

ALASKA LEGISLATURE SPECIAL COMMITTEE/SUBJECT FILE 8672

2079 SCOMM 78: SENATE SPEC. COMM. ON OIL & GAS, 1991-1992

97

1 DISCHARGE] contingency plan to properly implement the plan, or to have
2 access to the quality or quantity of resources identified in the plan
3 or [AND, IN THE EVENT OF A SPILL,] to respond with those resources
4 within the shortest possible [FEASIBLE] time in the event of a spill
5 is a violation of this chapter for purposes of AS 46.03.760(a),
6 46.03.765, 46.03.790, and any other applicable law. If the holder of
7 an approved or modified [OIL DISCHARGE] contingency plan fails to
8 respond to and conduct cleanup operations of an unpermitted discharge
9 of crude oil with the quality and quantity of resources identified in
10 the plan and in a manner required under the plan, the holder is
11 strictly liable, jointly and severally, for the civil penalty assessed
12 under AS 46.03.758, 46.03.759, or 46.03.760 against any other person
13 for that discharge.

14 * Sec. 5. AS 46.04.030 is amended by adding new subsections to read:

15 (h) The department is the only state agency that has the power
16 to approve, modify, or revoke a contingency plan for the purposes of
17 this section. The department shall exercise its power under this
18 section in a timely manner. Except for prosecutions under AS 46.03.-
19 790(b), it is not a defense to an action brought for a violation of
20 (a) - (c) of this section that the person charged believed that a
21 current contingency plan had been approved by the department.

22 (i) Before the department approves or modifies a contingency
23 plan under this section, the department shall provide a copy of the
24 contingency plan to the Department of Fish and Game and to the Depart-
25 ment of Natural Resources for their review. The department shall by
26 regulation establish the procedures and time limits applicable to
27 agency review of contingency plans.

28 (j) Except as provided in (l) of this section, the holder of an
29 approved contingency plan required under this section shall maintain

1 in its region of operation, singly or in conjunction with other opera-
2 tors in its region of operation, sufficient oil discharge containment,
3 storage, transfer, and removal equipment, personnel, and resources to
4 rapidly contain a

5 (1) realistic maximum oil discharge and to remove that
6 discharge within 72 hours if the contingency plan is for an explora-
7 tion or production facility;

8 (2) discharge in an amount equal to the capacity of the
9 largest oil storage tank at the facility and to remove that discharge
10 within 72 hours if the contingency plan is for an oil terminal facil-
11 ity; if the department determines that the oil terminal facility is
12 located in an area of high risk because of natural or manmade condi-
13 tions outside of the facility, the department may increase the volume
14 requirement under this paragraph so that the contingency plan must be
15 designed for response to a discharge that is greater in amount than
16 the capacity of the largest oil storage tank at the facility;

17 (3) discharge of oil in an amount equal to the maximum
18 capacity of the vessel or barge and to remove that discharge within 72
19 hours if the contingency plan is for a tank vessel or oil barge.

20 (k) Notwithstanding (j) of this section, failure to remove a
21 discharge within 72 hours does not constitute failure to properly
22 implement a contingency plan for purposes of (g) of this section.

23 (l) Notwithstanding (j) of this section, the department may
24 approve a contingency plan for a noncrude oil terminal facility or for
25 a tank vessel or barge carrying noncrude oil that provides for the
26 holder of the plan to maintain the equipment, personnel, and resources
27 required under (j) of this section outside the holder's region of
28 operation upon a showing satisfactory to the department that the
29 planning requirements of (j) of this section are otherwise satisfied.

1 (m) In this section

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

4 (2) "properly implement" means, with respect to a contin-
5 gency plan, to

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

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

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

13 (D) comply with terms and conditions attached to the
14 plan by the department under the authority of (e) of this sec-
15 tion; and

16 (E) successfully demonstrate the ability to carry out
17 the plan when required by the department under (e) of this sec-
18 tion;

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

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

1 * Sec. 6. AS 46.04.040(a) is amended to read:

2 (a) A person may not cause or permit the operation of an oil
3 terminal facility in the state unless the person has furnished to the
4 department, and the department has approved, proof of financial abil-
5 ity to respond in damages. Proof of financial responsibility for a
6 crude oil terminal may not be less than \$50,000,000 per incident.
7 Proof of financial responsibility for a noncrude oil terminal may not
8 be less than \$25, per incident, for each barrel of total noncrude oil
9 storage capacity at the terminal or [WHICH HAS BEEN ACCEPTED BY THE
10 DEPARTMENT. ABILITY TO RESPOND IN DAMAGES NEED NOT EXCEED \$50,000,000
11 BUT MUST BE IN AN AMOUNT (1) NOT LESS THAN \$10, PER INCIDENT, FOR EACH
12 BARREL OF STORAGE CAPACITY AT THE OIL TERMINAL FACILITY: OR (2)]

13 \$1,000,000, whichever is greater, subject to a maximum of \$50,000,000.
14 For purposes of this subsection, an oil terminal facility that stores
15 both crude oil and noncrude oil is subject to the financial responsi-
16 bility requirements applicable to the type of facility that corre-
17 sponds to the type of oil storage that predominates at the facility.
18 However, if the facility stores more noncrude oil than crude oil, the
19 \$25 per incident, per barrel requirement of this subsection applies to
20 each barrel of oil storage capacity at the facility.

21 * Sec. 7. AS 46.04.040(b) is amended to read:

22 (b) A [AFTER JULY 1, 1981, A] person may not cause or permit the
23 operation of an [OFFSHORE] exploration or production facility in the
24 state unless the person has furnished to the department, and the
25 department has approved, proof of financial ability to respond in
26 damages [HAS BEEN ACCEPTED BY THE DEPARTMENT]. Proof of financial
27 responsibility for an offshore exploration or production facility may
28 not be less than \$50,000,000 [\$35,000,000] per incident. Proof of
29 financial responsibility for an onshore exploration or production

1 facility may not be less than \$20,000,000 per incident.

2 * Sec. 8. AS 46.04.040(c) is amended to read:

3 (c) A person may not operate a tank vessel or an oil barge
4 within the waters of the state, or cause or permit the transfer of oil
5 to or from a tank vessel [,] or [, AFTER JANUARY 1, 1981, TO OR FROM]
6 an oil barge, unless the person operating the tank vessel or oil barge
7 has furnished to the department, and the department has approved,
8 proof of financial ability to respond in damages. Proof of financial
9 responsibility under this subsection may not be less than

10 (1) \$300, per incident, for each barrel of storage capacity
11 or \$100,000,000, whichever is greater, for a tank vessel or barge
12 carrying crude oil;

13 (2) \$100, per incident, for each barrel of storage capacity
14 or \$1,000,000, whichever is greater, subject to a maximum of
15 \$35,000,000, for a tank vessel or barge carrying noncrude oil in an
16 amount of 5,000 barrels or more [RESPONSIBILITY FOR THE TANK VESSEL OR
17 BARGE HAS BEEN ACCEPTED BY THE DEPARTMENT. FINANCIAL RESPONSIBILITY
18 UNDER THIS SUBSECTION SHALL BE IN THE FOLLOWING AMOUNTS:

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

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

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

29 * Sec. 9. AS 46.04.040(d) is amended to read:

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

7 * Sec. 10. AS 46.04.040(e) is amended to read:

8 (e) Financial responsibility may be demonstrated by (1) self-
9 insurance, (2) insurance, (3) surety, (4) [OR] guarantee, (5) letter
10 of credit approved by the department, or (6) other proof of financial
11 responsibility approved by the department, including proof of finan-
12 cial responsibility provided by a group of insureds who have agreed to
13 cover pollution risks of members of the group under terms the depart-
14 ment may prescribe. An action brought under AS 46.03.758, 46.03.759,
15 46.03.760(a) or (e), 46.03.822, or AS 46.04.030(g) [OR TO COLLECT
16 PENALTIES IMPOSED UNDER AS 46.03.759] may be brought in a state court
17 directly against the insurer, the group, or another person providing
18 evidence of financial responsibility. The applicant, and an insurer,
19 surety, [OR] guarantor, person furnishing an approved letter of cred-
20 it, or other group or person providing proof of financial respon-
21 sibility approved by the department shall appoint an agent for service
22 of process in the state. For purposes of this subsection, an [AN]
23 insurer, other than a group of insureds whose agreement has been
24 approved by the department, must either be authorized by the Depart-
25 ment of Commerce and Economic Development to sell insurance in the
26 state or be an unauthorized insurer listed by the Department of Com-
27 merce and Economic Development as not disapproved for use in the
28 state.

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

1 (f) Acceptance of proof of financial responsibility expires
2 (1) one year from its issuance for self-insurance;
3 (2) on the effective date of a change in the surety bond,
4 guarantee, [OR] insurance agreement, letter of credit, or other proof
5 of financial responsibility; or
6 (3) on the expiration or cancellation of the surety bond,
7 guarantee, [OR] insurance agreement, letter of credit, or other proof
8 of financial responsibility.
9 * Sec. 12. AS 46.04.040(g) is amended to read:
10 (g) The person whose proof of financial responsibility is ac-
11 cepted by the department under this section shall notify the depart-
12 ment at least 30 days before the effective date of a change, expira-
13 tion or cancellation in the surety bond, guarantee, [OR] insurance
14 agreement, letter of credit, or other proof of financial responsibil-
15 ity. Application for renewal of acceptance of proof of financial
16 responsibility under this section must be filed at least 30 days
17 before the date of expiration.
18 * Sec. 13. AS 46.04.040 is amended by adding new subsections to read:
19 (j) Upon acceptance and approval of proof of financial responsi-
20 bility under this section, the department shall issue to the applicant
21 a certificate stating that the state's financial responsibility re-
22 quirements have been satisfied. The certificate must include the name
23 of the facility, tank vessel, or barge for which it is issued and the
24 expiration date of the certificate.
25 (k) Notwithstanding the requirements of (e) of this section, the
26 applicant may provide evidence of financial responsibility provided by
27 an insurer or other person who does not agree to be subject to direct
28 action in state courts or to appoint an agent for service of process
29 if

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

4 (2) proof of at least \$50,000,000, or the amount required
5 by (a) - (c) of this section, whichever is less, in insurance or other
6 form of financial responsibility that meets the requirements of (e) of
7 this section is provided; and

8 (3) the applicant provides a sworn statement or affidavit
9 that insurance or other form of financial responsibility that meets
10 the requirements of (e) of this section is not available in greater
11 amounts.

12 * Sec. 14. AS 46.04 is amended by adding a new section to read:

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

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

25 (c) If the index is revised, the percentage of change is cal-
26 culated on the basis of the revised index. If a revision of the index
27 changes the reference base index, a revised reference base index is
28 determined by multiplying the reference base index applicable by the
29 rebasing factor furnished by the United States Bureau of Labor

1 Statistics. If the index is superseded, the index referred to in this
2 section is the one represented by the Bureau of Labor Statistics as
3 reflecting most accurately changes in the purchasing power of the
4 dollar for Alaskan consumers.

5 (d) The department shall adopt a regulation announcing

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

8 (2) promptly after the changes occur, changes in the index
9 required by (c) of this section, including, if applicable, the numer-
10 ical equivalent of the reference base index under a revised reference
11 base index and the designation or title of any index superseding the
12 index.

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

16 * Sec. 15. AS 46.04.050 is amended to read:

17 Sec. 46.04.050. EXEMPTIONS. The provisions of [BECAUSE OF THE
18 RESTRICTED NATURE OF THE OPERATIONS AND THE MINIMAL DANGER TO THE
19 ENVIRONMENT POSED BY THE ACTIVITIES,] AS 46.04.030, 46.04.040, and
20 46.04.060 do not apply to an oil terminal facility that has an effec-
21 tive storage capacity of less than 5,000 [10,000] barrels of crude oil
22 or less than 10,000 barrels of noncrude oil.

23 * Sec. 16. AS 46.04.060 is amended to read:

24 Sec. 46.04.060. INSPECTIONS. In addition to other rights of
25 access or inspection conferred upon the department by law or other-
26 wise, the department may at reasonable times enter and inspect oil
27 [OIL] terminal facilities, [OFFSHORE] exploration and production
28 facilities, tank vessels, and oil barges within the territorial juris-
29 isdiction of the state in order [ARE SUBJECT TO INSPECTION BY THE

1 DEPARTMENT] to

2 (1) ensure compliance with the provisions of this chapter;

3 (2) examine the structural integrity of tank vessels, oil
4 barges, oil terminal facilities, oil exploration and production facil-
5 ities, pipelines, and other facilities related to the exploration,
6 production, storage, and transportation of oil; or

7 (3) participate in an examination of the structural integ-
8 riety of tank vessels and oil barges by the United States Coast Guard.

9 * Sec. 17. AS 46.04.200 is amended to read:

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

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

14 (1) take into consideration the elements of an oil dis-
15 charge prevention and contingency plan approved or submitted for
16 approval under AS 46.04.030;

17 (2) clarify and specify the respective responsibilities of
18 each of the following in the assessment, containment, and cleanup of a
19 catastrophic oil discharge or of a significant discharge of a hazard-
20 ous substance into the environment of the state:

21 (A) agencies of the state;

22 (B) municipalities of the state;

23 (C) appropriate federal agencies;

24 (D) operators of facilities;

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

27 (F) other parties identified by the commissioner as
28 having an interest in or the resources to assist in the contain-
29 ment and cleanup of an oil or hazardous substance discharge;

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

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

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

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

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

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

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

19 * Sec. 18. AS 46.04.210(a) is amended to read:

20 (a) For any region of the state, the boundaries of which are
21 determined by the commissioner by regulation, in which the department
22 is required to review and approve an oil discharge prevention and
23 contingency plan submitted by a person under AS 46.04.030, the depart-
24 ment shall prepare and annually review and revise a regional master
25 oil and hazardous substance discharge [AND] prevention and contingency
26 plan.

27 * Sec. 19. AS 46.04.900(8) is amended to read:

28 (8) "[OFFSHORE] exploration or production facility" means a
29 platform, vessel, or other facility used to explore for or produce

1 hydrocarbons in the waters of the state or on land in the state; the
2 term does not include vessels used for stratigraphic drilling or other
3 operations that [WHICH] are not authorized or intended to drill to a
4 producing formation;

5 * Sec. 20. AS 46.04.900(15) is amended to read:

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

12 * Sec. 21. AS 46.08.040 is amended to read:

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

15 (1) investigate and evaluate the release or threatened
16 release of oil or a hazardous substance, and contain, clean up, and
17 take other necessary action, such as monitoring and assessing, to
18 address a release or threatened release of oil or a hazardous sub-
19 stance that poses an imminent and substantial threat to the public
20 health or welfare, or to the environment;

21 (2) pay all costs incurred

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

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

28 (C) to conduct training, response exercises, inspec-
29 tions, and tests, in order to verify equipment inventories and

1 ability to prevent and respond to oil and hazardous substance
2 release emergencies, and to undertake other activities intended
3 to verify or establish the preparedness of the state, a munic-
4 ipality, or a party required by AS 46.04.030 to have an approved
5 contingency plan to act in accordance with that plan; and

6 (D) to verify or establish proof of financial respon-
7 sibility required by AS 46.04.040;

8 (3) provide matching funds for participation in federal oil
9 discharge cleanup activities and under 42 U.S.C. 9601 - 9657 (Compre-
10 hensive Environmental Response, Compensation, and Liability Act of
11 1980); [AND]

12 (4) recover the costs to the state or to a municipality of
13 a containment and cleanup resulting from the release or the threatened
14 release of oil or a hazardous substance; [.]

15 (5) prepare, review, and revise

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

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

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

24 * Sec. 22. AS 46.08.040 is amended by adding a new subsection to read:

25 (b) Except for direct response to a declared disaster emergency
26 relating to an oil or hazardous substance discharge or for specific
27 projects authorized by the legislature, the department may not receive
28 or expend money in the fund as grants to municipalities or for reim-
29 bursable service agreements with any state agency.

1 * Sec. 23. AS 46.08.060(a) is amended to read:

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

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

8 (2) the amount and source of money received and money
9 recovered during the preceding fiscal year as specified in AS 46.08.-
10 020;

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

13 (4) a detailed summary of department activities in re-
14 sponses funded by the fund during the preceding fiscal year, including
15 response descriptions and statements outlining the nature of the
16 threat; in this paragraph, "detailed" includes information describing
17 each personal services position and total compensation for that
18 position, each contract in excess of \$20,000, and each purchase in
19 excess of \$10,000; and

20 (5) the projected cost for the next fiscal year of monitor-
21 ing, operating, and maintaining sites where response has been com-
22 pleted or is expected to be continued during the fiscal year.

23 * Sec. 24. SURVEY OF SMALL NONCRUDE OIL TERMINAL FACILITIES. (a) By
24 January 31, 1992, the Department of Environmental Conservation shall sur-
25 vey, inspect, and prepare an inventory of noncrude oil terminal facilities
26 in the state with an effective storage capacity of 5,000 to 10,000 barrels
27 in order to determine for each facility

28 (1) its actual storage capacity;

29 (2) the type of noncrude oil products stored;

1 (3) its age, design, construction, and general condition;
2 (4) the design and construction standards applicable or rele-
3 vant;
4 (5) the presence or absence of containment structures and equip-
5 ment;
6 (6) its ability to respond to a release or threatened release;
7 (7) the environmental sensitivity of the surrounding area and
8 the potential risk to the environment if a release occurs;
9 (8) the presence or absence of surface and subsurface pipelines
10 and storage tanks; and
11 (9) other appropriate information.
12 (b) By January 31, 1992, the Department of Environmental Conservation
13 shall report to the legislature the results of the survey required under
14 (a) of this section and its written recommendations concerning discharge
15 prevention and contingency requirements or design review requirements that
16 should be enacted for noncrude oil terminal facilities with storage capac-
17 ities of less than 10,000 barrels.
18 (c) Upon completion of the survey required under (a) of this section,
19 the Department of Environmental Conservation may
20 (1) notify each facility of the results of the facility's in-
21 spection; and
22 (2) provide each facility with recommendations and technical
23 assistance concerning identified deficiencies.
24 (d) The Department of Environmental Conservation may conduct the
25 inspections required under this section notwithstanding the provisions of
26 AS 46.04.050. The department shall conduct the inspections at reasonable
27 times.
28 * Sec. 25. This Act takes effect immediately under AS 01.10.070(c).

Amended: 4/30/88
Offered: 4/24/
Referred: Rules

go0530hG

Original sponsor(s): Rules/Governor

1 IN THE HOUSE BY THE FINANCE COMMITTEE
2 CS FOR HOUSE BILL NO. 567 (Finance) am
3 IN THE LEGISLATURE OF THE STATE OF ALASKA
4 SIXTEENTH LEGISLATURE - SECOND SESSION

5 A BILL

6 For an Act entitled: "An Act relating to oil discharge prevention and
7 contingency plan requirements, financial respon-
8 sibility requirements related to oil, penalties, and
9 inspection authority of the Department of
10 Environmental Conservation; relating to the oil and
11 hazardous substance release response fund and
12 responses to oil and hazardous substance emergencies;
13 and authorizing the Department of Environmental
14 Conservation and municipalities to enter into
15 agreements pertaining to vessel traffic control and
16 monitoring systems."

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

18 * Section 1. AS 29.35.020 is amended by adding a new subsection to
19 read:

20 (d) A municipality may enter into agreements with the United
21 States Coast Guard, the United States Environmental Protection Agency,
22 and other persons relating to development and enforcement of vessel
23 traffic control and monitoring systems for oil barges and tank vessels
24 carrying oil operating in or near the waters of the state.

25 * Sec. 2. AS 46.03.759(c) is amended to read:

26 (c) Subject to the \$500,000,000 maximum set under (a) of this
27 section the court shall assess four times the penalty set out in (a)
28 of this section if the court finds

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

1 intentional act of the defendant;

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

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

6 * Sec. 3. AS 46.04.020(e) is amended to read:

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

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

16 (2) provide for cooperative review of oil discharge preven-
17 tion and contingency plans submitted to the department under AS 46.-
18 04.030;

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

22 (4) provide for cooperative oil discharge notification
23 procedures.

24 * Sec. 4. AS 46.04.030 is amended to read:

25 Sec. 46.04.030. OIL DISCHARGE PREVENTION AND CONTINGENCY PLANS.

26 (a) A person may not cause or permit the operation of an oil terminal
27 facility in the state unless an oil discharge prevention and contin-
28 gency plan for the facility has been approved by the department and
29 has been properly implemented [. THE DEPARTMENT IS THE ONLY STATE

1 AGENCY WHICH HAS THE POWER TO APPROVE AN OIL DISCHARGE CONTINGENCY
2 PLAN FOR THE PURPOSES OF THIS SECTION].

3 (b) A [AFTER JANUARY 1, 1981, A] person may not cause or permit
4 the operation of an [OFFSHORE] exploration or production facility in
5 the state unless an oil discharge prevention and contingency plan for
6 the facility has been approved by the department and has been properly
7 implemented.

8 (c) Except for a tank vessel or oil barge operating only in
9 response to an oil discharge, a [A] person may not operate a tank
10 vessel or an oil barge within the waters of the state, or cause or
11 permit the transfer of oil to or from a tank vessel or [, OR, AFTER
12 JANUARY 1, 1981, TO OR FROM] an oil barge, unless an oil d'scharge
13 prevention and contingency plan for the tank vessel or oil barge has
14 been approved by the department and has been properly implemented
15 [EXCEPT FOR PROSECUTIONS UNDER AS 46.03.790(b), IT IS NOT A DEFENSE TO
16 AN ACTION BROUGHT FOR VIOLATION OF THIS SUBSECTION THAT THE PERSON
17 CHARGED BELIEVED THAT A CURRENT OIL DISCHARGE CONTINGENCY PLAN FOR THE
18 TANK VESSEL OR OIL BARGE HAD BEEN APPROVED BY THE DEPARTMENT].

19 (d) Upon approval of a contingency plan, the department shall
20 issue to the plan holder a certificate stating that the contingency
21 plan has been approved by the department. The certificate must in-
22 clude the name of the facility, pipe line, tank vessel, or oil barge
23 for which it is issued and the date by which the contingency plan must
24 be submitted for renewal.

25 (e) A [AN OIL DISCHARGE] contingency plan must be renewed at
26 least every three years.

27 (f) The department may attach reasonable terms and conditions to
28 its approval or modification of a [AN OIL DISCHARGE] contingency plan
29 that the department [WHICH IT] determines are necessary to ensure

1 [INSURE] that the applicant for a [AN OIL DISCHARGE] contingency plan
2 has access to sufficient resources to protect environmentally sensi-
3 tive areas and to contain, clean up, and mitigate potential oil dis-
4 charges at or from the facility or vessel as provided in (j) of this
5 section, and to ensure that the applicant properly implements the
6 contingency plan [WITHIN THE SHORTEST FEASIBLE TIME]. The [OIL DIS-
7 CHARGE] contingency plan must provide for the use [OF THE BEST AVAIL-
8 ABLE TECHNOLOGY] by the applicant of the best technology that was
9 available at the time the contingency plan was submitted or renewed.
10 The department may require an applicant or holder of an approved
11 contingency plan to take steps necessary to demonstrate its ability to
12 carry out the contingency plan, including

13 (1) periodic training;
14 (2) response team exercises; and
15 (3) verifying access to inventories of available equipment,
16 supplies, and personnel.

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

26 (1) approval was obtained by fraud or misrepresentation;
27 (2) the operator does not have access to the quality or
28 quantity of resources identified in the plan; [OR]
29 (3) a term or condition of approval or modification has

1 been violated; or

2 (4) the plan has not been properly implemented and the
3 deficiency materially affects the plan holder's response capability.

4 (h) Failure of a holder of an approved or modified [OIL DIS-
5 CHARGE] contingency plan to properly implement the plan, or to have
6 access to the quality or quantity of resources identified in the plan
7 or [AND, IN THE EVENT OF A SPILL,] to respond with those resources
8 within the shortest possible [FEASIBLE] time in the event of a spill
9 is a violation of this chapter for purposes of AS 46.03.760(a),
10 46.03.765, 46.03.790, and any other applicable law. If the holder of
11 an approved or modified [OIL DISCHARGE] contingency plan fails to
12 respond to and conduct cleanup operations of an unpermitted discharge
13 of crude oil with the quality and quantity of resources identified in
14 the plan and in a manner required under the plan, the holder is
15 strictly liable, jointly and severally, for the civil penalty assessed
16 under AS 46.03.758, 46.03.759, or 46.03.760 against any other person
17 for that discharge.

18 * Sec. 5. AS 46.04.030 is amended by adding new subsections to read:

19 (h) The department is the only state agency that has the power
20 to approve, modify, or revoke a contingency plan for the purposes of
21 this section. The department shall exercise its power under this
22 section in a timely manner. Except for prosecutions under AS 46.03.-
23 790(b), it is not a defense to an action brought for a violation of
24 (a) - (c) of this section that the person charged believed that a
25 current contingency plan had been approved by the department.

26 (i) Before the department approves or modifies a contingency
27 plan under this section, the department shall provide a copy of the
28 contingency plan to the Department of Fish and Game and to the Depart-
29 ment of Natural Resources for their review. The department shall by

1 regulation establish the procedures and time limits applicable to
2 agency review of contingency plans.

3 (j) Except as provided in (i) of this section, the holder of an
4 approved contingency plan required under this section shall maintain
5 in its region of operation, singly or in conjunction with other opera-
6 tors in its region of operation, sufficient oil discharge containment,
7 storage, transfer, and cleanup equipment, personnel, and resources to
8 rapidly contain a

9 (1) realistic maximum oil discharge and to clean up that
10 discharge within 72 hours if the contingency plan is for an explora-
11 tion or production facility;

12 (2) discharge in an amount equal to the capacity of the
13 largest oil storage tank at the facility and to clean up that dis-
14 charge within 72 hours if the contingency plan is for an oil terminal
15 facility; if the department determines that the oil terminal facility
16 is located in an area of high risk because of natural or manmade
17 conditions outside of the facility, the department may increase the
18 volume requirement under this paragraph so that the contingency plan
19 must be designed for response to a discharge that is greater in amount
20 than the capacity of the largest oil storage tank at the facility;

21 (3) discharge of oil in an amount equal to the maximum
22 capacity of the vessel or barge and to clean up that discharge within
23 72 hours if the contingency plan is for a tank vessel or oil barge.

24 (k) Notwithstanding (j) of this section, failure to clean up a
25 discharge within 72 hours does not constitute failure to properly
26 implement a contingency plan for purposes of (g) of this section.

27 (l) Notwithstanding (j) of this section, the department may
28 approve a contingency plan for a noncrude oil terminal facility or for
29 a tank vessel or barge carrying noncrude oil that provides for the

1 holder of the plan to maintain the equipment, personnel, and resources
2 required under (j) of this section outside the holder's region of
3 operation upon a showing satisfactory to the department that the
4 planning requirements of (j) of this section are otherwise satisfied.

5 (m) In this section

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

8 (2) "properly implement" means, with respect to a contin-
9 gency plan, to

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

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

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

17 (D) comply with terms and conditions attached to the
18 plan by the department under the authority of (e) of this sec-
19 tion; and

20 (E) successfully demonstrate the ability to carry out
21 the plan when required by the department under (e) of this sec-
22 tion;

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

29 (4) "region of operation," with respect to the holder of a

1 contingency plan, means the area where the operations of the holder
2 that require a contingency plan are located, the boundaries of which
3 correspond to the regional boundaries established by the commissioner
4 for regional master planning purposes under AS 46.04.210.

5 * Sec. 6. AS 46.04.040(a) is amended to read:

6 (a) A person may not cause or permit the operation of an oil
7 terminal facility in the state unless the person has furnished to the
8 department, and the department has approved, proof of financial abil-
9 ity to respond in damages. Proof of financial responsibility for a
10 crude oil terminal may not be less than \$50,000,000 per incident.
11 Proof of financial responsibility for a noncrude oil terminal may not
12 be less than \$25, per incident, for each barrel of total noncrude oil
13 storage capacity at the terminal or [WHICH HAS BEEN ACCEPTED BY THE
14 DEPARTMENT. ABILITY TO RESPOND IN DAMAGES NEED NOT EXCEED \$50,000,000
15 BUT MUST BE IN AN AMOUNT (1) NOT LESS THAN \$10, PER INCIDENT, FOR EACH
16 BARREL OF STORAGE CAPACITY AT THE OIL TERMINAL FACILITY: OR (2)]
17 \$1,000,000, whichever is greater, subject to a maximum of \$50,000,000.
18 For purposes of this subsection, an oil terminal facility that stores
19 both crude oil and noncrude oil is subject to the financial responsi-
20 bility requirements applicable to the type of facility that corre-
21 sponds to the type of oil storage that predominates at the facility.
22 However, if the facility stores more noncrude oil than crude oil, the
23 \$25 per incident, per barrel requirement of this subsection applies to
24 each barrel of oil storage capacity at the facility.

25 * Sec. 7. AS 46.04.040(b) is amended to read:

26 (b) A [AFTER JULY 1, 1981, A] person may not cause or permit the
27 operation of an [OFFSHORE] exploration or production facility in the
28 state unless the person has furnished to the department, and the
29 department has approved, proof of financial ability to respond in

1 damages [HAS BEEN ACCEPTED BY THE DEPARTMENT]. Proof of financial
2 responsibility for an offshore exploration or production facility may
3 not be less than \$50,000,000 [\$35,000,000] per incident. Proof of
4 financial responsibility for an onshore exploration or production
5 facility may not be less than \$20,000,000 per incident.

6 * Sec. 8. AS 46.04.040(c) is amended to read:

7 (c) Except for a tank vessel or oil barge operating only in
8 response to an oil discharge, a [A] person may not operate a tank
9 vessel or an oil barge within the waters of the state, or cause or
10 permit the transfer of oil to or from a tank vessel [,] or [, AFTER
11 JANUARY 1, 1981, TO OR FROM] an oil barge, unless the person operating
12 the tank vessel or oil barge has furnished to the department, and the
13 department has approved, proof of financial ability to respond in
14 damages. Proof of financial responsibility under this subsection may
15 not be less than

16 (1) \$300, per incident, for each barrel of storage capacity
17 or \$100,000,000, whichever is greater, for a tank vessel or barge
18 carrying crude oil;

19 (2) \$100, per incident, for each barrel of storage capacity
20 or \$1,000,000, whichever is greater, subject to a maximum of
21 \$35,000,000, for a tank vessel or barge carrying noncrude oil in an
22 amount of 5,000 barrels or more [RESPONSIBILITY FOR THE TANK VESSEL OR
23 BARGE HAS BEEN ACCEPTED BY THE DEPARTMENT. FINANCIAL RESPONSIBILITY
24 UNDER THIS SUBSECTION SHALL BE IN THE FOLLOWING AMOUNTS:

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

29 (2) FOR ANY OTHER OIL BARGE, THE AMOUNT REQUIRED BY

1 SEC. 311(p)(1) OF THE CLEAN WATER ACT, OR \$1,000,000, WHICHEVER IS
2 GREATER;

3 (3) FOR ANY OTHER TANK VESSELS, THE AMOUNT REQUIRED
4 SEC. 311(p)(1) OF THE CLEAN WATER ACT, OR \$20,000,000, WHICHE
5 GREATER].

6 * Sec. 9. AS 46.04.040(d) is amended to read:

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

13 * Sec. 10. AS 46.04.040(e) is amended to read:

14 (e) Financial responsibility may be demonstrated by (1) self-
15 insurance, (2) insurance, (3) surety, (4) [OR] guarantee, (5) letter
16 of credit approved by the department, or (6) other proof of financial
17 responsibility approved by the department, including proof of finan-
18 cial responsibility provided by a group of insureds who have agreed to
19 cover pollution risks of members of the group under terms the depart-
20 ment may prescribe. An action brought under AS 46.03.758, 46.03.759,
21 46.03.760(a) or (e), 46.03.822, or AS 46.04.030(g) [OR TO COLLECT
22 PENALTIES IMPOSED UNDER AS 46.03.759] may be brought in a state court
23 directly against the insurer, the group, or another person providing
24 evidence of financial responsibility. The applicant, and an insurer,
25 surety, [OR] guarantor, person furnishing an approved letter of cred-
26 it, or other group or person providing proof of financial respon-
27 sibility approved by the department shall appoint an agent for service
28 of process in the state. For purposes of this subsection, an [AN]
29 insurer, other than a group of insureds whose agreement has been

1 approved by the department, must either be authorized by the Depart-
2 ment of Commerce and Economic Development to sell insurance in the
3 state or be an unauthorized insurer listed by the Department of Com-
4 merce and Economic Development as not disapproved for use in the
5 state.

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

7 (f) Acceptance of proof of financial responsibility expires

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

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

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

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

16 (g) The person whose proof of financial responsibility is ac-
17 cepted by the department under this section shall notify the depart-
18 ment at least 30 days before the effective date of a change, expira-
19 tion or cancellation in the surety bond, guarantee, [OR] insurance
20 agreement, letter of credit, or other proof of financial responsibil-
21 ity. Application for renewal of acceptance of proof of financial
22 responsibility under this section must be filed at least 30 days
23 before the date of expiration.

24 * Sec. 13. AS 46.04.040 is amended by adding new subsections to read:

25 (j) Upon acceptance and approval of proof of financial responsi-
26 bility under this section, the department shall issue to the applicant
27 a certificate stating that the state's financial responsibility re-
28 quirements have been satisfied. The certificate must include the name
29 of the facility, tank vessel, or barge for which it is issued and the

1 expiration date of the certificate.

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

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

10 (2) proof of at least \$50,000,000, or the amount required
11 by (a) - (c) of this section, whichever is less, in insurance or other
12 form of financial responsibility that meets the requirements of (e) of
13 this section is provided; and

14 (3) the applicant provides a sworn statement or affidavit
15 that insurance or other form of financial responsibility that meets
16 the requirements of (e) of this section is not available in greater
17 amounts.

18 * Sec. 14. AS 46.04 is amended by adding a new section to read:

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

26 (b) The dollar amounts change on October 1 of each third year
27 according to the percentage change between the index for January of
28 that year and the most recent index used to determine whether to
29 change the dollar amounts. After calculation of the new amounts, the

1 resulting amounts shall be rounded to the nearest cent.

2 (c) If the index is revised, the percentage of change is cal-
3 culated on the basis of the revised index. If a revision of the index
4 changes the reference base index, a revised reference base index is
5 determined by multiplying the reference base index applicable by the
6 rebasing factor furnished by the United States Bureau of Labor Statis-
7 tics. If the index is superseded, the index referred to in this sec-
8 tion is the one represented by the Bureau of Labor Statistics as
9 reflecting most accurately changes in the purchasing power of the
10 dollar for Alaskan consumers.

11 (d) The department shall adopt a regulation announcing

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

14 (2) promptly after the changes occur, changes in the index
15 required by (c) of this section, including, if applicable, the numer-
16 ical equivalent of the reference base index under a revised reference
17 base index and the designation or title of any index superseding the
18 index.

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

22 * Sec. 15. AS 46.04.050 is amended to read:

23 Sec. 46.04.050. EXEMPTIONS. The provisions of [BECAUSE OF THE
24 RESTRICTED NATURE OF THE OPERATIONS AND THE MINIMAL DANGER TO THE
25 ENVIRONMENT POSED BY THE ACTIVITIES,] AS 46.04.030, 46.04.040, and
26 46.04.060 do not apply to an oil terminal facility that has an effec-
27 tive storage capacity of less than 5,000 [10,000] barrels of crude oil
28 or less than 10,000 barrels of noncrude oil.

29 * Sec. 16. AS 46.04.060 is amended to read:

1 Sec. 46.04.060. INSPECTIONS. In addition to other rights of
2 access or inspection conferred upon the department by law or other-
3 wise, the department may at reasonable times enter and inspect oil
4 [OIL] terminal facilities, [OFFSHORE] exploration and production
5 facilities, tank vessels, and oil barges within the territorial juris-
6 diction of the state in order [ARE SUBJECT TO INSPECTION BY THE DE-
7 PARTMENT] to

8 (1) ensure compliance with the provisions of this chapter;

9 (2) examine the structural integrity of tank vessels, oil
10 barges, oil terminal facilities, oil exploration and production facil-
11 ities, pipelines, and other facilities related to the exploration,
12 production, storage, and transportation of oil; or

13 (3) participate in an examination of the structural integ-
14 riety of tank vessels and oil barges by the United States Coast Guard.

15 * Sec. 17. AS 46.04.200 is amended to read:

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

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

20 (1) take into consideration the elements of an oil dis-
21 charge prevention and contingency plan approved or submitted for
22 approval under AS 46.04.030;

23 (2) clarify and specify the respective responsibilities of
24 each of the following in the assessment, containment and cleanup of a
25 catastrophic oil discharge or of a significant discharge of a hazard-
26 ous substance into the environment of the state:

27 (A) agencies of the state;

28 (B) municipalities of the state;

29 (C) appropriate federal agencies;

- 1 (D) operators of facilities;
- 2 (E) private parties whose land and other property may
- 3 be affected by the oil or hazardous substance discharge; and
- 4 (F) other parties identified by the commissioner as
- 5 having an interest in or the resources to assist in the contain-
- 6 ment and cleanup of an oil or hazardous substance discharge;
- 7 (3) specify the respective responsibilities of parties
- 8 identified in (2) of this subsection in an emergency response; and
- 9 (4) identify actions necessary to reduce the likelihood of
- 10 catastrophic oil discharges and significant discharges of hazardous
- 11 substances.
- 12 (c) In preparing and annually reviewing the state master plan,
- 13 the commissioner shall
- 14 (1) consult with municipal and community officials, and
- 15 with representatives of affected regional organizations;
- 16 (2) submit the draft plan to the public for review and
- 17 comment;
- 18 (3) submit to the legislature for review, not later than
- 19 the 10th day following the convening of each regular session, the plan
- 20 and any annual revision of the plan; and
- 21 (4) require or schedule unannounced oil spill drills to
- 22 test the sufficiency of an oil discharge prevention and contingency
- 23 plan approved under AS 46.04.030 or of the cleanup plans of a party
- 24 identified under (b)(2) of this section.

25 * Sec. 18. AS 46.04.210(a) is amended to read:

- 26 (a) For any region of the state, the boundaries of which are
- 27 determined by the commissioner by regulation, in which the department
- 28 is required to review and approve an oil discharge prevention and
- 29 contingency plan submitted by a person under AS 46.04.030, the

1 department shall prepare and annually review and revise a regional
2 master oil and hazardous substance discharge [AND] prevention and
3 contingency plan.

4 * Sec. 19. AS 46.04.900(8) is amended to read:

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

11 * Sec. 20. AS 46.04.900(15) is amended to read:

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

18 * Sec. 21. AS 46.08.040 is amended to read:

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

21 (1) investigate and evaluate the release or threatened
22 release of oil or a hazardous substance, and contain, clean up, and
23 take other necessary action, such as monitoring and assessing, to
24 address a release or threatened release of oil or a hazardous sub-
25 stance that poses an imminent and substantial threat to the public
26 health or welfare, or to the environment;

27 (2) pay all costs incurred

28 (A) to establish and maintain the oil and hazardous
29 substance response office and for the expenses of the oil and

1 hazardous substance response corps and the oil and hazardous
2 substance response depots established by that office;

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

5 (C) to conduct training, response exercises, inspec-
6 tions, and tests, in order to verify equipment inventories and
7 ability to prevent and respond to oil and hazardous substance
8 release emergencies, and to undertake other activities intended
9 to verify or establish the preparedness of the state, a munic-
10 ipality, or a party required by AS 46.04.030 to have an approved
11 contingency plan to act in accordance with that plan; and

12 (D) to verify or establish proof of financial respon-
13 sibility required by AS 46.04.040;

14 (3) provide matching funds for participation in federal oil
15 discharge cleanup activities and under 42 U.S.C. 9601 - 9657 (Compre-
16 hensive Environmental Response, Compensation, and Liability Act of
17 1980); [AND]

18 (4) recover the costs to the state or to a municipality of
19 a containment and cleanup resulting from the release or the threatened
20 release of oil or a hazardous substance; [.]

21 (5) prepare, review, and revise

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

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

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

1 * Sec. 22. AS 46.08.040 is amended by adding a new subsection to read:

2 (b) Except for direct response to a declared disaster emergency
3 relating to an oil or hazardous substance discharge or for specific
4 projects authorized by the legislature, the department may not receive
5 or expend money in the fund as grants to municipalities or for reim-
6 bursable service agreements with any state agency.

7 * Sec. 23. AS 46.08.060(a) is amended to read:

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

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

14 (2) the amount and source of money received and money
15 recovered during the preceding fiscal year as specified in AS 46.08.-
16 020;

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

19 (4) a detailed summary of department activities in re-
20 sponses funded by the fund during the preceding fiscal year, including
21 response descriptions and statements outlining the nature of the
22 threat; in this paragraph, "detailed" includes information describing
23 each personal services position and total compensation for that posi-
24 tion, each contract in excess of \$20,000, and each purchase in excess
25 of \$10,000; and

26 (5) the projected cost for the next fiscal year of monitor-
27 ing, operating, and maintaining sites where response has been com-
28 pleted or is expected to be continued during the fiscal year.

29 * Sec. 24. SURVEY OF SMALL NONCRUDE OIL TERMINAL FACILITIES. (a) By

1 January 31, 1992, the Department of Environmental Conservation shall sur-
2 vey, inspect, and prepare an inventory of noncrude oil terminal facilities
3 in the state with an effective storage capacity of 5,000 to 10,000 barrels
4 in order to determine for each facility

- 5 (1) its actual storage capacity;
- 6 (2) the type of noncrude oil products stored;
- 7 (3) its age, design, construction, and general condition;
- 8 (4) the design and construction standards applicable or rele-
9 vant;
- 10 (5) the presence or absence of containment structures and equip-
11 ment;
- 12 (6) its ability to respond to a release or threatened release;
- 13 (7) the environmental sensitivity of the surrounding area and
14 the potential risk to the environment if a release occurs;
- 15 (8) the presence or absence of surface and subsurface pipelines
16 and storage tanks; and
- 17 (9) other appropriate information.

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

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

- 26 (1) notify each facility of the results of the facility's in-
27 spection; and
- 28 (2) provide each facility with recommendations and technical
29 assistance concerning identified deficiencies.

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

5 * Sec. 25. TRANSITIONAL PROVISIONS. (a) AS 46.04.030(j) - (1),
6 enacted by sec. 5 of this Act, do not apply to oil discharge prevention and
7 contingency plans until June 1, 1991. On and after June 1, 1991, a
8 contingency plan must comply with AS 46.04.030(j) - (1), enacted by sec. 5
9 of this Act, regardless of whether the contingency plan is due for renewal
10 under AS 46.04.030(d), as amended by sec. 4 of this Act.

11 (b) The amendments to AS 46.04.040, made by secs. 6 - 13 of this Act,
12 do not apply to persons required to show proof of financial responsibility
13 until January 1, 1991. On and after January 1, 1991, proof of financial
14 responsibility must comply with AS 46.04.040, as amended by secs. 6 - 13 of
15 this Act, regardless of whether acceptance of proof of financial respon-
16 sibility has expired under AS 46.04.040(f), as amended by sec. 11 of this
17 Act.

Original sponsor(s): Rules/Governor

1 IN THE HOUSE

BY THE FINANCE COMMITTEE

2 SENATE CS FOR CS FOR HOUSE BILL NO. 567 (Finance)

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 SIXTEENTH LEGISLATURE - SECOND SESSION

5 A BILL

6 For an Act entitled: "An Act relating to oil discharge prevention and
7 contingency plan requirements, financial respon-
8 sibility requirements related to oil, penalties, and
9 inspection authority of the Department of Environ-
10 mental Conservation; relating to the oil and hazard-
11 ous substance release response fund and responses to
12 oil and hazardous substance emergencies; authorizing
13 the Department of Environmental Conservation and
14 municipalities to enter into agreements pertaining to
15 vessel traffic control and monitoring systems; and
16 providing for an effective date."

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

18 * Section 1. AS 29.35.020 is amended by adding a new subsection to
19 read:

20 (d) A municipality may enter into agreements with the United
21 States Coast Guard, the United States Environmental Protection Agency,
22 and other persons relating to development and enforcement of vessel
23 traffic control and monitoring systems for oil barges and tank vessels
24 carrying oil operating in or near the waters of the state.

25 * Sec. 2. AS 46.03.759(c) is amended to read:

26 (c) Subject to the \$500,000,000 maximum set under (a) of this
27 section the court shall assess four times the penalty set out in (a)
28 of this section if the court finds

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

Letter of Intent for Senate CS for CS for HB 567 (Oil and Gas)

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

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

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

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

STEVE COWPER
GOVERNOR



STATE OF ALASKA
OFFICE OF THE GOVERNOR
JUNEAU

Q
HB 565
HB 566
HB 567

February 21, 1990

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

Dear Mr. Speaker:

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

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

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

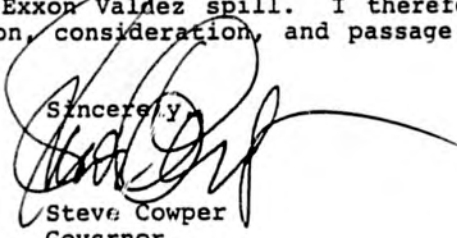
The third bill strengthens DEC's authority to require compliance with oil discharge contingency plans. Of particular significance is the requirement that applicants for contingency plans must maintain sufficient resources to contain and remove, within the shortest possible time, a realistic maximum oil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

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

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

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

Sincerely,

A handwritten signature in dark ink, appearing to read 'Steve Cowper', with a long horizontal flourish extending to the right.

Steve Cowper
Governor

STATE OF ALASKA
1990 LEGISLATIVE SESSION

VERSION: SCSCSHB 567 (FIN) Xa
PUBLISH DATE: 5-8-90

FISCAL NOTE

REQUEST:

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

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

EXPENDITURES/REVENUES:

(Thousands of Dollars)

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

FUNDING: (Thousands of Dollars)

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

POSITIONS:

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

ANALYSIS: (Attach a separate page if necessary)

Further analysis attached.

Prepared by: Larry Dietrick
Division: Environmental Quality

Phone: 465-2640

Date: 5/4/90

Approved by Commissioner: A.D.I.K.
Agency: Environmental Conservation

Date: 5/4/90

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

Changes in SCSCSHB 567 (FIN)
have no fiscal impact.
This fiscal note is
appropriate. 5/8/90

page 1 of 3

FISCAL ANALYSIS

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

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

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

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

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

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

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

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

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

FISCAL NOTE

REQUEST:

Revision Date: 5/5/90
Title: Oil Spill Contingency Plans
Sponsor: Rules Committee (Governor)
Requester: Senate Oil & Gas

Agency Affected: Natural Resources
BRU: Petroleum Management
Components: _____

EXPENDITURES/REVENUES: (Thousands of Dollars)

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

CAPITAL						
---------	--	--	--	--	--	--

REVENUE						
---------	--	--	--	--	--	--

FUNDING: (Thousands of Dollars)

GENERAL FUND						
FEDERAL FUNDS						
OTHER						
TOTAL						

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

ANALYSIS : (Attach a separate page if necessary)

Prepared by: Carol Wilson Phone: 465-2400
Division: Commissioner's Office Date: 5/5/90
Approved by Commissioner: [Signature] Date: 5/5/90
Agency: Natural Resources

Distribution (by preparer):

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

Changes in SCS 43 567 (F.R.)
have no fiscal impact.
This fiscal note is
appropriate. 5/8/90 WL

page 1 of 1

FISCAL NOTE

REQUEST:

Revision Date: _____ Agency Affected: Fish and Game
Title: An Act strengthening DEC's BRU: Habitat Division
contingency plan and inspection requirements.
Sponsor: Rules Committee/Governor Components: Habitat
Requestor: House Finance

EXPENDITURES/REVENUES: (Thousands of Dollars)

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

CAPITAL	0					
---------	---	--	--	--	--	--

REVENUE	0					
---------	---	--	--	--	--	--

FUNDING: (Thousands of Dollars)

GENERAL FUND	0					
FEDERAL FUNDS	0					
OTHER *	156.5					
TOTAL	156.5					

POSITIONS:

FULL-TIME	2					
PART-TIME	1					
TEMPORARY	0					

ANALYSIS: (Attach a separate page if necessary)

* Oil and Hazardous Substance Release Response Fund

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

Distribution (by preparer):

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

Changes in SCS GSHB 567 (FIR)
have no fiscal impact.
This fiscal note is
appropriate. 5/8/90

FY91 Line Itemization -

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

EXPLANATION

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

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

Original sponsor(s): Rules/Governor

1 IN THE HOUSE BY THE FINANCE COMMITTEE
2 SENATE CS FOR CS FOR HOUSE BILL NO. 567 (Finance)
3 IN THE LEGISLATURE OF THE STATE OF ALASKA
4 SIXTEENTH LEGISLATURE - SECOND SESSION
5 A BILL
6 For an Act entitled: "An Act relating to oil discharge prevention and
7 contingency plan requirements, financial respon-
8 sibility requirements related to oil, penalties, and
9 inspection authority of the Department of Environ-
10 mental Conservation; relating to the oil and hazard-
11 ous substance release response fund and responses to
12 oil and hazardous substance emergencies; authorizing
13 the Department of Environmental Conservation and
14 municipalities to enter into agreements pertaining to
15 vessel traffic control and monitoring systems; and
16 providing for an effective date."
17 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:
18 * Section 1. AS 29.35.020 is amended by adding a new subsection to
19 read:
20 (d) A municipality may enter into agreements with the United
21 States Coast Guard, the United States Environmental Protection Agency,
22 and other persons relating to development and enforcement of vessel
23 traffic control and monitoring systems for oil barges and tank vessels
24 carrying oil operating in or near the waters of the state.
25 * Sec. 2. AS 46.03.759(c) is amended to read:
26 (c) Subject to the \$500,000,000 maximum set under (a) of this
27 section the court shall assess four times the penalty set out in (a)
28 of this section if the court finds
29 (1) the discharge was caused by the gross negligence or

1 intentional act of the defendant;

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

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

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

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

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

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

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

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

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

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

4 (1) response action contract or a remedial action plan if
5 one has been approved by the department; or

6 (2) contingency plan approved by the department where the
7 response action contractor is the plan holder.

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

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

13 (A) the department; [OR]

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

17 (C) a federal agency with jurisdiction over the re-
18 lease or threatened release; or

19 (D) another person potentially liable for the release
20 or threatened release under state or federal law;

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

22 (3) "response action contractor" means

23 (A) a person who enters into a response action con-
24 tract with respect to a release or threatened release of a haz-
25 ardous substance and who is carrying out the contract, including
26 a cooperative organization formed to maintain and supply response
27 equipment and materials that enters into a response action con-
28 tract relating to a release or threatened release; and

29 (B) a person who is retained or hired by and is under

1 the control of a person described in (A) of this paragraph to
2 provide services related to the response action contract.

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

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

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

13 (2) provide for cooperative review of oil discharge preven-
14 tion and contingency plans submitted to the department under AS 46.-
15 04.030;

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

19 (4) provide for cooperative oil discharge notification
20 procedures.

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

22 Sec. 46.04.030. OIL DISCHARGE PREVENTION AND CONTINGENCY PLANS.

23 (a) A person may not cause or permit the operation of an oil terminal
24 facility in the state unless an oil discharge prevention and contin-
25 gency plan for the facility has been approved by the department and
26 the person is in compliance with the plan [. THE DEPARTMENT IS THE
27 ONLY STATE AGENCY WHICH HAS THE POWER TO APPROVE AN OIL DISCHARGE
28 CONTINGENCY PLAN FOR THE PURPOSES OF THIS SECTION].

29 (b) A [AFTER JANUARY 1, 1981, A] person may not cause or permit

1 the operation of a pipeline or an [OFFSHORE] exploration or production
2 facility in the state unless an oil discharge prevention and contin-
3 gency plan for the pipeline or facility has been approved by the
4 department and the person is in compliance with the plan.

5 (c) Except as provided in (n) of this section, a [A] person may
6 not operate a tank vessel or an oil barge within the waters of the
7 state, or cause or permit the transfer of oil to or from a tank vessel
8 or [, OR, AFTER JANUARY 1, 1981, TO OR FROM] an oil barge, unless an
9 oil discharge prevention and contingency plan for the tank vessel or
10 oil barge has been approved by the department and the person is in
11 compliance with the plan [EXCEPT FOR PROSECUTIONS UNDER AS 46.03.-
12 790(b), IT IS NOT A DEFENSE TO AN ACTION BROUGHT FOR VIOLATION OF THIS
13 SUBSECTION THAT THE PERSON CHARGED BELIEVED THAT A CURRENT OIL DIS-
14 CHARGE CONTINGENCY PLAN FOR THE TANK VESSEL OR OIL BARGE HAD BEEN
15 APPROVED BY THE DEPARTMENT].

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

24 (e) The department may attach reasonable terms and conditions to
25 its approval or modification of a [AN OIL DISCHARGE] contingency plan
26 that the department [WHICH IT] determines are necessary to ensure
27 [INSURE] that the applicant for a [AN OIL DISCHARGE] contingency plan
28 has access to sufficient resources to protect environmentally sensi-
29 tive areas and to contain, clean up, and mitigate potential oil

1 discharges from the facility or vessel as provided in (k) of this sec-
2 tion, and to ensure that the applicant complies with the contingency
3 plan [WITHIN THE SHORTEST FEASIBLE TIME]. The [OIL DISCHARGE] contin-
4 gency plan must provide for the use [OF THE BEST AVAILABLE TECHNOLOGY]
5 by the applicant of the best technology that was available at the time
6 the contingency plan was submitted or renewed. The department may
7 require an applicant or holder of an approved contingency plan to take
8 steps necessary to demonstrate its ability to carry out the contingen-
9 cy plan, including

10 (1) periodic training;
11 (2) response team exercises; and
12 (3) verifying access to inventories of [AVAILABLE] equip-
13 ment, supplies, and personnel identified as available in the approved
14 contingency plan.

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

24 (1) approval was obtained by fraud or misrepresentation;
25 (2) the operator does not have access to the quality or
26 quantity of resources identified in the plan; [OR]

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

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

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

3 (g) Failure of a holder of an approved or modified [OIL DIS-
4 CHARGE] contingency plan to comply with the plan, or to have access to
5 the quality or quantity of resources identified in the plan or [AND,
6 IN THE EVENT OF A SPILL,] to respond with those resources within the
7 shortest possible [FEASIBLE] time in the event of a spill is a vio-
8 lation of this chapter for purposes of AS 46.03.760(a), 46.03.765,
9 46.03.790, and any other applicable law. If the holder of an approved
10 or modified [OIL DISCHARGE] contingency plan fails to respond to and
11 conduct cleanup operations of an unpermitted discharge of crude oil
12 with the quality and quantity of resources identified in the plan and
13 in a manner required under the plan, the holder is strictly liable,
14 jointly and severally, for the civil penalty assessed under AS 46.03.-
15 758, 46.03.759, or 46.03.760 against any other person for that dis-
16 charge.

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

18 (h) The department is the only state agency that has the power
19 to approve, modify, or revoke a contingency plan for the purposes of
20 this section. The department shall exercise its power under this
21 section in a timely manner. Except for prosecutions under AS 46.03.-
22 790(b) and except as provided in (i) of this section, it is not a
23 defense to an action brought for a violation of (a) - (c) of this
24 section that the person charged believed that a current contingency
25 plan had been approved by the department.

26 (i) It is a defense to an action brought for a violation of
27 (a) - (c) of this section that the person charged relied on a certifi-
28 cate of approval issued by the department under (d) of this section
29 unless the person knew or had reason to know at the time of the

1 alleged violation that approval of the plan had been revoked or that
2 the holder of the plan was not capable of carrying out the plan.

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

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

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

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

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

5 (A) for tank vessels and oil barges having a cargo
6 volume of less than 500,000 barrels, the plan holder shall main-
7 tain at a minimum in the region of operation, equipment, person-
8 nel, and other resources sufficient to contain or control, and
9 clean up a 50,000 barrel discharge within 72 hours;

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

15 (C) in addition to the minimum equipment, personnel,
16 and other resources required to be maintained within the region
17 of operation by (A) or (B) of this paragraph, a plan holder shall
18 maintain, either within or outside of the plan holder's region of
19 operation, additional equipment, personnel, and other resources
20 sufficient to contain or control, and clean up a realistic maxi-
21 mum discharge within the shortest possible time; the plan holder
22 must demonstrate that the equipment, personnel, and other re-
23 sources maintained outside the plan holder's region of operation
24 are accessible to the plan holder and will be deployed and op-
25 erating at the discharge site within 72 hours;

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

1 greater, within 48 hours and clean up the discharge within the short-
2 est possible time consistent with minimizing damage to the environ-
3 ment;

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

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

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

26 (n) A tank vessel or oil barge that is conducting, or is avail-
27 able only for conducting, oil discharge response operations is exempt
28 from the requirements of (c) of this section if the tank vessel or oil
29 barge has received prior approval of the department. The department

1 may approve exemptions under this subsection upon application and
2 presentation of information required by the department.

3 (o) A holder of an approved contingency plan does not violate
4 the terms of the contingency plan by furnishing to another plan hold-
5 er, with the approval of the department, equipment, materials, or
6 personnel to assist the other plan holder in a response to an oil
7 discharge. The plan holder shall replace or return the transferred
8 equipment, materials, and personnel as soon as feasible. The depart-
9 ment shall by regulation determine the maximum amount of equipment,
10 materials, or personnel and the maximum amount of time for which it
11 will approve a transfer.

12 (p) The department shall approve or disapprove a proposed con-
13 tingency plan within 65 days after it receives a complete application
14 for approval under this section.

15 (q) In this section,

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

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

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

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

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

27 (D) comply with terms and conditions attached to the
28 plan by the department under the authority of (e) of this sec-
29 tion; and

1 (E) successfully demonstrate the ability to carry out
2 the plan when required by the department under (e) of this sec-
3 tion;

4 (3) "realistic maximum oil discharge" means the maximum and
5 most damaging oil discharge that the department estimates could occur
6 during the lifetime of the tank vessel, oil barge, facility, or pipe-
7 line based on the size, location, and capacity of the tank vessel, oil
8 barge, facility, or pipeline; on the department's knowledge and expe-
9 rience with the tank vessel, oil barge, facility, or pipeline or with
10 similar tank vessels, oil barges, facilities, or pipelines; and on the
11 department's analysis of possible mishaps to the tank vessel or oil
12 barge or at the facility or pipeline or to similar tank vessels or oil
13 barges or at similar facilities or pipelines;

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

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

20 (a) A person may not cause or permit the operation of an oil
21 terminal facility in the state unless the person has furnished to the
22 department, and the department has approved, proof of financial abil-
23 ity to respond in damages. Proof of financial responsibility required
24 for a crude oil terminal is \$50,000,000 per incident. Proof of finan-
25 cial responsibility required for a noncrude oil terminal is \$25, per
26 incident, for each barrel of total noncrude oil storage capacity at
27 the terminal or [WHICH HAS BEEN ACCEPTED BY THE DEPARTMENT. ABILITY
28 TO RESPOND IN DAMAGES NEED NOT EXCEED \$50,000,000 BUT MUST BE IN AN
29 AMOUNT (1) NOT LESS THAN \$10, PER INCIDENT, FOR EACH BARREL OF STORAGE

1 CAPACITY AT THE OIL TERMINAL FACILITY: OR (2)] \$1,000,000, whichever
2 is greater, subject to a maximum of \$50,000,000. For purposes of this
3 subsection, an oil terminal facility that stores both crude oil and
4 noncrude oil is subject to the financial responsibility requirements
5 applicable to the type of facility that corresponds to the type of oil
6 storage that predominates at the facility. However, if the facility
7 stores more noncrude oil than crude oil, the \$25 per incident, per
8 barrel requirement of this subsection applies to each barrel of oil
9 storage capacity at the facility.

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

11 (b) A [AFTER JULY 1, 1981, A] person may not cause or permit the
12 operation of a pipeline or an [OFFSHORE] exploration or production
13 facility in the state unless the person has furnished to the depart-
14 ment, and the department has approved, proof of financial ability to
15 respond in damages [HAS BEEN ACCEPTED BY THE DEPARTMENT]. Proof of
16 financial responsibility required for a pipeline or an offshore explo-
17 ration or production facility is \$50,000,000 [MAY NOT BE LESS THAN
18 \$35,000,000] per incident. Proof of financial responsibility required
19 for an onshore production facility is \$20,000,000 per incident. Proof
20 of financial responsibility required for an onshore exploration facil-
21 ity is \$5,000,000 per incident.

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

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

1 under this subsection is

2 (1) \$300, per incident, for each barrel of storage capacity
3 or \$100,000,000, whichever is greater, for a tank vessel or barge
4 carrying crude oil;

5 (2) \$100, per incident, for each barrel of storage capacity
6 or \$1,000,000, whichever is greater, subject to a maximum of
7 \$35,000,000, for a tank vessel or barge carrying noncrude oil [RESPON-
8 SIBILITY FOR THE TANK VESSEL OR BARGE HAS BEEN ACCEPTED BY THE DEPART-
9 MENT. FINANCIAL RESPONSIBILITY UNDER THIS SUBSECTION SHALL BE IN THE
10 FOLLOWING AMOUNTS:

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

15 (2) FOR ANY OTHER OIL BARGE, THE AMOUNT REQUIRED BY SEC. -
16 311(p)(1) OF THE CLEAN WATER ACT, OR \$1,000,000, WHICHEVER IS GREATER;

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

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

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

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

29 (e) Financial responsibility may be demonstrated by (1) self-

1 insurance, (2) insurance, (3) surety, (4) [OR] guarantee, (5) letter
2 of credit approved by the department, or (6) other proof of financial
3 responsibility approved by the department, including proof of finan-
4 cial responsibility provided by a group of insureds who have agreed to
5 cover pollution risks of members of the group under terms the depart-
6 ment may prescribe. An action brought under AS 46.03.758, 46.03.759,
7 46.03.760(a) or (e), 46.03.822, or AS 46.04.030(g) [OR TO COLLECT
8 PENALTIES IMPOSED UNDER AS 46.03.759] may be brought in a state court
9 directly against the insurer, the group, or another person providing
10 evidence of financial responsibility. The applicant, and an insurer,
11 surety, [OR] guarantor, person furnishing an approved letter of cred-
12 it, or other group or person providing proof of financial respon-
13 sibility approved by the department shall appoint an agent for service
14 of process in the state. For purposes of this subsection, an [AN]
15 insurer, other than a group of insureds whose agreement has been
16 approved by the department, must either be authorized by the Depart-
17 ment of Commerce and Economic Development to sell insurance in the
18 state or be an unauthorized insurer listed by the Department of Com-
19 merce and Economic Development as not disapproved for use in the
20 state.

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

22 (f) Acceptance of proof of financial responsibility expires

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

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

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

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

2 (g) The person whose proof of financial responsibility is ac-
3 cepted by the department under this section shall notify the depart-
4 ment at least 30 days before the effective date of a change, expira-
5 tion or cancellation in the surety bond, guarantee, [OR] insurance
6 agreement, letter of credit, or other proof of financial responsibil-
7 ity. Application for renewal of acceptance of proof of financial
8 responsibility under this section must be filed at least 30 days
9 before the date of expiration.

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

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

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

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

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

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

5 (3) the applicant provides a sworn statement or affidavit
6 that insurance or other form of financial responsibility that meets
7 the requirements of (e) of this section is not available in greater
8 amounts.

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

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

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

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

28 (c) If the index is revised, the percentage of change is cal-
29 culated on the basis of the revised index. If a revision of the index

1 changes the reference base index, a revised reference base index is
2 determined by multiplying the reference base index applicable by the
3 rebasing factor furnished by the United States Bureau of Labor Statis-
4 tics. If the index is superseded, the index referred to in this sec-
5 tion is the one represented by the Bureau of Labor Statistics as
6 reflecting most accurately changes in the purchasing power of the
7 dollar for Alaskan consumers.

8 (d) The department shall adopt a regulation announcing

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

11 (2) promptly after the changes occur, changes in the index
12 required by (c) of this section, including, if applicable, the numer-
13 ical equivalent of the reference base index under a revised reference
14 base index and the designation or title of any index superseding the
15 index.

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

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

20 Sec. 46.04.050. EXEMPTIONS. The provisions of [BECAUSE OF THE
21 RESTRICTED NATURE OF THE OPERATIONS AND THE MINIMAL DANGER TO THE
22 ENVIRONMENT POSED BY THE ACTIVITIES,] AS 46.04.030, 46.04.040, and
23 46.04.060 do not apply to an oil terminal facility that has an effec-
24 tive storage capacity of less than 5,000 [10,000] barrels of crude oil
25 or less than 10,000 barrels of noncrude oil.

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

27 Sec. 46.04.060. INSPECTIONS. In addition to other rights of
28 access or inspection conferred upon the department by law or other-
29 wise, the department may at reasonable times and in a safe manner

1 enter and inspect oil [OIL] terminal facilities, pipelines, [OFFSHORE]
2 exploration and production facilities, tank vessels, and oil barges in
3 order [ARE SUBJECT TO INSPECTION BY THE DEPARTMENT] to

4 (1) ensure compliance with the provisions of this chapter;
5 or

6 (2) participate in an examination of the structural integ-
7 riety and the operating and mechanical systems of those vessels,
8 barges, pipelines, and facilities by federal and state agencies with
9 jurisdiction.

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

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

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

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

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

23 (1) take into consideration the elements of an oil dis-
24 charge prevention and contingency plan approved or submitted for
25 approval under AS 46.04.030;

26 (2) clarify and specify the respective responsibilities of
27 each of the following in the assessment, containment, and cleanup of a
28 catastrophic oil discharge or of a significant discharge of a hazard-
29 ous substance into the environment of the state:

1 (A) agencies of the state;
2 (B) municipalities of the state;
3 (C) appropriate federal agencies;
4 (D) operators of facilities;
5 (E) private parties whose land and other property may
6 be affected by the oil or hazardous substance discharge; and
7 (F) other parties identified by the commissioner as
8 having an interest in or the resources to assist in the contain-
9 ment and cleanup of an oil or hazardous substance discharge;
10 (3) specify the respective responsibilities of parties
11 identified in (2) of this subsection in an emergency response; and
12 (4) identify actions necessary to reduce the likelihood of
13 catastrophic oil discharges and significant discharges of hazardous
14 substances.
15 (c) In preparing and annually reviewing the state master plan,
16 the commissioner shall
17 (1) consult with municipal and community officials, and
18 with representatives of affected regional organizations;
19 (2) submit the draft plan to the public for review and
20 comment;
21 (3) submit to the legislature for review, not later than
22 the 10th day following the convening of each regular session, the plan
23 and any annual revision of the plan; and
24 (4) require or schedule unannounced oil spill drills to
25 test the sufficiency of an oil discharge prevention and contingency
26 plan approved under AS 46.04.030 or of the cleanup plans of a party
27 identified under (b)(2) of this section.
28 * Sec. 24. AS 46.04.210(a) is amended to read:
29 (a) For any region of the state, the boundaries of which are

1 determined by the commissioner by regulation, in which the department
2 is required to review and approve an oil discharge prevention and
3 contingency plan submitted by a person under AS 46.04.030, the depart-
4 ment shall prepare and annually review and revise a regional master
5 oil and hazardous substance discharge [AND] prevention and contingency
6 plan.

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

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

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

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

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

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

26 (19) "production facility" means a drilling rig, drill site,
27 flow station, gathering center, pump station, storage tank, well, and
28 related appurtenances on other facilities to produce, gather, clean,
29 dehydrate, condition, or store crude oil and associated hydrocarbons

1 in or on the water of the state or on land in the state, and gathering
2 and flow lines used to transport crude oil and associated hydrocarbons
3 to the inlet of a pipeline system for delivery to a marine facility,
4 refinery, or other production facility.

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

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

8 (1) investigate and evaluate the release or threatened
9 release of oil or a hazardous substance, and contain, clean up, and
10 take other necessary action, such as monitoring and assessing, to
11 address a release or threatened release of oil or a hazardous sub-
12 stance that poses an imminent and substantial threat to the public
13 health or welfare, or to the environment;

14 (2) pay all costs incurred

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

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

21 (C) to conduct training, response exercises, inspec-
22 tions, and tests, in order to verify equipment inventories and
23 ability to prevent and respond to oil and hazardous substance
24 release emergencies, and to undertake other activities intended
25 to verify or establish the preparedness of the state, a munic-
26 ipality, or a party required by AS 46.04.030 to have an approved
27 contingency plan to act in accordance with that plan; and

28 (D) to verify or establish proof of financial respon-
29 sibility required by AS 46.04.040;

1 (3) provide matching funds for participation in federal oil
2 discharge cleanup activities and under 42 U.S.C. 9601 - 9657 (Compre-
3 hensive Environmental Response, Compensation, and Liability Act of
4 1980); [AND]

5 (4) recover the costs to the state or to a municipality of
6 a containment and cleanup resulting from the release or the threatened
7 release of oil or a hazardous substance; [.]

8 (5) prepare, review, and revise

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

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

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

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

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

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

24 (2) the amount and source of money received and money
25 recovered during the preceding fiscal year as specified in AS 46.08.-
26 020;

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

29 (4) a detailed summary of department activities in

1 responses funded by the fund during the preceding fiscal year, includ-
2 ing response descriptions and statements outlining the nature of the
3 threat; in this paragraph, "detailed" includes information describing
4 each personal services position and total compensation for that posi-
5 tion, each contract in excess of \$20,000, and each purchase in excess
6 of \$10,000; and

7 (5) the projected cost for the next fiscal year of monitor-
8 ing, operating, and maintaining sites where response has been com-
9 pleted or is expected to be continued during the fiscal year.

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

- 15 (1) its actual storage capacity;
- 16 (2) the type of noncrude oil products stored;
- 17 (3) its age, design, construction, and general condition;
- 18 (4) the design and construction standards applicable or rele-
19 vant;
- 20 (5) the presence or absence of containment structures and equip-
21 ment;
- 22 (6) its ability to respond to a release or threatened release;
- 23 (7) the environmental sensitivity of the surrounding area and
24 the potential risk to the environment if a release occurs;
- 25 (8) the presence or absence of surface and subsurface pipelines
26 and storage tanks; and
- 27 (9) other appropriate information.

28 (b) By January 31, 1992, the Department of Environmental Conservation
29 shall report to the legislature the results of the survey required under

1 (a) of this section and its written recommendations concerning discharge
2 prevention and contingency requirements or design review requirements that
3 should be enacted for noncrude oil terminal facilities with storage capac-
4 ities of less than 10,000 barrels.

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

7 (1) notify each facility of the results of the facility's in-
8 spection; and

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

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

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

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

25 (2) appropriate discharge response times;

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

28 (4) appropriate roles for industry and state and local govern-
29 ments in the purchase, ownership, and positioning of discharge response

1 efforts.

2 * Sec. 32. TRANSITIONAL PROVISIONS. (a) AS 46.04.030(k) - (m), en-
3 acted by sec. 10 of this Act, do not apply to oil discharge prevention and
4 contingency plans until June 1, 1991. On and after June 1, 1991, a contin-
5 gency plan must comply with AS 46.04.030(k) - (m), enacted by sec. 10 of
6 this Act, regardless of whether the contingency plan is due for renewal
7 under AS 46.04.030(d), as amended by sec. 9 of this Act.

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

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

ACCEPT

U.C.

AMENDMENT

1

P.10, line 18

by BROWN

HB567

CS HB 567 (FIN)

46.04.040. Add a new subsection, to read:

(f) Notwithstanding the requirements of (e), the applicant may provide evidence of financial responsibility provided by an insurer or other person who does not agree to be subject to direct action in state courts or to appoint an agent for service of process, if (1) the department is satisfied that the insurance or other form of financial responsibility covers judgments under the statutes listed in (e); (2) proof of at least \$50 million, or the amount required by (a)-(c) of this section, whichever is less, in insurance or other form of financial responsibility which meets the requirements of (e) is provided; and (3) the applicant provides a sworn statement or affidavit that insurance or other form of financial responsibility which meets the requirements of (e) is not available in greater amounts.

Renumber accordingly

A:\HB567.OIL

Doc 1 Pg 1 Ln 1" Pos 1.

By Brow
ACIP+
u c

A M E N D M E N T #2

OFFERED IN THE HOUSE

TO: CSHB 567()

Page 5, line 24:

Delete "The"

Insert "Except as provided in (1) of this section, the"

Page 6, after line 17:

Insert a new subsection to read:

"(1) Notwithstanding (j) of this section, the department may approve a contingency plan for a noncrude oil terminal facility or for a tank vessel or barge carrying noncrude oil that provides for the holder of the plan to maintain the equipment, personnel, and resources required under (j) of this section outside the holder's region of operation upon a showing satisfactory to the department that the planning requirements of (j) of this section are otherwise satisfied.

Reletter the following subsection accordingly.

Amendment ²⁴

By Ricger

To: CS HB 567

Page 16, Line 25 Add a new section to read:

" * Sec. 10. AS 46.08.060 (a)(4) is amended to read:

(4) a detailed summary of department activities in responses funded by the fund during the preceding fiscal year, including response and descriptions and statements outlining the nature of the threat; for purposes of this section, "detailed includes each personal services position and total compensation for that position, each contract in excess of \$20,000, and each purchase in excess of \$10,000; and "

4/23/90

~~Adpt~~
Adpt
u.c.

AMENDMENT

= 5

by RIEGER

Page 16, line 26

insert new subsection (b) to AS 46.08.040:

"(b) Except for direct response to a declared disaster emergency relating to an oil or hazardous substance discharge or for specific projects authorized by the legislature, the department may not receive and expend funds as grants to municipalities or reimbursable service agreements to any state agency."

SCOMM

78:42

LEGISLATIVE HISTORY OF AMENDMENT
TO AS 46.04.040
PROOF OF FINANCIAL RESPONSIBILITY
(HB 567: 1990)

Volume III: Passage of HB 567 from Introduction to Legislature to Consideration by the Senate Special Committee on Oil and Gas

1. Summary of legislative history of HB 567.
2. Transmittal letters from Governor Steve Cowper to Speaker of the House Sam Cotten and President of the Senate Tim Kelly for HB 565, HB 566 and HB 567 (2/21/90).
3. Drafts of HB 567 from Department of Law File No. 773-90-0053 (dated February 1990).
4. "Letter of Intent for HB 567" (undated).
5. Fiscal Note for HB 567 from DEC (2/19/90); and Fiscal Note for HB 567 from Alaska Department of Fish and Game (ADF&G) (2/14/90).
6. Charts listing the existing and proposed financial responsibility requirements for non-crude barges, existing non-crude barge companies, non-crude terminals, and Barrow non-crude terminals (undated).
7. "SB 504/HB 567" summarizing contents of the 2/21/90 version of these bills (undated).
8. Memorandum from Representatives Menard and Davidson, Co-chairmen of the House Resources Committee to all teleconference sites enclosing charts of issues in HB 565 and HB 567 to be discussed at teleconference (undated).
9. Excerpts from minutes of House Resources Committee meeting held on 2/26/90 regarding HB 565, HB 566, and HB 567.
10. Letter from Walt Schlotfeldt, President of Petro Star Inc. to Representative Curt Menard voicing concerns regarding HB 567 (3/7/90).
11. Excerpts from minutes of House Resources Committee meeting held on 3/8/90 regarding HB 565, HB 566 and HB 567.
12. Comments of the Alaska Rural Electric Cooperative Association on HB 567 and SB 504 (3/8/90).
13. Excerpts from minutes of House Resources Committee meeting held on 3/9/90 regarding HB 565, HB 566 and HB 567.

14. Written testimony on HB 567 by Dave Bouker, General Manager of Nushagak Electric Cooperative (3/9/90).
15. Memorandum from Bernie Saupe, Saupe Enterprises, Inc. to House Resources Committee expressing concerns about effect of HB 567 on small fuel distributors (3/8/90).
16. Written testimony on HB 565, HB 566, and HB 567 by Riki Ott, Oil Reform Alliance (3/9/90).
17. Letter from Tim Robertson, Vice President of Oil Spill Prevention and Response, Regional Citizen Advisory Committee to Representative Curt Menard enclosing position paper on various proposed legislation, including HB 567 (3/12/90).
18. Excerpts from minutes of House Resources Committee held on 3/14/90 on HB 567.
19. Memorandum from DEC Commissioner Dennis D. Kelso to Governor Steve Cowper presenting alternatives to the provisions currently in HB 567/SB 504 on additional requirements for financial responsibility and oil spill contingency plans for non-crude oil facilities (3/16/90).
20. "Statement of Jerry A. Aspland, President, ARCO Marine, Inc., Before the Alaska House Resources Committee, House Bill 567" (3/20/90).
21. Memorandum from Ray Gillespie, Gillespie & Associates, Lobbying and Governmental Affairs, to Representatives Menard and Davidson, Co-Chairmen, House Resources Committee regarding civil penalty and financial responsibility for non-crude oil distributors (3/21/90).
22. Letter from Jim Ramaglia, Vice President, North Pacific Fuel to Representative Cliff Davidson regarding financial responsibility and penalties with respect to refined oil terminals (2/21/90).
23. Memorandum from Assistant Attorney General John A. McDonagh to DEC Deputy Commissioner Amy Kyle regarding draft language on small terminal facilities issue; amends HB 567 by adding a new section AS 42.04.065 (3/20/90).
24. Graph and charts showing fuel storage capacity of 100 Alaska rural electric utilities by the Alaska Energy Authority (3/23/90).
25. Work draft of HB 567 (Resources) with handwritten notes (3/27/90).
26. Work draft of HB 567 (Resources) (3/28/90).
27. Amendment to CSHB 567 (Resources) (3/28/90).

28. Excerpts from minutes of House Resources Committee meeting held on 3/28/90
29. Memorandum from Ray Gillespie, Gillespie & Associates, Lobbying and Governmental Affairs, to Representatives Menard and Davidson, Co-Chairmen, House Resources Committee supplementing 3/21/90 memo on civil penalty and financial responsibility for non-crude oil distributors (3/29/90).
30. Letter from Dave Hutchens, Executive Director of the Alaska Rural Electric Cooperative Association, Inc. to Representative Cliff Davidson opposing increasing the rate of financial responsibility on refined storage petroleum storage tanks from \$25 to \$35 per barrel (3/29/90).
31. Typewritten notes on CSHB 567 by R. Foster (3/29/90).
32. Draft of HB 567 (Resources) with handwritten notes (3/30/90).
33. Excerpts from the minutes of House Resources Committee meeting held on 3/30/90.
34. House Committee Report by the House Resources Committee on HB 567 (3/30/90).
35. Draft of CS HB 567 (Resources) (4/2/90).
36. Fiscal Notes on CSHB 567 (Resources) and CSHB 567 (Finance) from DEC (4/2/90).
37. "CS HB 567 (Resources)" section analysis (4/2/90).
38. "HB 567/SB 504 Contingency Planning, Financial Responsibility, Tanker Inspections" with handwritten note (undated).
39. "Amendment to HB 567" proposing amending AS 46.04.040(c) "Proposed Amendment for H.B. 567" proposing amending AS 46.04.040(e); and "Analysis of Amendments" (4/11/90).
40. Miscellaneous amendments to CSHB 567 (Resources) (undated).
41. "Proposed Changes to House Bill 567 from CS HB 567 (Res) to CS HB 567 () draft 4/20/90 changes relative to CS HB 567 (Res) (4/20/90).
42. Letter from W. Gene Burden, Vice President, Administration and Government Relations, Tesoro Alaska Petroleum Company, to House Finance Committee Members regarding the option of the State of Alaska of not enforcing the provisions requiring financial assurance (4/21/90).
43. Fiscal Notes from ADF&G for CSHB 567 (Finance) (4/23/90).

04/30/90 3750 (H) ADVANCED TO THIRD READING 5/1 CALENDAR
 05/01/90 3785 (H) READ THE THIRD TIME CSHB 567(FIN) AM
 05/01/90 3786 (H) PASSED Y25 N14 X1
 05/01/90 3787 (H) EFFECTIVE DATE FAILED Y26 N13 X1
 05/01/90 3787 (H) ...CHANGES TITLE OF LEGISLATION
 05/01/90 3787 (H) JACKO NOTICE OF RECONSIDERATION
 05/02/90 3805 (H) RECON TAKEN UP - IN THIRD READING
 05/02/90 3806 (H) MOVED TO BOTTOM OF CALENDAR
 05/02/90 3830 (H) IN THIRD READING
 05/02/90 3831 (H) TITLE AMENDMENT BY NAVARRE
 05/02/90 3831 (H) TITLE AMENDMENT ADP Y26 N12 X2
 05/02/90 3832 (H) 2ND TITLE AMENDMENT BY HUDSON
 05/02/90 3832 (H) 2ND TITLE AM FAILED Y19 N19 X2
 05/02/90 3833 (H) RESCIND PREVIOUS VOTE FLD Y19 N19 X2
 05/02/90 3833 (H) PASSED ON RECONSIDERATION Y25 N13 X2
 05/02/90 3834 (H) EFFECTIVE DATE FAILED Y26 N12 X2
 05/02/90 3846 (H) TRANSMITTED TO (S)
 05/02/90 3841 (S) READ THE FIRST TIME - REFERRAL(S)
 05/02/90 3841 (S) OIL & GAS, THEN FINANCE
 05/02/90 4202 (S) O&G RPT SCS 2DP 1NR(TECH TITLE CHANGE)
 05/08/90 4203 (S) TWO ATTACHED AMENDMENTS
 05/08/90 4204 (S) LETTER OF INTENT WITH O&G REPORT
 05/08/90 4205 (S) FNS PUBLISHED (DEC, F&G, DNR)
 05/08/90 4205 (S) ZERO FN PUBLISHED (DNR)
 05/08/90 4235 (S) FIN RPT SCS 2DP 5NR
 05/08/90 4235 (S) FNS PUBLISHED (DEC, F&G)
 05/08/90 4235 (S) ZERO FN PUBLISHED (DNR)
 05/08/90 4235 (S) FIN RECOMMEND O&G LETTER OF INTENT
 05/08/90 4258 (S) RULES TO CALENDAR 5/8/90
 05/08/90 4271 (S) READ THE SECOND TIME
 05/08/90 4271 (S) FIN SCS ADOPTED UNAN CONSENT
 05/08/90 4272 (S) AM NO 1 MOVED BY COGHILL
 05/08/90 4272 (S) AM NO 1 FAILED Y4 N16
 05/08/90 4272 (S) ADVANCED TO THIRD READING UNAN CONSENT
 05/08/90 4272 (S) ADOPTED O&G LETTER OF INTENT
 05/08/90 4272 (S) READ THE THIRD TIME SCS CSHB 567(FIN)
 05/08/90 4273 (S) PASSED Y19 N1
 05/08/90 4273 (S) EFFECTIVE DATE SAME AS PASSAGE
 05/08/90 4300 (S) TRANSMITTED TO (H) AS AMENDED
 05/08/90 4338 (H) CONSIDER HB 567 Y26 N14
 05/08/90 4338 (H) CONCUR AM OF (S) Y25 N15
 05/08/90 4339 (H) EFFECTIVE DATE PASSED Y30 N10
 06/22/90 4407 (H) 9:00AM 6/4/90 TRANSMITTED TO GOVERNOR
 07/24/90 4576 (H) SIGNED INTO LAW 6/26 CHAPTER 191 SLA 90
 07/24/90 4576 (H) EFFECTIVE DATE OF LAW 6/27/90

HB 568

"An Act relating to the definition of qualified domestic relations orders for retirement plan interest and payment exemptions."

PRIME SPONSOR: STATE AFFAIRS COMMITTEE

CURRENT STATUS: (H) JUD

STATUS DATE: 03/30/90

JRN-DATE	JRN-PG	(H)	ACTION
02/22/90	2515	(H)	READ THE FIRST TIME - REFERRAL(S)
02/22/90	2515	(H)	STATE AFFAIRS
02/23/90	2539	(H)	ADDITIONAL REFERRAL TO JUDICIARY
03/30/90	3029	(H)	STA RPT 2DP 4NR
03/30/90	3029	(H)	-ZERO FISCAL NOTE (ADM) 3/30/90
03/30/90	3029	(H)	REFERRED TO JUDICIARY

HB 569

CSHB 569(RES)

"An Act relating to the maximum length of salmon seine vessels."

PRIME SPONSOR: RESOURCES COMMITTEE

CURRENT STATUS: CHAPTER 24 SLA 90 STATUS DATE: 04/27/90

JRN-DATE	JRN-PG	(H)	ACTION
02/22/90	2515	(H)	READ THE FIRST TIME - REFERRAL(S)
02/22/90	2515	(H)	RESOURCES
03/07/90	2658	(H)	RES RPT CS(RES) 7DP 1NR
03/07/90	2658	(H)	-ZERO FISCAL NOTE (F&G) 3/7/90
03/13/90		(H)	RULES TO CALENDAR 3/14/90
03/14/90	2767	(H)	READ THE SECOND TIME
03/14/90	2767	(H)	RES CS ADOPTED UNAN CONSENT
03/14/90	2767	(H)	ADVANCED TO THIRD READING UNAN CONSENT
03/14/90	2767	(H)	READ THE THIRD TIME CSHB 569(RES)
03/14/90	2768	(H)	PASSED Y38 N- X1 A1
03/14/90	2768	(H)	GRUENBERG NOTICE OF RECONSIDERATION
03/15/90	2800	(H)	RECONSIDERATION NOT TAKEN UP
03/15/90	2800	(H)	TRANSMITTED TO (S)
03/16/90	2883	(S)	READ THE FIRST TIME - REFERRAL(S)
03/16/90	2883	(S)	RESOURCES
03/29/90	3107	(S)	RES RPT 5DP
03/29/90	3107	(S)	PREVIOUS H ZERO FN (F&G)
04/07/90	3285	(S)	RULES TO CALENDAR 4/7/90
04/07/90	3289	(S)	READ THE SECOND TIME
04/07/90	3289	(S)	ADVANCED TO THIRD READING UNAN CONSENT
04/07/90	3289	(S)	READ THE THIRD TIME CSHB 569(RES)
04/07/90	3289	(S)	PASSED Y17 N- X3
04/07/90	3289	(S)	RETURN TO (H), TRANSMIT TO GOVERNOR NEXT
04/11/90	3263	(H)	12:00 PM 4/11/90 TRANSMITTED TO GOVERNOR
04/28/90	3668	(H)	SIGNED INTO LAW 4/27 CHAPTER 24 SLA 90
04/28/90	3668	(H)	EFFECTIVE DATE OF LAW 7/26/90

HB 570

"An Act relating to state procurement."

PRIME SPONSOR: JUDICIARY COMMITTEE

CURRENT STATUS: (H) RUL

STATUS DATE: 04/05/90

JRN-DATE	JRN-PG	(H)	ACTION
02/27/90	2566	(H)	READ THE FIRST TIME - REFERRAL(S)
02/27/90	2566	(H)	TRANSPORTATION, STATE AFFAIRS
03/15/90	2786	(H)	TRA RPT 3DP 2NR
03/15/90	2786	(H)	-ZERO FISCAL NOTE (ADM) 3/15/90
04/05/90	3161	(H)	STA RPT CS(SA) 1DP 3NR
04/05/90	3162	(H)	-PREVIOUS ZERO FN (ADM) 3/15/90
04/05/90	3162	(H)	REFERRED TO RULES

04/03/90	3112	(H)	ADVANCE TO 3RD READING FLD Y21 N16
04/03/90	3112	(H)	WILL ADVANCE TO 3RD RDG 4/4 CALENDAR
04/04/90	3142	(H)	READ THE THIRD TIME CSHB 566(FIN)
04/04/90	3142	(H)	PASSED Y23 N17
04/04/90	3143	(H)	EFFECTIVE DATE FAILED Y25 N15
04/04/90	3143	(H)	PHILLIPS NOTICE OF RECONSIDERATION
04/05/90	3152	(H)	RECON TAKEN UP - IN THIRD READING
04/05/90	3152	(H)	TITLE AMENDMENT BY NAVARRE
04/05/90	3152	(H)	TITLE AMENDMENT ADOPTED UNAN CONSENT
04/05/90	3153	(H)	MOTION: RETURN TO SECOND FOR AM 3
04/05/90	3153	(H)	AMENDMENT NO 3 BY REIGER
04/05/90	3153	(H)	RETURN MOTION ADOPTED Y28 N10 X2
04/05/90	3154	(H)	AM NO 3 FAILED Y15 N22 X2 A1
04/05/90	3154	(H)	PASSED ON RECONSIDERATION Y24 N13 X2 A1
04/05/90	3155	(H)	EFFECTIVE DATE FAILED Y25 N13 X2
08/02/90		(H)	..CSHB 566(FIN)(TITLE AM)(EFD FLD)
04/05/90	3172	(H)	TRANSMITTED TO (S)
04/05/90	3248	(S)	READ THE FIRST TIME - REFERRAL(S)
04/05/90	3248	(S)	OIL AND GAS, THEN FINANCE
04/05/90	3248	(S)	PUBLIC HEARING NOTICE WAIVED, RULE 23(A)
04/11/90	3359	(S)	O&G RPT SCS 4DP TECH TITLE CHANGE
04/11/90	3360	(S)	FNS TO SCS PUBLISHED (DEC, MVA)
04/11/90	3360	(S)	ZERO FN TO SCS PUBLISHED (LAW)
05/06/90	4085	(S)	FIN RPT SCS 5DP 2NR (TECH TITLE CHANGE)
05/06/90	4086	(S)	ZERO FN TO SCS PUBLISHED (DMVA, LAW)
05/06/90	4086	(S)	FN PUBLISHED (DEC)
05/08/90	4174	(S)	RULES TO CALENDAR 5/8/90
05/08/90	4193	(S)	READ THE SECOND TIME
05/08/90	4193	(S)	FIN SCS ADOPTED UNAN CONSENT
05/08/90	4193	(S)	ADVANCED TO THIRD READING UNAN CONSENT
05/08/90	4193	(S)	READ THE THIRD TIME SCS CSHB 566(FIN)
05/08/90	4194	(S)	PASSED Y19 N- X1
05/08/90	4195	(S)	EFFECTIVE DATE SAME AS PASSAGE
05/08/90	4300	(S)	TRANSMITTED TO (H) AS AMENDED
05/08/90	4311	(H)	HELD UNDER UNFINISHED BUSINESS
05/08/90	4318	(H)	BRING UP FOR CONSIDERATION Y25 N14 A1
05/08/90	4319	(H)	CONCUR AM OF (S) Y22 N18
05/08/90	4320	(H)	EFFECTIVE DATE FLD Y24 N16
05/08/90	4320	(H)	..SCS CSHB 566(FIN)(EFD FLD H)
06/22/90	4408	(H)	MANIFEST ERROR REPORTED
06/22/90	4409	(H)	11:45AM 6/4/90 TRANSMITTED TO GOVERNOR
07/24/90	4576	(H)	SIGNED INTO LAW 6/26 CHAPTER 190 SLA 90
07/24/90	4576	(H)	EFFECTIVE DATE OF LAW 9/24/90

HB 567

SCS CSHB 567(FIN)

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

PRIME SPONSOR: RULES COMMITTEE

BY REQUEST OF THE GOVERNOR

CURRENT STATUS: CHAPTER 191 SLA 90

STATUS DATE: 06/26/90

JRN-DATE	JRN-PG		ACTION
02/22/90	2514	(H)	READ THE FIRST TIME - REFERRAL(S)
02/22/90	2514	(H)	RESOURCES, FINANCE
02/22/90	2515	(H)	GOVERNOR'S TRANSMITTAL LETTER
02/22/90	2515	(H)	-2 FISCAL NOTES (DEC, F&G) 2/22/90
04/02/90	3067	(H)	RES RPT CS(RES) NEW TITLE 4DP INR
04/02/90	3068	(H)	-2 PREVIOUS FNS (DEC, F&G) 2/22/90
04/24/90	3473	(H)	FIN RPT CS(FIN) NEW TITLE 3DP 7NR
04/24/90	3473	(H)	-2 FISCAL NOTES (DEC, H.F./N) 4/24/90
04/25/90		(H)	RULES TO CALENDAR 4/26/90
04/26/90	3599	(H)	READ THE SECOND TIME
04/26/90	3600	(H)	MOTION TO TABLE BILL UNAN CONSENT
04/30/90	3728	(H)	MOTION TO TAKE FROM TABLE PENDING
04/30/90	3729	(H)	TAKE OFF TABLE PASSED Y23 N16 X1
04/30/90	3730	(H)	IN SECOND READING
04/30/90	3730	(H)	FIN CS ADOPTED UNAN CONSENT
04/30/90	3731	(H)	AMENDMENT NO 1 BY MENARD
04/30/90	3731	(H)	AM NO 1 ADOPTED UNAN CONSENT
04/30/90	3731	(H)	AMENDMENT NO 2 BY MENARD
04/30/90	3732	(H)	AM TO AMENDMENT NO 2 BY FURNACE
04/30/90	3732	(H)	AM TO AM 2 FLD Y17 N22 X1
04/30/90	3733	(H)	AM NO 2 ADOPTED Y34 N5 X1
04/30/90	3733	(H)	AMENDMENT NO 3 BY DONLEY WITHDRAWN
04/30/90	3734	(H)	AMENDMENT NO 4 BY HUDSON
04/30/90	3734	(H)	AM NO 4 ADOPTED Y37 N2 X1
04/30/90	3735	(H)	AMENDMENT NO 5 BY HANLEY
04/30/90	3735	(H)	AM NO 5 FAILED Y16 N23 X1
04/30/90	3735	(H)	AMENDMENT NO 6 BY PETTYJOHN
04/30/90	3736	(H)	AM NO 6 ADOPTED Y20 N19 X1
04/30/90	3736	(H)	AMENDMENT NO 7 BY FURNACE
04/30/90	3737	(H)	AM NO 7 FAILED Y16 N23 X1
04/30/90	3737	(H)	AMENDMENT NO 8 BY LEHAN
04/30/90	3737	(H)	AM NO 8 FAILED Y17 N22 X1
04/30/90	3738	(H)	AMENDMENT NO 9 BY SHARP
04/30/90	3738	(H)	AM NO 9 FAILED Y18 N21 X1
04/30/90	3739	(H)	AMENDMENT NO 10 BY HUDSON
04/30/90	3739	(H)	AM TO AM 10 ADOPTED UNAN CONSENT
04/30/90	3739	(H)	AM NO 10AM ADOPTED UNAN CONSENT
04/30/90	3739	(H)	AMENDMENT NO 11 BY TAYLOR
04/30/90	3740	(H)	AM NO 11 FAILED Y17 N22 X1
04/30/90	3741	(H)	AMENDMENT NO 12 BY LEHAN WITHDRAWN
04/30/90	3742	(H)	AMENDMENT NO 13 BY FURNACE
04/30/90	3742	(H)	AM NO 13 FAILED Y15 N21 X3 A1
04/30/90	3742	(H)	AMENDMENT NO 14 BY FURNACE
04/30/90	3743	(H)	AM NO 14 FAILED Y15 N22 X3
04/30/90	3743	(H)	AMENDMENT NO 15 BY HUDSON
04/30/90	3743	(H)	AM NO 15 FAILED Y15 N22 X3
04/30/90	3744	(H)	AMENDMENT NO 16 BY LEHAN
04/30/90	3744	(H)	AM NO 16 FAILED Y15 N22 X3
04/30/90	3744	(H)	AMENDMENT NO 17 BY HUDSON
04/30/90	3745	(H)	AM NO 17 FAILED Y15 N22 X3
04/30/90	3745	(H)	AMENDMENT NO 18 BY ZAWACKI
04/30/90	3746	(H)	AM NO 18 FAILED Y15 N22 X3
04/30/90	3746	(H)	AMENDMENT NO 19 BY FURNACE
04/30/90	3746	(H)	AM NO 19 FAILED Y12 N25 X3
04/30/90	3747	(H)	AMENDMENT NO 20 BY LEHAN
04/30/90	3747	(H)	AM NO 20 FAILED Y16 N21 X3
04/30/90	3748	(H)	AMENDMENT NO 21 BY TAYLOR
04/30/90	3748	(H)	AM NO 21 FAILED Y16 N21 X3
04/30/90	3748	(H)	AMENDMENT NO 22 BY FURNACE
04/30/90	3749	(H)	AM NO 22 FAILED Y14 N23 X3
04/30/90	3750	(H)	ADVANCED TO THIRD READING FLD Y23 N14 X3

2

STEVE COWPER
GOVERNOR



STATE OF ALASKA
OFFICE OF THE GOVERNOR
JUNEAU

773-90-0051
773-90-0052
~~773-90-0053~~

February 21, 1990

The Honorable Tim Kelly
President of the Senate
Alaska State Legislature
P.O. Box V
Juneau, AK 99811

Dear Mr. President:

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

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

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

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

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