensive to deliver fuel by barge to bush communities. HB 567 permits some leniency on the response requirements if prevention efforts are

undertaken. The smaller companies however, are hesitant to invest heavily in new cleanup equipment without first knowing what prevention credits might be available to them when the new regulations are implemented. Another uncertainty is that the smaller companies' contingency plans will not have been reviewed and approved by June 1, 1991, leaving open a serious liability question in the event of a spill.

Solution: SB 263 would delay the effective date until June 1, 1992, of HB 567 for noncrude operators only. Additionally, it would require that the studies already required by HB 567 include an assessment of the economic costs of the new requirements on noncrude operators. This would give DEC time to put its regulations together, and would avoid forcing non-crude carriers and facilities to operate in the uncertain liability environment they would face under the present deadline for compliance.

SECTIONAL ANALYSIS

PRELIMINARY DRAFT 1/28/91

ARTICLE 4. OIL DISCHARGE PREVENTION AND CONTINGENCY PLAN

18 AAC 75.305 Application for Approval

C-plans must be submitted 65 days prior to operation. This precludes the spot charter of tank vessels to deliver fuel to Dutch Harbor. It may also delay continuous operations when facilities are sold.

Five copies of the draft plan are to be submitted - ADEC may require additional copies. Coastwise marine operators (Crowley/Foss) may be subject to submitting plans to each of the 35 entities within the Alaska Coastal Management Program. Further, the current interpretation is that the operator is to respond to each entity which presents questions or requests additional information.

18 AAC 75.310 Application for Amendment

C-plans must be site specific. Marine operators must address all transfer locations. To deliver fuel to a location or village not described in the approved plan, an update which requires 65 days review is required.

18 AAC 75.320 Contingency Plan Contents

C-plans must follow and be presented in the four section format. All plans must be entirely rewritten, regardless of current value or content.

(1) Section 1 -- Emergency Action Plan

Emergency plan booklets are to be issued to all personnel for field use. The regulations imply that personnel will carry these booklets at all times. Facility and marine operators have not, do not, and will not carry such booklets.

(1) Section 1 (A)

The requirement to identify the name, phone numbers, and address of each person in the operation and government agency who is "by law" involved in the primary response results in booklets that will continuously be outdated and which will require constant updating.

(2) Section 2 (C) (ii)

C-plans often contain service agreements from cleanup contractors which facilitate prompt emergency response. Contractors will not enter binding response agreements whereby they may incur liability from the operators, the public, and the state.

(2) Section 2 (C) (iv)

The requirement that operators must demonstrate sufficient financial resources to support the actions of a contractor is vague. What amount is sufficient?

(2) Section 2 (C) (v)

Equipment inventories of cleanup contractors are continually changing, therefore, to attempt to demonstrate that equipment is "compatible" with rural facility operations is futile and useless.

(2) Section 2 (D) (v)

The requirement to analyze operating risks associated with volcanoes, earthquakes, avalanches, flooding, physical hazards, human error, vandalism, sabotage, etc. is a consultant's dream. Unfortunately, when applied to each rural facility it will be very expensive, contribute little beyond common sense, and be subject to subjective approval.

(2) Section 2 (G)

The requirement to provide a rated capacity of recovery equipment, particularly for refined products, illustrates a basic lack of understanding of spill response in rural Alaska. Recovery rates of pumps and skimmers are dependent on site specific application and circumstances.

(2) Section 2 (H)(I)

The requirements for detailed environmental analysis and commentary about the effectiveness of mechanical response equipment contributes to the volume and cost of contingency plans, but is seldom read. The coastwise marine operator will be required to write an Alaska environmental atlas in its plan.

(3) Section 3 -- Response Procedures

By law, operators are required to cleanup spills to the satisfaction of the designated On-Scene-Coordinator, regardless of duration of the cleanup. Therefore, I question the need and intent of the repeated requirement for operators to estimate length of time to conclude a spill response.

18 AAC 75.340 Spill Volume Preparedness Standards

1990 SLA Ch. 191 establishes that contingency plans must address preparedness standards which are identified for various operations. The standards attempt to quantify response capability, and may be factored up or down by risk exposure and preventative measures. For facilities the basic standard is the capability to cleanup the contents of the largest single tank in 72 hours. If ADEC determines increased risk is present the standard may be increased to the capacity of all potentially affected tanks.

Prior to preparing a plan the operator must establish, and ADEC must approve, an acceptable standard, albeit the standard is very subjective and will be different for each facility. Then, predicated on the standard and proximity of environmental sensitive areas and areas of public concern, the operator writes the plan and purchases response equipment. The plan is then submitted for inter-agency review and Coastal Zone Management comment. To my knowledge, no contingency plan has ever been submitted, reviewed and approved without a lengthy series of comments and revisions.

To satisfy the standard, the operator must maintain in its "area of operation" the required response equipment/capability. There are ten designated "areas of operation" which correspond to the regional planning areas identified in 18 AAC 75.395. The most obvious concern is that whereas rural facilities can generally demonstrate the ability to contain and transfer the volume of the largest tank it is impossible to identify temporary storage, within the area of operation, equal to the largest tank.

Marine operators have the difficult task of identifying in each area of operation the capability to lighter total cargo capacity within 48 hours. Further, the lightering resources must be maintained separately from other spill response resources.

18 AAC 75.345 Containment, Control, and Cleanup Requirements

18 AAC 75.345(a)

This section best illustrates the difficulty of compliance. It states, "For use in water response equipment and vessels must be designed to operate effectively in 30-knot winds, 1.5-knot currents, and 10 waves ... Such equipment, to my knowledge, has not been invented.

18 AAC 75.345(b)

Spill trajectory modeling has proved unreliable even in most studied waterways. To require rural facilities to develop spill trajectory and mapping capability is questionable, particularly when it is the government sector that has conducted most of the research in trajectory analysis.

18 AAC 75.345(c)

A facility with potential for discharge into the water must maintain enough boom to contain at least the contents of the single largest tank. It is not unreasonable to assume that at least 5,000 feet of boom could be required to contain the contents of a 10,000 barrel tank. Additional boom is required to be separately stored and maintained to protect sensitive areas and areas of public concern.

18 AAC 75.345(d)

The Alyeska Terminal may maintain a fleet of response vessels, however, in rural Alaska dedicated vessels are not available on a permanent basis.

18 AAC 75.345(e)

Very few plans will be approved if operators must demonstrate they can contain or exclude all potential discharges from reaching sensitive environmental areas or areas of public concern. Further, few facilities are capable of maintaining separate exclusionary resources and personnel (in the area of operation) in addition to the facility response equipment.

18 AAC 75.345(f)

Marine operators cannot comply with current lightering requirements of the single largest tank within 48 hours. It is unrealistic to consider all marine operators can maintain total cargo lightering capability in 48 hours within each of the ten designated areas of operation.

18 AAC 75.345(h)

The issue of realistic skimmer efficiency rates versus manufacturers' nameplate rating is a futile and endless debate. The fact is skimmers are seldom used in the recovery of refined products as direct suction is usually the best means of recovery. Recovery rates of pumps and skimmers are dependent on site specific application and circumstances.

18 AAC 75.345(j)

It is impossible for a facility to demonstrate in a C-plan the onsite ability to discharge recovered wastewater. The permit application required under 18 AAC 70 requires specific site, time, volume and product

data. Further, ADEC states a permit cannot be pre-approved.

18 AAC 75.355 Training

On December 27, 1990 the Alaska Dept. of Labor adopted new training requirements for hazardous waste operations and emergency response (including oil spills). The current interpretation is that standard requires training of 40 hours for facility operators and 64 hours for supervisors, and annual refresher courses. Such training must be conducted by certified instructors and does not include "hands-on" deployment training which is also required.

18 AAC 75.355 Training

An operator will be out of compliance unless he revises his C-plan and notifies ADEC every six months of all name, address, and phone number changes. This includes changes within government agencies which must be identified in the plan.

18 AAC 75.380 & 385 Inspection & Discharge Exercises

ADEC may conduct unannounced inspections and require unannounced discharge exercises.

REALISTIC MAXIMUM OIL DISCHARGE
(RMOD)

STATUTORY PROVISIONS; DRAFT REGULATIONS

HB 567 and the draft regulations contain the following planning standards for various operations:

STATUTE:

Definition:

"Realistic maximum oil discharge" means the maximum and most damaging oil discharge that the department estimates could occur during the lifetime of the tank vessel, oil barge, facility, or pipeline based on the size, location, and capacity of the tank vessel, oil barge, facility, or pipeline; on the department's knowledge and experience with the tank vessel, oil barge, facility, or pipeline or with similar tank vessels, oil barges, facilities, or pipelines; and on the department's analysis of possible mishaps to the tank vessel or oil barge or at the facility or pipeline or to similar tank vessels or oil barges or at similar facilities or pipelines. AS 46.04.030((q)(3)).

oil terminal facility: (crude or non-crude)

STATUTE:

The capacity of the largest oil storage tank at the facility within 72 hours; if department determines high risk area, it may increase volume requirement.

REGULATION:

Same as statute; If department determines high risk, must plan for discharge of all tanks potentially affected by that risk.

Tank vessel or oil barge -- crude oil:

STATUTE:

- Cargo cap. less than 500,000 bbls: 50,000 bbl within 72 hours. After 72 hours: realistic max. oil discharge within shortest possible time.
- Cargo cap. 500,000 or more bbls: 300,000 bbl within 72 hours. After 72 hours: realistic max. oil discharge within shortest possible time.

REGULATION:

- Cargo cap. less than 500,000 bbls: 50,000 bbl within 72 hours; after 72 hours: 80% cargo cap. within shortest possible time.
- Cargo cap. 500,000 or more: 300,000 bbls within 72 hours; after 72 hours, 60% cargo cap. within shortest possible time.

Tank vessel or oil barge -- non-crude:

STATUTE:

15% of the maximum capacity of the vessel or realistic maximum discharge, whichever greater, within 48 hours & clean up discharge within shortest possible time.

REGULATION:

15% of the maximum capacity of the vessel within 48 hours, and clean up discharge within shortest possible time. (NOTE: THE PROPOSED REGULATIONS SET THE RMOD AT 15%, WITHOUT ANY "WHICHEVER GREATER")

Exploration facility:

STATUTE:

"Realistic maximum oil discharge" within 72 hours.

REGULATION:

16,500 bbls within 72 hours, continuing at rate of 5,500 bbls/day over time necessary to stop discharge.

Production facility:

STATUTE:

"Realistic maximum oil discharge" within 72 hours.

REGULATION:

16,500 bbls within 72 hours, continuing at rate of 5,500 bbls/day over time necessary to stop discharge, unless plan holder demonstrates insufficient pressure to cause blowout of 16,500 bbls. If so, volume based on tank storage or pipeline (gathering) flow.

Pipeline:

STATUTE:

"Realistic maximum oil discharge" within 72 hours.

REGULATION:

Amount of oil that passes a particular point in 12 hours, unless plan holder shows shut-off valves that limit potential; if so, amount can't fall below threshold sensitivity of leak detection device.

A M E N D M E N T

S B 2 6 3

Page 2, line 16, after "cargo",

INSERT: ", as well as the benefits to vessel and barge owners and operators, the persons they serve, and the State of Alaska through avoided clean-up costs expected through implementation of this law.

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A M E N D M E N T

S B 2 6 3

Section 30(a), ch. 191, SLA 1990 is amended to read:

(a) By January 31, 1992, the Department of Environmental Conservation shall survey, inspect, and prepare an inventory of noncrude oil terminal facilities in the state with an effective storage capacity of 5,000 [TO 10,000] barrels or more in order to determine for each facility [remainder of section not set out].

Page 1, lines 7 and 8, after "facilities":

DELETE remainder of sentence.

FACSIMILE TRANSMISSION COVER SHEET

STATE OF ALASKA, DEPARTMENT OF LAW
OFFICE OF THE ATTORNEY GENERAL

P.O. Box K - State Capitol

Juneau, Alaska 99811

(907)465-3600 [Office] (907)463-5295 [Fax]

DATE: 5/6/91 TIME: 10 am REF NO: SB-263
TO: Mead Treadwell mead: 465-2617
Lynn Kent () Lynn: 789-5673
FROM: Beth Kerttula Fax Number
Number of Pages 5
Including this Sheet

MESSAGE: The first attachment is Deb Voigt's
suggestion (Cohen has NOT made a decision yet),
The second is a draft of findings for
the bill. See you at 3pm if not before -
Doug Blankenship will try to have a
final decision on ACMP before then.
Beth

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IF YOU DO NOT RECEIVE THIS TRANSMISSION IN FULL

(907) 465-3600 Ask for: Beth

=====

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[AMENDMENT TO SB 263]

* Sec. 3. TEMPORARY ACT/INTERIM OPERATION. (a) Notwithstanding the time limit in AS 46.04.030(p) a person with an approved crude oil discharge prevention and contingency plan who has submitted amendments to the plan to the department by June 1, 1991 to show compliance with the requirements of ch. 191, SLA 1990, may continue to operate if the plan as amended substantially complies with the requirements of ch. 191, SLA 1990, until the earliest of the following dates:

(1) the date the department takes action on the plan under AS 46.04.030, by approving the plan as amended, disapproving the plan, approving the plan as amended with terms or conditions;

(2) the date the department revokes a plan under AS 46.04.030;

(3) the date the previously approved contingency plan expires; or

(4) January 1, 1992.

(b) In this section, "department" means the Department of Environmental Conservation.

* Section 1. FINDINGS. The legislature finds that

(1) unforeseen developments since the passage of HB 567 (1990 SLA Ch. 191) will have detrimental effects on those entities involved in the transportation and storage of non-crude petroleum products when mandatory compliance with the statute's new oil spill contingency planning and financial responsibility requirements takes effect on June 1, 1991;

(2) the unforeseen developments include the fact that for a variety of reasons, the Alaska Department of Environmental Conservation has failed, nearly one year after passage of 1990 SLA Ch. 191, to develop regulations implementing the new law, and the department estimates that finalizing said regulations will take at least another six months;

(3) without said regulations being in place, transporters and facilities operators find themselves in the situation of having to develop new oil spill contingency plans without knowing what standards will eventually be required of them, including such critical regulatory definitions as what constitutes a "realistic maximum oil discharge";

(4) a further unforeseen development includes the fact that the London insurance markets, historically the source of pollution liability insurance underwriting, are steadfastly refusing to offer policies that meet the new financial responsibility requirements imposed by 1990 SLA Ch. 191. Most notably, they refuse to issue a certificate of financial responsibility or to make themselves available for direct legal action in Alaska courts;

(5) while larger companies involved in the transportation and storage of crude petroleum have the financial standing to meet the new financial responsibility requirements through self-insurance, surety bonding or

letters of credit, most non-crude transporters and facilities operators do not have the financial resources to make such avenues available to them;

(6) additionally, a study mandated by 190 SLA Ch. 191 designed to identify appropriate spill response times, specify personnel levels and equipment requirements, and identify specific locations for oil discharge response equipment depots for non-crude oil tankers and barges, will not be completed until at least one month after the June 1, 1991, effective date. This study's findings could have a significant impact on emergency spill response planning by both transporters and the State of Alaska;

(7) taken together, the uncertainties posed by these developments create a strong possibility that many non-crude transporters and facilities operators will find it necessary to either operate illegally or cease operations in the State of Alaska after June 1, 1991, which would in turn pose serious problems for the residents of communities dependent on delivery and storage of non-crude petroleum products for fuel and electrical generation;

(8) a one-year delay, to June 1, 1992, in the effective date for compliance with the requirements of 1990 SLA Ch. 191 for non-crude transporters and facilities operators would provide adequate time for the Department of Environmental Conservation to develop its implementing regulations for contingency planning; would allow thorough consideration of the aforementioned study and implementation of its findings into emergency response planning; and would permit non-crude transporters and operators to explore other options to meet the statute's financial responsibility requirements, including the possibility of developing an insurance pool to replace the coverage no longer being offered by the traditional insurance markets.

The legislature further finds that:

1) crude oil operators and transporters have indicated their intention and ability to be in compliance with the June 1, 1991 effective date for 1990 SLA Ch. 191, including the new oil spill response standards and new financial responsibility requirements, and have spent significant resources during the past year to ensure that they will be in compliance, and a delay of the June 1 effective date for these entities is not necessary;

2) DEC however, will not have thoroughly reviewed and given final approval to new or amended contingency plans by the June 1, 1991 effective date and in fact, that review period may be further extended if contingency plans are required to go through the consistency review process under the Alaska Coastal Management Act ;

3) there exists some ambiguity concerning DEC's granting of interim approval under existing laws and regulations which could benefit from clarification in order to ???;

AMENDMENT #1

Amend Section 5 by adding to (d):

(d) The amendments to AS 46.04.040, made by secs. 11 - 18 of this Act, do not apply to persons required to show proof of financial responsibility for noncrude oil operations until June 1, 1992. On and after June 1, 1992, proof of financial responsibility for a noncrude oil operation must comply with AS 46.04.040, as amended by secs. 11 - 18 of this Act, regardless of whether acceptance of proof of financial responsibility has expired under 46.04.040(f), as amended by sec. 16 of this Act. After June 1, 1991, noncrude oil operations may show proof of financial responsibility through a letter of credit approved by the department, or 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, in addition to the methods of proving financial responsibility allowed by AS 46.04.040(e), prior
~~to June 1, 1992.~~

* Section 1. FINDINGS. The legislature finds that

1) whereas crude oil operators and transporters have indicated their intention and ability to be in compliance with the June 1, 1991 effective date for 1990 SLA Ch. 191, including the new oil spill response standards and new financial responsibility requirements, those entities involved in the transportation and storage of non-crude petroleum products are finding it difficult, if not impossible, to meet those requirements by the June 1, 1991 effective date due to unforeseen developments;

(2) these developments include the fact that the London insurance markets, historically the source of pollution liability insurance underwriting, are steadfastly refusing to offer policies that meet the new financial responsibility requirements imposed by 1990 SLA Ch. 191. Most notably, they refuse to issue a certificate of financial responsibility or to make themselves available for direct legal action in Alaska courts;

(3) while larger companies involved in the transportation and storage of crude petroleum have the financial ability to meet the new financial responsibility requirements through self-insurance, surety bonding or letters of credit, most non-crude transporters and facilities operators do not have the financial resources to make such avenues available to them;

(4) additionally, a study mandated by 190 SLA Ch. 191 designed to identify appropriate spill response times, specify personnel levels and equipment requirements, and identify specific locations for oil discharge response equipment depots for non-crude oil tankers and barges, will not be completed until at least one month after the June 1, 1991, effective date. This

study's findings could have a significant impact on emergency spill response planning by both transporters and the State of Alaska;

(5) whereas noncrude oil spills tend to be more frequent, but lesser in size, resulting in less environmental damage, crude oil spills have the potential to be larger and result in significantly greater environmental damage;

(5) taken together, the uncertainties posed by these developments create a strong possibility that many non-crude transporters and facilities operators will find it necessary to either operate illegally or cease operations in the State of Alaska after June 1, 1991, which would in turn pose serious problems for the residents of communities dependent on delivery and storage of non-crude petroleum products for fuel and electrical generation;

(6) a one-year delay, to June 1, 1992, in the effective date for compliance with the requirements of 1990 SLA Ch. 191 for non-crude transporters and facilities operators ~~would~~ allow thorough consideration of the aforementioned study and implementation of its findings into emergency response planning; ~~would~~ permit non-crude transporters and operators to explore other options to meet the statute's financial responsibility requirements, including the possibility of developing an insurance pool to replace the coverage no longer being offered by the traditional insurance markets; and ~~would~~ provide adequate time for the Department of Environmental Conservation to develop its implementing regulations for contingency planning.

* Sec. ⁵~~3~~. INTERIM OPERATION. (a) Notwithstanding the time limit in AS 46.04.030(p) a person with an approved crude oil discharge prevention and contingency plan who has submitted amendments to the plan to the department by June 1, 1991 to show compliance with the requirements of ch. 191, SLA 1990, may continue to operate if the department determines and notifies the person in writing that the contingency plan as amended substantially complies with the requirements of ch. 191, SLA 1990. (b) The ability to continue to operate under this section is valid only until the earliest of the following dates:

(1) the date the department takes action on the amended plan under AS 46.04.030 by approving the amended plan, disapproving the plan, or approving the amended plan with terms or conditions;

(2) the date the department revokes a plan under AS 46.04.030;

(3) the date the previously approved contingency plan expires; or

(4) January 1, 1992.

(c) In this section, "department" means the Department of Environmental Conservation.

7-LS1243J
Lauterbach
5/6/91

CS FOR SENATE BILL NO. 263 ()
IN THE LEGISLATURE OF THE STATE OF ALASKA
SEVENTEENTH LEGISLATURE - FIRST SESSION

BY

Offered:
Referred:

Sponsor(s): SENATORS HOFFMAN, Adams, Zharoff

A BILL

FOR AN ACT ENTITLED

1 "An Act relating to oil discharge prevention and contingency plans and financial
2 responsibility requirements for oil operations; and providing for an effective date."

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

4 * Section 1. FINDINGS. The legislature finds that

5 (1) whereas crude oil companies have indicated their intention and ability to be in
6 compliance with the June 1, 1991, applicability date of ch. 191, SLA 1990, including the new oil spill
7 response planning standards and new financial responsibility requirements, the entities involved in the
8 transportation and storage of noncrude oil are finding it difficult, if not impossible, to meet those
9 requirements by June 1, 1991, due to unforeseen developments;

10 (2) these developments include the fact that the London insurance markets, historically
11 the source of pollution liability insurance underwriting, are steadfastly refusing to offer policies that meet
12 the new financial responsibility requirements imposed by ch. 191, SLA 1990; most notably, they have
13 refused to issue certificates of financial responsibility or make themselves available for direct legal action
14 in Alaska courts;

1 (3) while larger companies involved in the transportation and storage of crude oil have
2 the financial ability to meet the new financial responsibility requirements through self-insurance, surety
3 bonding, or letters of credit, most noncrude transporters and facility operators do not have the financial
4 resources to make use of these avenues to satisfy the requirements;

5 (4) additionally, a study mandated by ch. 191, SLA 1990, designed to identify appropriate
6 spill response times, specify personnel levels and equipment requirements, and identify specific locations
7 for oil discharge response equipment depots for noncrude oil tankers and barges will not be completed
8 until at least one month after June 1, 1991; this study's findings could have a significant effect on
9 emergency spill response planning by both transporters and the state;

10 (5) taken together, the uncertainties posed by these developments create a strong
11 possibility that many noncrude transporters and facility operators will find it necessary to either operate
12 illegally or cease operations in the state after June 1, 1991, which would in turn pose serious problems
13 for the residents of communities dependent on delivery and storage of noncrude oil products for fuel and
14 electrical generation;

15 (6) a one-year delay to June 1, 1992, in the applicability date for compliance with the
16 requirements of ch. 191, SLA 1990, for noncrude transporters and facility operators will allow thorough
17 consideration of the study described in (4) of this section and implementation of its findings into
18 emergency response planning; will permit noncrude transporters and operators to explore other options
19 to meet the statute's financial responsibility requirements, including the possibility of developing an
20 insurance pool to replace the coverage no longer being offered by the traditional insurance markets; and
21 will provide adequate time for the Department of Environmental Conservation to develop its
22 implementing regulations for contingency planning.

23 * Sec. 2. Section 32, ch. 191, SLA 1990, is amended to read:

24 Sec. 32. TRANSITIONAL PROVISIONS. (a) AS 46.04.030(k) - (m), enacted by sec.
25 10 of this Act, do not apply to oil discharge prevention and contingency plans for crude oil
26 operations until June 1, 1991. On and after June 1, 1991, a contingency plan for a crude oil
27 operation must comply with AS 46.04.030(k) - (m), enacted by sec. 10 of this Act, regardless
28 of whether the contingency plan is due for renewal under AS 46.04.030(d), as amended by sec.
29 9 of this Act.

30 (b) The amendments to AS 46.04.040, made by secs. 11 - 18 of this Act, do not apply
31 to persons required to show proof of financial responsibility for crude oil operations until

June 1, 1991. On and after June 1, 1991, proof of financial responsibility for a crude oil operation must comply with AS 46.04.040, as amended by secs. 11 - 18 of this Act, regardless of whether acceptance of proof of financial responsibility has expired under AS 46.04.040(f), as amended by sec. 16 of this Act.

* Sec. 3. Section 32, ch. 191, SLA 1990, is amended by adding new subsections to read:

(c) AS 46.04.030(k) - (m), enacted by sec. 10 of this Act, do not apply to oil discharge prevention and contingency plans for noncrude oil operations until June 1, 1992. On and after June 1, 1992, a contingency plan for a noncrude oil operation must comply with AS 46.04.030(k) - (m), enacted by sec. 10 of this Act, regardless of whether the contingency plan is due for renewal under AS 46.04.030(d), as amended by sec. 9 of this Act.

(d) The amendments to AS 46.04.040, made by secs. 11 - 18 of this Act, do not apply to persons required to show proof of financial responsibility for noncrude oil operations until June 1, 1992. On and after June 1, 1992, proof of financial responsibility for a noncrude oil operation must comply with AS 46.04.040, as amended by secs. 11 - 18 of this Act, regardless of whether acceptance of proof of financial responsibility has expired under AS 46.04.040(f), as amended by sec. 16 of this Act.

* Sec. 4. INTERIM OPERATION. (a) A person with a crude oil discharge prevention and contingency plan that is approved under AS 46.04.030 who submits plan amendments to the department to show compliance with the requirements of ch. 191, SLA 1990, may continue to operate if the department determines and notifies the person in writing that the contingency plan, as amended, substantially complies with the requirements of ch. 191, SLA 1990.

(b) The authority to operate under this section is valid only until the earliest of the following dates:

(1) the date the department takes action on the amended plan under AS 46.04.030 by approving it, disapproving it, or approving it with terms or conditions attached; notwithstanding AS 46.04.030(p), the department's action on the amended plan need not occur within 65 days of submission of the amendments;

(2) the date the department revokes the plan under AS 46.04.030;

(3) the date the plan's previous approval lapses or expires for failure to be renewed; or

(4) February 1, 1992.

(c) In this section, "department" means the Department of Environmental Conservation.

* Sec. 5. This Act takes effect immediately under AS 01.10.070(c).

AMENDMENT # 1 to SB 263 (CS marked "J")

p. 3, section 3 (d), line 11, change [11 - 18] to 11 - 13.

Instead of delaying all of the new provisions concerning financial responsibility for one year for noncrude, this amendment would delay only the increased amounts of financial responsibility and allow the other provisions such as the ability to use a letter of credit to go into effect immediately.

SENATE BILL NO. 263

IN THE LEGISLATURE OF THE STATE OF ALASKA

SEVENTEENTH LEGISLATURE - FIRST SESSION

BY SENATORS HOFFMAN, Adams

Introduced: 4/22/91

Referred: Resources, Judiciary

A BILL

FOR AN ACT ENTITLED

1 "An Act relating to oil discharge prevention and contingency plans and financial
2 responsibility requirements for noncrude oil operations; and providing for an effective date."

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

4 * **Section 1.** Section 30(b), ch. 191, SLA 1990, is amended to read:

5 (b) By January 31, 1992, the Department of Environmental Conservation shall report to
6 the legislature the results of the survey required under (a) of this section and its written
7 recommendations concerning discharge prevention and contingency requirements or design review
8 requirements that should be enacted for noncrude oil terminal facilities with storage capacities
9 of less than 10,000 barrels. The report must include an analysis of the probable economic
10 costs and other economic effects that the recommended requirements would impose on the
11 facilities and on persons served by the facilities.

12 * **Sec. 2.** Section 31, ch. 191, SLA 1990, is amended to read:

13 Sec. 31. STUDY RELATING TO NONCRUDE OIL TANKERS AND BARGES. By
14 January 31, 1992 [JULY 1, 1991], the Department of Environmental Conservation shall conduct

1 a study and report to the legislature its recommendations concerning the following issues related
2 to oil discharge prevention and contingency planning for tank vessels and oil barges carrying
3 noncrude oil in bulk as cargo:

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

7 (2) appropriate discharge response times;

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

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

12 * ~~Sec. 3.~~ Section 31, ch. 191, SLA 1990, is amended by adding a new subsection to read:

13 (b) The report required under (a) of this section must also include an analysis of the probable
14 economic costs and other economic effects imposed on the vessel and barge owners and operators, and
15 the persons they serve, by this Act's new requirements for contingency planning and proof of financial
16 responsibility for tank vessels and oil barges that carry noncrude oil in bulk as cargo.

17 * ~~Sec. 4.~~ Section 32, ch. 191, SLA 1990, is amended to read:

18 Sec. 32. TRANSITIONAL PROVISIONS. (a) AS 46.04.030(k) - (m), enacted by sec.
19 10 of this Act, do not apply to oil discharge prevention and contingency plans for crude oil
20 operations until June 1, 1991. On and after June 1, 1991, a contingency plan for a crude oil
21 operation must comply with AS 46.04.030(k) - (m), enacted by sec. 10 of this Act, regardless
22 of whether the contingency plan is due for renewal under AS 46.04.030(d), as amended by sec.
23 9 of this Act.

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

30 * ~~Sec. 3.~~ Section 32, ch. 191, SLA 1990, is amended by adding new subsections to read:

31 (c) AS 46.04.030(k) - (m), enacted by sec. 10 of this Act, do not apply to oil discharge

1 prevention and contingency plans for noncrude oil operations until June 1, 1992. On and after June 1,
2 1992, a contingency plan for a noncrude oil operation must comply with AS 46.04.030(k) - (m), enacted
3 by sec. 10 of this Act, regardless of whether the contingency plan is due for renewal under
4 AS 46.04.030(d), as amended by sec. 9 of this Act.

5 (d) The amendments to AS 46.04.040, made by secs. 11 - 18 of this Act, do not apply to persons
6 required to show proof of financial responsibility for noncrude oil operations until June 1, 1992. On and
7 after June 1, 1992, proof of financial responsibility for a noncrude oil operation must comply with
8 AS 46.04.040, as amended by secs. 11 - 18 of this Act, regardless of whether acceptance of proof of
9 financial responsibility has expired under AS 46.04.040(f), as amended by sec. 16 of this Act.

10 * Sec. ⁵ This Act takes effect immediately under AS 01.10.070(c).

Insert

CORRECTION

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

SENATE BILL NO. 263

IN THE LEGISLATURE OF THE STATE OF ALASKA

SEVENTEENTH LEGISLATURE - FIRST SESSION

BY SENATORS HOFFMAN, Adams

Introduced: 4/22/91

Referred: Resources, Judiciary

A BILL

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5 (b) By January 31, 1992, the Department of Environmental Conservation shall report to
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7 recommendations concerning discharge prevention and contingency requirements or design review
8 requirements that should be enacted for noncrude oil terminal facilities with storage capacities
9 of less than 10,000 barrels. The report must include an analysis of the probable economic
10 costs and other economic effects that the recommended requirements would impose on the
11 facilities and on persons served by the facilities.

12 * ~~Sec. 2.~~ Section 31, ch. 191, SLA 1990, is amended to read:

13 Sec. 31. STUDY RELATING TO NONCRUDE OIL TANKERS AND BARGES. By
14 January 31, 1992 [JULY 1, 1991], the Department of Environmental Conservation shall conduct

1 a study and report to the legislature its recommendations concerning the following issues related
2 to oil discharge prevention and contingency planning for tank vessels and oil barges carrying
3 noncrude oil in bulk as cargo:

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

7 (2) appropriate discharge response times;

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

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

12 * ~~Sec. 3.~~ Section 31, ch. 191, SLA 1990, is amended by adding a new subsection to read:

13 (b) The report required under (a) of this section must also include an analysis of the probable
14 economic costs and other economic effects imposed on the vessel and barge owners and operators, and
15 the persons they serve, by this Act's new requirements for contingency planning and proof of financial
16 responsibility for tank vessels and oil barges that carry noncrude oil in bulk as cargo.

17 * ~~Sec. 4.~~ Section 32, ch. 191, SLA 1990, is amended to read:

18 Sec. 32. TRANSITIONAL PROVISIONS. (a) AS 46.04.030(k) - (m), enacted by sec.
19 10 of this Act, do not apply to oil discharge prevention and contingency plans for crude oil
20 operations until June 1, 1991. On and after June 1, 1991, a contingency plan for a crude oil
21 operation must comply with AS 46.04.030(k) - (m), enacted by sec. 10 of this Act, regardless
22 of whether the contingency plan is due for renewal under AS 46.04.030(d), as amended by sec.
23 9 of this Act.

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

30 * ~~Sec. 5.~~ Section 32, ch. 191, SLA 1990, is amended by adding new subsections to read:

31 (c) AS 46.04.030(k) - (m), enacted by sec. 10 of this Act, do not apply to oil discharge

1 a study and report to the legislature its recommendations concerning the following issues related
2 to oil discharge prevention and contingency planning for tank vessels and oil barges carrying
3 noncrude oil in bulk as cargo:

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

7 (2) appropriate discharge response times;

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

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

12 * ~~Sec. 3.~~ Section 31, ch. 191, SLA 1990, is amended by adding a new subsection to read:

13 (b) The report required under (a) of this section must also include an analysis of the probable
14 economic costs and other economic effects imposed on the vessel and barge owners and operators, and
15 the persons they serve, by this Act's new requirements for contingency planning and proof of financial
16 responsibility for tank vessels and oil barges that carry noncrude oil in bulk as cargo.

17 * ~~Sec. 4.~~ Section 32, ch. 191, SLA 1990, is amended to read:

18 Sec. 32. TRANSITIONAL PROVISIONS. (a) AS 46.04.030(k) - (m), enacted by sec.
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21 operation must comply with AS 46.04.030(k) - (m), enacted by sec. 10 of this Act, regardless
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2 1992, a contingency plan for a noncrude oil operation must comply with AS 46.04.030(k) - (m), enacted
3 by sec. 10 of this Act, regardless of whether the contingency plan is due for renewal under
4 AS 46.04.030(d), as amended by sec. 9 of this Act.

5 (d) The amendments to AS 46.04.040, made by secs. 11 - 18 of this Act, do not apply to persons
6 required to show proof of financial responsibility for noncrude oil operations until June 1, 1992. On and
7 after June 1, 1992, proof of financial responsibility for a noncrude oil operation must comply with
8 AS 46.04.040, as amended by secs. 11 - 18 of this Act, regardless of whether acceptance of proof of
9 financial responsibility has expired under AS 46.04.040(f), as amended by sec. 16 of this Act.

10 * Sec. ⁵ This Act takes effect immediately under AS 01.10.070(c).

Enslin

Alaska State Legislature

Senate Committee on Oil and Gas

Senator Sam Cotten, Chairman
Senator Drue Pearce, Vice-Chairman
Senator Bettye Fahrenkamp
Senator Lyman F. Hoffman
Senator Dick Shultz



P. O. Box V, State Capital
Juneau, AK 99811
(907) 465-3711

To: Members, Senate Oil and Gas Committee

From: Sam Cotten, Chair 

Re: S.B. 263 -- Proposed Committee Substitute

The Senate Oil and Gas Committee will meet tomorrow at 9:30 (NOTE TIME CHANGE) in the Beltz Room. After discussing S.B. 102, we will take up S.B. 263. Attached for your consideration is language that will be before you tomorrow in a draft committee substitute. The proposed CS would:

1. Delete section 1, 2 and 3, which deal with studies under ch. 191 SLA 1990 (HB 567).
2. Insert a new "findings" section as section 1. Language attached.
3. Renumber section 4 and 5 to 2 and 3.
4. Add a new section 4, dealing with interim operation (language attached).
5. Renumber effective date section to 5.

Alaska State Legislature

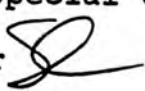
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P. O. Box V, State Capital
Juneau, AK 99811
(907) 465-3711

May 3, 1991

To: Members, Senate Special Committee on Oil and Gas
From: Sam Cotten, Chair 
Re: Committee Meeting Tuesday, May 7, 10:00

As you know, this committee is meeting jointly with the Senate Transportation Committee next Tuesday to review S.B. 102. After the joint committee reviews that issue, the Oil and Gas committee will take up S.B. 263, and continue its review of response action contractor liability.

Alaska State Legislature

Senate Committee on Oil and Gas

Senator Sam Cotten, Chairman
Senator Drue Pearce, Vice-Chairman
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Senator Dick Shultz



P. O. Box V, State Capital
Juneau, AK 99811
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April 30, 1991

To: Members, Senate Oil and Gas Committee

From: Sam Cotten, Chair *SC*

We have reserved the Beltz Room tomorrow (Wednesday) at 9:00 to meet with BP, to hear their interest in deferring the effective date of HB 567 for crude oil operations. I have asked that BP bring individuals able to answer questions about contingency plans, as well as their legal counsel. The BP people will only be in town on Wednesday.

I recognize that some members of the committee have apparent conflicts at that time; however, there was no time that did not present some conflict. Please join us as your schedule permits.

7-LS1243A
Lauterbach
4/19/91

SENATE BILL NO.

IN THE LEGISLATURE OF THE STATE OF ALASKA

SEVENTEENTH LEGISLATURE - FIRST SESSION

BY SENATOR HOFFMAN

Introduced:

Referred:

A BILL

FOR AN ACT ENTITLED

1 "An Act relating to oil discharge prevention and contingency plans and financial
2 responsibility requirements for noncrude oil operations; and providing for an effective date."

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

4 * Section 1. Section 30(b), ch. 191, SLA 1990, is amended to read:

5 (b) By January 31, 1992, the Department of Environmental Conservation shall report to
6 the legislature the results of the survey required under (a) of this section and its written
7 recommendations concerning discharge prevention and contingency requirements or design review
8 requirements that should be enacted for noncrude oil terminal facilities with storage capacities
9 of less than 10,000 barrels. The report must include an analysis of the probable economic
10 costs and other economic effects that the recommended requirements would impose on the
11 facilities and on persons served by the facilities.

12 * Sec. 2. Section 31, ch. 191, SLA 1990, is amended to read:

13 Sec. 31. STUDY RELATING TO NONCRUDE OIL TANKERS AND BARGES. By
14 January 31, 1992 [JULY 1, 1991], the Department of Environmental Conservation shall conduct

1 a study and report to the legislature its recommendations concerning the following issues related
2 to oil discharge prevention and contingency planning for tank vessels and oil barges carrying
3 noncrude oil in bulk as cargo:

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

7 (2) appropriate discharge response times;

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

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

12 * Sec. 3. Section 31, ch. 191, SLA 1990, is amended by adding a new subsection to read:

13 (b) The report required under (a) of this section must also include an analysis of the probable
14 economic costs and other economic effects imposed on the vessel and barge owners and operators, and
15 the persons they serve, by this Act's new requirements for contingency planning and proof of financial
16 responsibility for tank vessels and oil barges that carry noncrude oil in bulk as cargo.

17 * Sec. 4. Section 32, ch. 191, SLA 1990, is amended to read:

18 Sec. 32. TRANSITIONAL PROVISIONS. (a) AS 46.04.030(k) - (m), enacted by sec.
19 10 of this Act, do not apply to oil discharge prevention and contingency plans for crude oil
20 operations until June 1, 1991. On and after June 1, 1991, a contingency plan for a crude oil
21 operation must comply with AS 46.04.030(k) - (m), enacted by sec. 10 of this Act, regardless
22 of whether the contingency plan is due for renewal under AS 46.04.030(d), as amended by sec.
23 9 of this Act.

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

30 * Sec. 5. Section 32, ch. 191, SLA 1990, is amended by adding new subsections to read:

31 (c) AS 46.04.030(k) - (m), enacted by sec. 10 of this Act, do not apply to oil discharge

1 prevention and contingency plans for noncrude oil operations until June 1, 1992. On and after June 1,
2 1992, a contingency plan for a noncrude oil operation must comply with AS 46.04.030(k) - (m), enacted
3 by sec. 10 of this Act, regardless of whether the contingency plan is due for renewal under
4 AS 46.04.030(d), as amended by sec. 9 of this Act.

5 (d) The amendments to AS 46.04.040, made by secs. 11 - 18 of this Act, do not apply to persons
6 required to show proof of financial responsibility for noncrude oil operations until June 1, 1992. On and
7 after June 1, 1992, proof of financial responsibility for a noncrude oil operation must comply with
8 AS 46.04.040, as amended by secs. 11 - 18 of this Act, regardless of whether acceptance of proof of
9 financial responsibility has expired under AS 46.04.040(f), as amended by sec. 16 of this Act.
10 * Sec. 6. This Act takes effect immediately under AS 01.10.070(c).

WALTER J. HICKEL, GOVERNOR

DEPT. OF ENVIRONMENTAL CONSERVATION

OFFICE OF THE COMMISSIONER
P.O. BOX O, JUNEAU, AK 99811-1800

Telephone
(907) 465-2600

May 3, 1991

The Honorable Sam Cotten
P.O. Box V
Juneau, Alaska 99811

Dear Senator Cotten:

You have asked me what actions the Department and the Legislature might take regarding the Oil Discharge Prevention and Contingency Plan approvals for crude oil operations including expired plans for British Petroleum and Conoco operations on the North Slope. You have also asked for a list of other expired contingency plans, and a description of the tank facilities located throughout the state.

As of today, the Department has issued interim approvals (until September 1, 1991) for British Petroleum and Conoco's facilities to operate under the contingency plans they had previously submitted. These plans meet the current contingency planning requirements. A condition of this interim approval is that both companies will submit amended plans by June 1 and that these amended contingency plans undergo consistency review under the Alaska Coastal Zone Management (CZM) Plan (we currently have no AG's opinion to the contrary). The CZM reviews will be initiated upon receipt of the amended plans and should conclude in August. If the amended plans receive a favorable consistency determination and meet the new response planning standards, the conditions of the interim approvals of the contingency plans will be removed and the approval dates extended.

Second, the Department occasionally comes across the situation where a contingency plan substantially meets the requirements, but may be missing a small element. In order to allow these contingency plan holders to continue to operate, and be bound to respond to any spills under an approved plan, the Department suggests an amendment (enclosed) to the statutes, which we hope will be included in SB 263. We would be happy to explain the need for this revision further with you, your committee, and your staff.

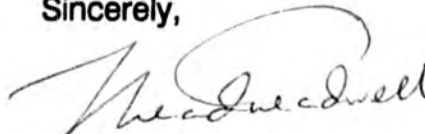
Third, a list of other currently expired plans is included. This list is continually subject to change. You should be aware that of the 44 expired plans currently identified, we are working with 25 facilities that have submitted new or revised contingency plans for approval. Nineteen other facilities have not contacted the Department regarding their plans (some of these may no longer be operating in the

state). We are sending a letter to the latter group asking them to be in contact with the department within 10 days to obtain a compliance order by consent for developing a plan, or to cease operations. For all expired plan holders we will insist upon a date certain for plan completion.

Fourth, we have included a chart showing the distribution of onshore facility capacities.

If I can provide any additional information, please contact me.

Sincerely,

A handwritten signature in cursive script, appearing to read "Mead Treadwell".

Mead Treadwell
Deputy Commissioner

enclosures

cc: Senator Drue Pearce
Representative Bill Hudson

1

[THIS IS AN AMENDMENT TO SB 263]

* Sec. 3. INTERIM APPROVAL STATUS. (a) If a person has submitted an oil discharge prevention and contingency plan to the department for review, the department may grant an interim approval of the oil discharge prevention and contingency plan if the department determines that:

(1) the oil discharge prevention and contingency plan substantially complies with oil discharge prevention and contingency plan requirements and related department regulations or

(2) the oil discharge prevention and contingency plan would substantially comply with oil discharge prevention and contingency plan requirements and related department regulations under conditions specified by the department.

(b) If an interim approval is granted under (a)(2) of this section, the conditions specified by the department are part of the oil discharge prevention and contingency plan during the period of time for which the interim approval is granted.

(c) An interim approval is valid for no more than 180 days.

(d) The department may revoke an interim approval if it determines that the oil discharge prevention and contingency plan is no longer in substantial compliance with oil discharge prevention and contingency plan requirements and related department regulations.

1

(e) Interim approval under (a) of this section constitutes approval for purposes of AS 46.04.030 until the interim approval expires or is revoked.

(f) The time limit for a decision by the department under AS 46.04.030(p) does not apply to plans described under (a) of this section.

(g) In this section, "department" means the Department of Environmental Conservation.

THE FOLLOWING PLANS ARE EXPIRED - PLAN HOLDERS HAVE BEEN NOTIFIED:

Northern Region:

Expiration Date

Northland Services [barge]	1/14/89
Pacific Alaska Nome Bulk Plant [terminal]	8/11/89
Yutana Barge Lines [barges]	7/23/89
Barter Island USAF Terminal	4/5/90
Fort Yukon USAF Terminal	3/14/86
Cape Lisburne USAF Terminal	4/13/89
Tin City USAF Terminal	5/14/90
Indian Mountain USAF Terminal	4/13/89
Galena USAF Terminal	5/14/89
St. Michael Fuel Terminal	1/17/88
Tesoro Alaska Airport Terminal	11/15/89

Southcentral Region:

Defense Fuel Terminal, Whittier	n/a
Aleut Corporation Terminal	1/9/90
Shemya AFB Terminal	n/a
Northland Services [vessel]	3/16/88
Orca Oil Terminal, Cordova	2/20/90
USAF Long-Range Radar Stations (4) [terminal]	n/a
Texaco Marine Services [vessel]	4/21/91
Military Sealift Command [vessel]	n/a

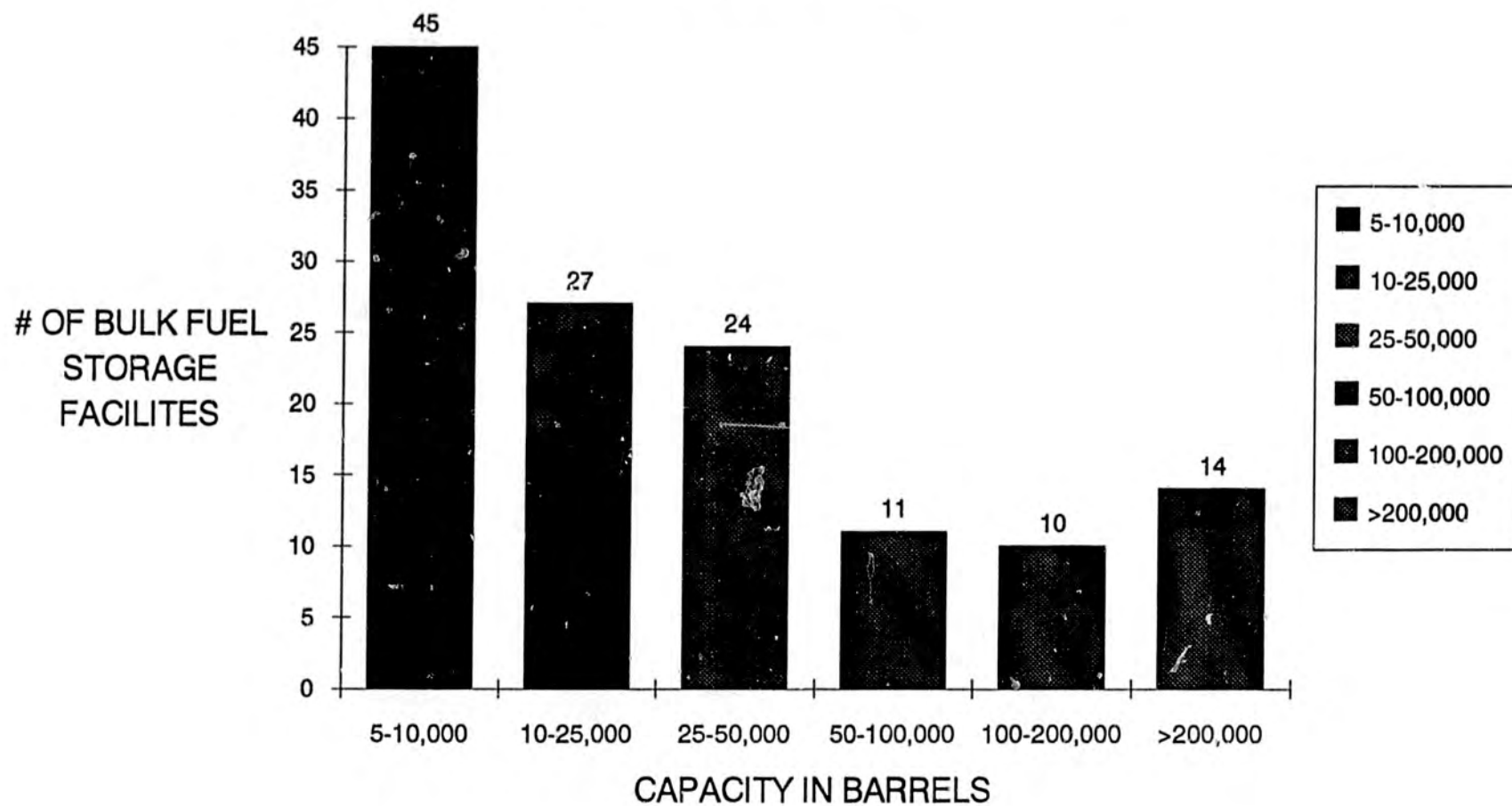
THE FOLLOWING PLANS ARE CURRENTLY EXPIRED, PLANS HAVE BEEN SUBMITTED AND ADDITIONAL INFORMATION HAS BEEN REQUESTED WITH A DEADLINE FOR SUBMITTAL:

<u>Southeast Region:</u>	Expiration Date
Delta Western Yakutat Terminal	1/1/89
Delta Western Juneau Terminal	1/1/89
Sitka Fuels Co., Sitka [terminal]	n/a
Boyer Towing, Barge "Kotznahoo" [vessel]	12/5/90
Totem Oil Terminal, Haines	n/a
<u>Northern Region:</u>	
Golden Valley Electric [terminal]	11/12/90
NSB Barrow Oil Terminal	5/25/88
NSB Pt. Hope Fuel Storage [terminal]	5/25/88
NSB Wainwright Fuel Storage [terminal]	7/24/89
NSB Eskimos Inc. [terminal]	3/7/91
Pacific Alaska Kotzebue Bulk Plant [terminal]	7/1/90
Saupe Chevron [terminal]	2/14/88
Fort Wainwright Army Terminal	9/6/89
Eielson Air Force Base Terminal	7/17/89
Mapco North Pole Refinery [terminal]	10/5/90
Ft. Greeley Army Terminal	n/a
<u>Southcentral Region:</u>	
Trident Seafoods, Sand Point Terminal	1/17/91
Terminal Oil Sales, Homer	12/3/90
Delta Western Nikiski Terminal	3/5/91

Amchitka Navy Terminal	4/10/91
North Pacific Fuel Terminal, Kodiak	3/21/91
Pacific Fuel Trading Corp. [vessel]	3/28/91
Petro Marine Services, Unalaska [terminal]	4/11/91
Bering Sea Fisheries [vessel]	10/13/90
Cove Shipping Inc. [tanker]	11/1/90

n/a = has never had an approved plan

BULK FUEL STORAGE FACILITIES IN ALASKA



STATE OF ALASKA

DEPT. OF ENVIRONMENTAL CONSERVATION

May 3, 1991

WALTER J. HICKEL, GOVERNOR

(907) 451-2360

Northern Regional Office
1001 Noble Street
Suite 350
Fairbanks, Alaska 99701

Mr. Steve D. Taylor
Environmental & Regulatory Affairs
BP Exploration
P.O. Box 196612
Anchorage, AK 99519-6612

Dear Mr Taylor:

Re: Oil Discharge Prevention and Contingency Plan for the
Prudhoe Bay & Endicott Operations

Based on the review of the above referenced plan the Department herein grants approval of your Oil Discharge Prevention and Contingency Plan. Approval of your contingency plan is granted subject to, and requires continuous compliance with, AS 46.04 and 18 AAC 75.305 through 75.395. Recent inspections of your facility have exhibited that your response capability is at a suitable level.

The Department is approving this plan with the condition that the amended plan you are submitting today will go through the Coastal Zone consistency review process and be determined consistent with the Alaska Coastal Management Program.

This approval is effective immediately and will expire on September 1, 1991. The Department may terminate this approval prior to the expiration date if deficiencies are identified that would adversely affect your company's spill prevention, response, and preparedness capabilities.

The Department is currently reviewing the regulations pertaining to Oil Discharge Prevention and Contingency Plans. Any alterations of the present regulations will apply to any currently approved contingency plans.

As a holder of an approved contingency plan, under AS 46.04.030(g), your failure to have access to the resources identified in the plan and, in the event of a spill, to respond with those resources within the time required by law is a violation of Alaska law. Please carefully review AS 46.04.030 so that you fully understand your obligations.

Any person who disagrees with this decision may appeal the decision by requesting an adjudicatory hearing, using the procedures contained in 18 AAC 15.200-310. Hearing requests must be delivered to the Commissioner of the Department of Environmental Conservation, 3220 Hospital Drive, P.O. Box 0, Juneau, Alaska 99811-1800, within 30 days of receipt of this letter. If a hearing is not requested within 30 days, the right to appeal is waived and the decision becomes final.

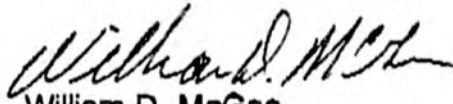
Mr. Steve D. Taylor

- 2 -

May 3, 1991

Thank you for coordinating this plan with the Department. If you have any questions please contact either Larry Katkin or myself.

Sincerely,



William D. McGee
Northern Regional Supervisor

lk/wdm/rg

cc: Mead Treadwell, EQ/DC, Juneau
Brad Fristoe, EQ/NSDO, Fairbanks
Larry Katkin, EQ/NSDO, Fairbanks
Cameron Leonard, AGO, Fairbanks

300.17.078

STATE OF ALASKA

DEPT. OF ENVIRONMENTAL CONSERVATION

May 3, 1991

WALTER J. HICKEL, GOVERNOR

(907) 451-2360

Northern Regional Office
1001 Noble Street
Suite 350
Fairbanks, Alaska 99701

Mr. David L. Bowler
Conoco, Inc.
3201 "C" Street, Suite 200
Anchorage, AK 99503

Dear Mr. Bowler:

Re: Oil Discharge Prevention and Contingency Plan for the
Milne Point

Based on the review of the above referenced plan the Department herein grants approval of your Oil Discharge Prevention and Contingency Plan. Approval of your contingency plan is granted subject to, and requires continuous compliance with, AS 46.04 and 18 AAC 75.305 through 75.395. Recent inspections of your facility have exhibited that your response capability is at a suitable level.

The Department is approving this plan with the condition that a new plan be submitted by June 1, 1991 that will go through the Coastal Zone consistency review process and be determined consistent with the Alaska Coastal Management Program.

This approval is effective immediately and will expire on September 1, 1991. The Department may terminate this approval prior to the expiration date if deficiencies are identified that would adversely affect your company's spill prevention, response, and preparedness capabilities.

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Mr. David L. Bowler

- 2 -

May 3, 1991

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Sincerely,



William D. McGee
Northern Regional Supervisor

lk/wdm/rg

cc: Mead Treadwell, EQ/DC, Juneau
Brad Fristoe, EQ/NSDO, Fairbanks
Larry Katkin, EQ/NSDO, Fairbanks
Cameron Leonard, AGO, Fairbanks

300.17.059