

SCOMM

94:13

FISCAL NOTE

STATE OF ALASKA
1994 LEGISLATIVE SESSION

BILL NO.

CS SB 239 (O&G)

Revision Date: _____
 Title: Financial Requirements: Noncrude
Oil Operations
 Sponsor: Senate Special Committee on Oil & Gas
 Requestor: Senate Special Committee on Oil & Gas

Department Affected: Environmental
Conservation
 BRU: Spill Prevention and Response
 Component: Industry Preparedness and Response

COMPONENT SERIAL NO.

Expenditures/Revenues:

(Thousands of Dollars)

OPERATING EXPENDITURES	FY 95	FY 96	FY 97	FY 98	FY 99	FY 00
PERSONAL SERVICES	0.0	0.0	0.0	0.0	0.0	0.0
TRAVEL	0.0	0.0	0.0	0.0	0.0	0.0
CONTRACTUAL	0.0	0.0	0.0	0.0	0.0	0.0
SUPPLIES	0.0	0.0	0.0	0.0	0.0	0.0
EQUIPMENT	0.0	0.0	0.0	0.0	0.0	0.0
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	0.0	0.0	0.0	0.0	0.0	0.0

CAPITAL EXPENDITURES	0.0	0.0	0.0	0.0	0.0	0.0
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CHANGE IN REVENUES ()	0.0	0.0	0.0	0.0	0.0	0.0
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FUND SOURCE

1002 Federal Receipts	0.0	0.0	0.0	0.0	0.0	0.0
1003 GF Match	0.0	0.0	0.0	0.0	0.0	0.0
1004 GF	0.0	0.0	0.0	0.0	0.0	0.0
1005 GF/Program Receipt	0.0	0.0	0.0	0.0	0.0	0.0
1006 GF/MHTIA	0.0	0.0	0.0	0.0	0.0	0.0
Other	0.0	0.0	0.0	0.0	0.0	0.0
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

Estimate of any current year (FY94) cost: \$ _____

POSITIONS:

FULL-TIME	0.0	0.0	0.0	0.0	0.0	0.0
PART-TIME	0.0	0.0	0.0	0.0	0.0	0.0
TEMPORARY	0.0	0.0	0.0	0.0	0.0	0.0

ANALYSIS: (Attach a separate page if necessary.)

No fiscal impact anticipated.

Prepared by: Bob Poe, Director
 Division: Information & Administrative Services

Phone: 465-5010
 Date: 2/22/94

Approved by Commissioner: [Signature]
 Agency: Department of Environmental Conservation

Date: 2/22/94

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**Alaska Department of Environmental Conservation
Position Paper on Direct Action Insurance and Financial Responsibility**

January 24, 1994

Purpose of the Legislation: To give ADEC the continuing authority to grant waivers to those oil facilities which can get insurance, but whose insurance does not allow the insurer to be directly sued in Alaska.

Background of the Legislation: Under state law, owners of facilities that are oil spill threats are required to submit proof of financial responsibility in the case of a spill. Financial responsibility may be demonstrated by (1) self-insurance, (2) insurance, (3) surety, (4) guarantee, (5) letter of credit approved by the department, or (6) other proof of financial responsibility provided by a group of insureds who have agreed to cover pollutions risks of members of the group under terms the department may prescribe.

The law further provides that insurers or others providing financial responsibility coverage must agree to be sued in a state court (i.e., direct action.) Prior to the Exxon Valdez, this insurance was widely available. But when a similar "direct action" requirement was included in national law, under the Oil Pollution Act of 1990, many of the world's insurance providers stopped issuing coverage for this insurance.

Two years ago, the Alaska Legislature gave ADEC the authority to waive the direct action requirement if the person submitting insurance as a form of financial responsibility signed a quarterly affidavit that the direct action coverage was not available.

A House Bill pending now (HB 384) would extend ADEC's authority to grant a waiver to direct action permanently. The companion Senate version, SB 239, would extend the waiver authority just two years.

ADEC's Position: The Department supports continuing this waiver provision, and making the waiver provision permanent. Without this provision, we may have to shut down facilities which provide fuel throughout Alaska. We are continuing to work with the insurance industry to make direct action coverage more readily available; there is a proposed product now under department review (with review also by the Department of Law) that would serve as a rider for insurance coverage that does not offer direct action. We believe the waiver provisions are strict enough (with a quarterly affidavit required and the Department's ability to deny waivers) that the provision may be made a permanent part of the law. Thus we support the House language as optimal.

DEC POSITION ON HB 428 AND SB 239 (1994)

Section 1: The Department does not object to language in the bills reducing financial responsibility amounts for onshore exploration and production facilities. DEC assumes the reduced financial responsibility amounts would be adjusted by regulation on or before June 30, 1994 to reflect changes in the Consumer Price Index as required under AS 46.04.045.

The Department notes that any reduction of these amounts would lower the likelihood that the total dollar amount of cleanup costs expended from the response fund, damages to State natural resources, and damages incurred by third-parties would be fully compensated if a spiller became bankrupt. In that event, some additional compensation may be available from bonds required by DNR or AOGCC. The present statutory amounts for financial responsibility were set by the Legislature in 1990.

The proposal will require additional effort beyond the scope of the existing financial responsibility program to collect, analyze, and verify the relevant field production information and to render a finding pertaining to the amount of financial responsibility that is required. In the past, daily production information has not been available to DEC, and the Department has not required it. The AOGCC has been providing us with monthly production summaries by oil pool, however this information does not readily correspond to the individual facility operators, of whom several may be withdrawing oil in differing amounts from the same unit or pool. In order to determine appropriate amounts of financial responsibility under the proposed tiered requirements, DEC would need daily facility production information from the Department of Revenue or AOGCC, and asks that the availability of that information be confirmed.

Section 2: The Department supports this permanent waiver provision, and believes the language is optimal.

FISCAL NOTE

STATE OF ALASKA
1994 LEGISLATIVE SESSION

BILL NO.

Senate Bill No. 239

Revision Date: _____
Title: Financial Requirements: Noncrude
Oil Operations
Sponsor: Senate Special Committee on Oil & Gas
Requestor: Senate Special Committee on Oil & Gas

Department Affected: Environmental
Conservation
BRU: Spill Prevention and Response
Component: Industry Preparedness and Response

COMPONENT SERIAL NO.

Expenditures/Revenues:

(Thousands of Dollars)

OPERATING EXPENDITURES	FY 95	FY 96	FY 97	FY 98	FY 99	FY 00
PERSONAL SERVICES	0.0	0.0	0.0	0.0	0.0	0.0
TRAVEL	0.0	0.0	0.0	0.0	0.0	0.0
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SUPPLIES	0.0	0.0	0.0	0.0	0.0	0.0
EQUIPMENT	0.0	0.0	0.0	0.0	0.0	0.0
LAND&STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0

CAPITAL EXPENDITURES						
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CHANGE IN REVENUES ()						
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FUND SOURCE

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipt						
1006 GF/MHTA						
Other: 1052 Oil/Haz "470" Fund	0.0	0.0	0.0	0.0	0.0	0.0
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

Estimate of any current year (FY94) cost: \$ not applicable

POSITIONS:

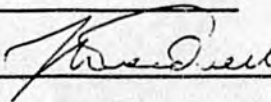
FULL-TIME	0.0	0.0	0.0	0.0	0.0	0.0
PART-TIME						
TEMPORARY						

ANALYSIS: (Attach a separate page if necessary.)

No fiscal impact anticipated.

Prepared by: Robert Poe, Director 
Division: Information and Administrative Services

Phone: 465-5010
Date: 1/21/94

Approved by Commissioner: John Sandor, Commissioner 
Agency: Department of Environmental Conservation

Date: 1/21/94

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**Alaska Department of Environmental Conservation
Position Paper on Direct Action Insurance and Financial Responsibility**

January 24, 1994

Purpose of the Legislation: To give ADEC the continuing authority to grant waivers to those oil facilities which can get insurance, but whose insurance does not allow the insurer to be directly sued in Alaska.

Background of the Legislation: Under state law, owners of facilities that are oil spill threats are required to submit proof of financial responsibility in the case of a spill. Financial responsibility may be demonstrated by (1) self-insurance, (2) insurance, (3) surety, (4) guarantee, (5) letter of credit approved by the department, or (6) other proof of financial responsibility provided by a group of insureds who have agreed to cover pollutions risks of members of the group under terms the department may prescribe.

The law further provides that insurers or others providing financial responsibility coverage must agree to be sued in a state court (i.e., direct action.) Prior to the Exxon Valdez, this insurance was widely available. But when a similar "direct action" requirement was included in national law, under the Oil Pollution Act of 1990, many of the world's insurance providers stopped issuing coverage for this insurance.

Two years ago, the Alaska Legislature gave ADEC the authority to waive the direct action requirement if the person submitting insurance as a form of financial responsibility signed a quarterly affidavit that the direct action coverage was not available.

A House Bill pending now (HB 384) would extend ADEC's authority to grant a waiver to direct action permanently. The companion Senate version, SB 239, would extend the waiver authority just two years.

DEC's Position: The Department supports continuing this waiver provision, and making the waiver provision permanent. Without this provision, we may have to shut down facilities which provide fuel throughout Alaska. We are continuing to work with the insurance industry to make direct action coverage more readily available; there is a proposed product now under department review (with review also by the Department of Law) that would serve as a rider for insurance coverage that does not offer direct action. We believe the waiver provisions are strict enough (with a quarterly affidavit required and the Department's ability to deny waivers) that the provision may be made a permanent part of the law. Thus we support the House language as optimal.



LAWS OF ALASKA

1994

Source
CSSB 239(O&G)

Chapter No.
12

AN ACT

Relating to evidence of financial responsibility provided by persons who conduct oil operations; and providing for an effective date.

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

THE ACT FOLLOWS ON PAGE 1

AN ACT

1 Relating to evidence of financial responsibility provided by persons who conduct oil
2 operations; and providing for an effective date.

3
4 * Section 1. AS 46.04.040(b) is amended to read:

5 (b) A person may not cause or permit the operation of a pipeline or an
6 exploration or production facility in the state unless the person has furnished to the
7 department, and the department has approved, proof of financial ability to respond in
8 damages. Proof of financial responsibility required for

9 (1) a pipeline or an offshore exploration or production facility is
10 \$50,000,000 per incident;

11 (2) [PROOF OF FINANCIAL RESPONSIBILITY REQUIRED FOR]
12 an onshore production facility is

13 (A) \$20,000,000 per incident if the facility produces over
14 10,000 barrels per day of oil;

1 (B) \$10,000,000 per incident if the facility produces over
2 5,000 barrels per day but not more than 10,000 barrels per day of oil;

3 (C) \$5,000,000 per incident if the facility produces over
4 2,500 barrels per day but not more than 5,000 barrels per day of oil;

5 (D) \$1,000,000 per incident if the facility produces 2,500
6 barrels per day or less of oil;

7 (3) [. PROOF OF FINANCIAL RESPONSIBILITY REQUIRED FOR]
8 an onshore exploration facility is \$1,000,000 [\$5,000,000] per incident.

9 * Sec. 2. Section 6, ch. 102, SLA 1992, is repealed.

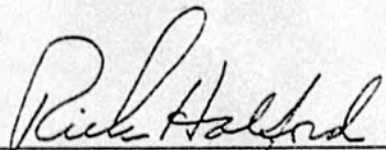
10 * Sec. 3. If this Act takes effect after June 1, 1994, sec. 2 of this Act is retroactive to
11 June 1, 1994.

12 * Sec. 4. This Act takes effect immediately under AS 01.10.070(c).

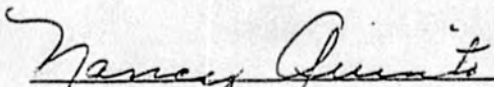
AUTHENTICATION

The following officers of the Legislature certify that the attached enrolled bill, CSSB 239(O&G), consisting of 2 pages, was passed in conformity with the requirements of the constitution and laws of the State of Alaska and the Uniform Rules of the Legislature.

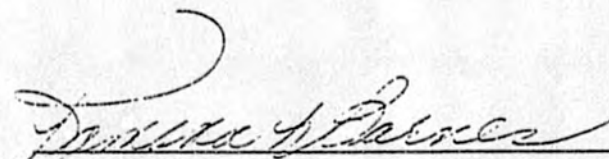
Passed by the Senate February 14, 1994


Rick Halford, President of the Senate

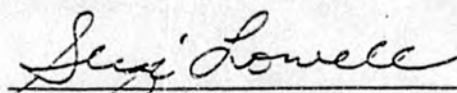
ATTEST:


Nancy Quinto, Secretary of the Senate

Passed by the House March 16, 1994

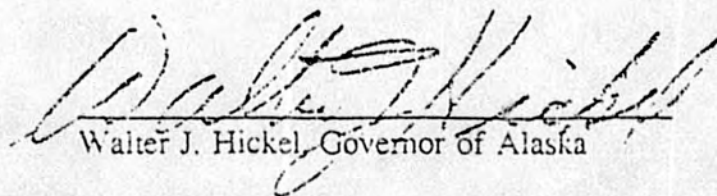

Ramona L. Barnes, Speaker of the House

ATTEST:


Suzi Lowell, Chief Clerk of the House

ACTION BY GOVERNOR

Approved by the Governor 14-8 1994


Walter J. Hickel, Governor of Alaska

Prepared by: Senate Oil and Gas Committee Staff
February 22, 1994

SECTIONAL ANALYSIS FOR:
CS SB 239(O&G)

"An Act relating to evidence of financial responsibility provided by persons who conduct oil operations; and providing for an effective date."

Section 1.

Subsection (b)(1) The OFFSHORE exploration or production financial responsibility requirement of \$50 million is UNAFFECTED by this amendment.

Subsection (b)(2) The amended language clarifies that financial responsibility should be greater for an onshore facility producing more than 10,000 barrels per day of oil, than for an onshore facility producing 2,500 barrels or less per day.

Subsection (b)(3) Limits the financial responsibility for an onshore exploration facility to \$1,000,000.

Section 2.

Chapter 102, SLA 1992 gives the Department of Environmental Conservation the authority to waive its requirement that financial responsibility instruments provide for a direct action and appointment of an agent for service of process. The direct action provision is NOT AVAILABLE in marine pollution insurance, and has not been available since about 1989.

Section 6 of Ch. 102, SLA 1992 repealed this temporary law effective June 1, 1994. Rather than grant another two-year exemption, the Committee Substitute repeals the repealer and allows DEC to grant waivers until direct action again becomes available.

Section 3.

Makes certain there is no gap between the effective date and the date of the repeal of the former temporary waiver.

Section 4.

Immediate effective date.

8-LS1408E -
Lauterbach
1/26/94

CS FOR SENATE BILL NO. 239(O&G)
IN THE LEGISLATURE OF THE STATE OF ALASKA
EIGHTEENTH LEGISLATURE - SECOND SESSION

BY THE SENATE SPECIAL COMMITTEE ON OIL AND GAS

Offered:
Referred:

Sponsor(s): SENATE SPECIAL COMMITTEE ON OIL AND GAS

A BILL

FOR AN ACT ENTITLED

"An Act relating to evidence of financial responsibility provided by persons who
conduct oil operations; and providing for an effective date."

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

* Section 1. AS 46.04.040(b) is amended to read:

(b) A person may not cause or permit the operation of a pipeline or an
exploration or production facility in the state unless the person has furnished to the
department, and the department has approved, proof of financial ability to respond in
damages. Proof of financial responsibility required for

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

(2) [PROOF OF FINANCIAL RESPONSIBILITY REQUIRED FOR]
an onshore production facility is

(A) \$20,000,000 per incident if the facility produces over
10,000 barrels per day of oil:

1 (B) \$10,000,000 per incident if the facility produces over
2 5,000 barrels per day but not more than 10,000 barrels per day of oil;

3 (C) \$5,000,000 per incident if the facility produces over
4 2,500 barrels per day but not more than 5,000 barrels per day of oil;

5 (D) \$1,000,000 per incident if the facility produces 2,500
6 barrels per day or less of oil;

7 (3) [. PROOF OF FINANCIAL RESPONSIBILITY REQUIRED FOR]

8 an onshore exploration facility is \$1,000,000 [\$5,000,000] per incident.

9 * Sec. 2. Section 6, ch. 102, SLA 1992, is repealed. >

10 * Sec. 3. If this Act takes effect after June 1, 1994, sec. 2 of this Act is retroactive to
11 June 1, 1994.

12 * Sec. 4. This Act takes effect immediately under AS 01.10.070(c).

SB 239 (O&G)

By: Senator Bert Sharp

State Comparisons of Financial Responsibility for Onshore
Exploration:

CALIFORNIA

\$1 million dollars requirement only within 30 miles of coastline. No requirement beyond 30 miles of coastline.

COLORADO

\$75 dollars permit fee per well. \$5,000 dollars per well for P & A (Plugging & Abandonment).

WASHINGTON

The state does not currently require onshore financial responsibility.

TEXAS

There is no financial responsibility required in Texas.

LOUISIANA

Louisiana is currently withholding oil spill regulations.

FLORIDA

No state drilling is allowed on state onshore lands in Florida.

WYOMING

There are no requirements beyond P & A (Plugging and Abandonment).

MONTANA

Montana has P & A (Plugging & Abandonment) requirements only.

MEMORANDUM

DEPARTMENT OF NATURAL RESOURCES

State of Alaska

DIVISION OF OIL AND GAS

TO: Jerry Gallagher
Legislative Liaison

DATE: February 7, 1994

THRU: James E. Eason
Director

FILE NO: Legislation

TELEPHONE: 762-2580

FROM: Kristina M. O'Connor, CPL *Kris*
DNR Coordinator for Oil Spill
Plans & Regulations

SUBJECT: Bonding Information

In response to your request for information regarding oil and gas bonding requirements, I have excerpted the following from the Final Best Interest Determination for Oil and Gas Lease Sale 78 (Cook Inlet). I have also attached copies of the lease provision and pertinent regulations. In summary, the primary purpose of the DO&G bond is not oil spill cleanup but rehabilitation of abandoned sites, and the bond amounts do not cover the entire cost of rehabilitation.

Paragraph 23 of the lease contract and 11 AAC 83.160 require the oil and gas lessee to post a performance bond with the Division of Oil and Gas (DO&G) before operations can commence on an oil and gas lease. The minimum bond required is \$10,000. However, a bond of \$100,000 or greater is typically required by DO&G, depending on the type of activity. A statewide bond of \$500,000 is also acceptable. Under the lease terms, DO&G can also require a supplemental bond if it believes that the nature of the surface and its uses or the degree of risk justifies the increase. Alaska Oil and Gas Conservation Commission (AOGCC) also requires a lessee to post a separate bond of at least \$100,000 prior to any drilling activity. ADEC, in its Oil Discharge Contingency Plan permitting process, requires proof of financial assurance of \$50 million for a pipeline or offshore exploration or production facility, \$20 million for an onshore production facility, and \$5 million for an onshore exploration facility.

The bonds required by DO&G and AOGCC are not intended to provide full coverage for cleanup and rehabilitation expenses resulting from a catastrophic accident or very large-volume oil spill. That cost cannot be determined in advance of a specific event at a specific location. Regardless of the required bond amount, and the bond amounts required by other state agencies, the lessee is still fully liable for the cleanup and rehabilitation of all disturbed areas. The bond required by DO&G is used as a demonstration that the lessee is solvent and in good corporate standing. The bond monies could be used to provide for cleanup or rehabilitation of the lease area but probably would not be adequate for the most catastrophic situations which could be encountered. The lessee remains fully liable for its actions and those of its subcontractors.

Attachments

cc: Steve Schmitz. DO&G Permitting

CHAPTER 102

AN ACT RELATING TO EVIDENCE OF FINANCIAL RESPONSIBILITY PROVIDED BY PERSONS WHO CONDUCT OIL OPERATIONS; AND PROVIDING FOR AN EFFECTIVE DATE.

(CSSB 405(O&G))

Be it enacted by the Legislature of the State of Alaska:

Sec. 1. Permanent law. See Table of Disposition of Acts.

Sec. 2. TEMPORARY LAW APPLICABLE TO NONCRUDE OIL OPERATIONS. Notwithstanding AS 46.04.040, the Department of Environmental Conservation may, with respect to noncrude oil operations, approve proof of financial responsibility by a person, other than the applicant, who does not agree to be subject to a direct action in the state or to appoint an agent for service of process if the applicant

(1) provides proof of financial responsibility in the form and amounts otherwise required under AS 46.04.040;

(2) provides a sworn statement that

(A) is acceptable to the department;

(B) attests that the applicant has diligently attempted to obtain a form of proof of financial responsibility that would provide for a direct action and appointment of an agent for service of process;

(C) describes the steps the applicant has taken to obtain a form of proof of financial responsibility that would provide for a direct action and appointment of an agent for service of process;

(D) states that a form of proof of financial responsibility that would provide for a direct action and appointment of an agent for service of process is unavailable to the applicant;

(3) continues diligent efforts to obtain a form of proof of financial responsibility that would provide for a direct action and appointment of an agent for service of process and provides a sworn statement every six months that is acceptable to the department, containing the information required in (2) of this section.

Sec. 3. RATIFICATION OF PREVIOUS EXEMPTIONS GIVEN BY DEPARTMENT OF ENVIRONMENTAL CONSERVATION TO NONCRUDE OIL OPERATIONS. Notwithstanding AS 46.04.040, the Department of Environmental Conservation may, with respect to noncrude oil operations, approve proof of financial responsibility by a person, other than the applicant, who does not agree to be subject to a direct action in the state or to appoint an agent for service of process if the applicant, before June 1, 1992,

(1) provides proof of financial responsibility in the form and amounts otherwise required under AS 46.04.040;

(2) attests in a statement to the department that the applicant has diligently attempted to obtain a form of proof of financial responsibility that would provide for a direct action and appointment of an agent for service of process and that this form of proof is unavailable to the applicant; and

(3) agrees to continue diligent efforts to obtain a form of proof of financial responsibility that would provide for a direct action and appointment of an agent for service of process.

Sec. 4. Section 3 of this Act is retroactive to June 1, 1991.

Sec. 5. If this Act takes effect after June 1, 1992, sec. 2 of this Act is retroactive to June 1, 1992.

Sec. 6. Section 2 of this Act is repealed June 1, 1994.

Sec. 7. This Act takes effect immediately under AS 01.10.070(c).

Approved: June 20, 1992
Effective June 21, 1992;
section 2 is retroactive to
June 1, 1992, section 3 is
retroactive to June 1, 1991

CHAPTER 111

AN ACT MAKING APPROPRIATIONS TO THE DEPARTMENT OF LAW FOR PAYMENT TO MUNICIPALITIES FOR LOSSES OF FISHERIES TAX REVENUE SUFFERED AS A RESULT OF THE EXXON VALDEZ OIL SPILL; AND PROVIDING FOR AN EFFECTIVE DATE.

(HCS CSSB 240(FIN) am H)

Be it enacted by the Legislature of the State of Alaska:

Section 1. PURPOSE. To provide relief to municipalities whose tax receipts were affected by reduction of payments of the fisheries business tax, it is the purpose of this Act to provide additional refunds payable to municipalities so that the municipalities are compensated for the decrease in the proceeds of the fisheries business tax during fiscal year 1990 caused by the Exxon Valdez oil discharge disaster.

SIGNED INTO LAW
6/20/92
EFFECTIVE
6/21/92

CS FOR SENATE BILL NO. 405 (O&G)
IN THE LEGISLATURE OF THE STATE OF ALASKA
SEVENTEENTH LEGISLATURE - SECOND SESSION

BY THE SENATE SPECIAL COMMITTEE ON OIL AND GAS

Offered: 4/15/92
Referred: Judiciary

Sponsor(s): SENATOR HOFFMAN

A BILL

FOR AN ACT ENTITLED

1 "An Act relating to evidence of financial responsibility provided by persons who conduct
2 oil operations; and providing for an effective date."

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

4 * Section 1. AS 46.04.040(e) is amended to read:

5 (e) Financial responsibility may be demonstrated by (1) self-insurance, (2) insurance, (3)
6 surety, (4) guarantee, (5) letter of credit approved by the department, or (6) other proof of
7 financial responsibility approved by the department, including proof of financial responsibility
8 provided by a group of insureds who have agreed to cover pollution risks of members of the
9 group under terms the department may prescribe. An action brought under AS 46.03.758,
10 46.03.759, 46.03.760(a) or (e), 46.03.822, or as 46.04.030(g) may be brought in a state court
11 directly against the insurer, the group, or another person providing evidence of financial
12 responsibility; however, the liability under this section of a third-party insurer is limited to
13 the type of risk assumed and the amount of coverage specified in the proof of financial
14 responsibility furnished to and approved by the department. The applicant, and an insurer,

1 surety, guarantor, person furnishing an approved letter of credit, or other group or person
2 providing proof of financial responsibility approved by the department shall appoint an agent for
3 service of process in the state. For purposes of this subsection, an insurer, other than a group
4 of insureds whose agreement has been approved by the department, must either be authorized by
5 the Department of Commerce and Economic Development to sell insurance in the state or be an
6 unauthorized insurer listed by the Department of Commerce and Economic Development as not
7 disapproved for use in the state. In this subsection, "third-party insurer" means a third-party
8 insurer, surety, guarantor, person furnishing a letter of credit, or other group or person
9 providing proof of financial responsibility on behalf of an applicant under this section;
10 "third-party insurer" does not include the applicant.

11 * Sec. 2. TEMPORARY LAW APPLICABLE TO NONCRUDE OIL OPERATIONS.

12 Notwithstanding AS 46.04.040, the Department of Environmental Conservation may, with respect to
13 noncrude oil operations, approve proof of financial responsibility by a person, other than the applicant,
14 who does not agree to be subject to a direct action in the state or to appoint an agent for service of
15 process if the applicant

16 (1) provides proof of financial responsibility in the form and amounts otherwise required
17 under AS 46.04.040;

18 (2) provides a sworn statement that

19 (A) is acceptable to the department;

20 (B) attests that the applicant has diligently attempted to obtain a form of proof
21 of financial responsibility that would provide for a direct action and appointment of an agent for
22 service of process;

23 (C) describes the steps the applicant has taken to obtain a form of proof of
24 financial responsibility that would provide for a direct action and appointment of an agent for
25 service of process;

26 (D) states that a form of proof of financial responsibility that would provide for
27 a direct action and appointment of an agent for service of process is unavailable to the applicant;

28 (3) continues diligent efforts to obtain a form of proof of financial responsibility that
29 would provide for a direct action and appointment of an agent for service of process and provides a
30 sworn statement every six months that is acceptable to the department, containing the information
31 required in (2) of this section.

1 * Sec. 3. RATIFICATION OF PREVIOUS EXEMPTIONS GIVEN BY DEPARTMENT OF
2 ENVIRONMENTAL CONSERVATION TO NONCRUDE OIL OPERATIONS. Notwithstanding
3 AS 46.04.040, the Department of Environmental Conservation may, with respect to noncrude oil
4 operations, approve proof of financial responsibility by a person, other than the applicant, who does not
5 agree to be subject to a direct action in the state or to appoint an agent for service of process if the
6 applicant, before June 1, 1992,

7 (1) provides proof of financial responsibility in the form and amounts otherwise required
8 under AS 46.04.040;

9 (2) attests in a statement to the department that the applicant has diligently attempted to
10 obtain a form of proof of financial responsibility that would provide for a direct action and appointment
11 of an agent for service of process and that this form of proof is unavailable to the applicant; and

12 (3) agrees to continue diligent efforts to obtain a form of proof of financial responsibility
13 that would provide for a direct action and appointment of an agent for service of process.

14 * Sec. 4. Section 3 of this Act is retroactive to June 1, 1991.

15 * Sec. 5. If this Act takes effect after June 1, 1992, sec. 2 of this Act is retroactive to June 1, 1992.

16 * Sec. 6. Section 2 of this Act is repealed June 1, 1994.

17 * Sec. 7. This Act takes effect immediately under AS 01.10.070(c).

Letter of intent to SB 405:

The Department of Environmental Conservation and the Legislative Research Agency shall research the possibility of group pooling for the purposes of meeting the state's financial responsibility requirements for oil spill pollution coverage for non-crude operators, and shall report back to the Legislature with their findings and recommendations by February 1, 1993.

in order to get out and
to ensure we have a
viable plan to
to life it is

It is to ensure that
there is a strong
policy making

information would be
we will be able to
need to be
the

MARY KL EC
pres + left mag.
3/19/93

SENATE COMMITTEE REPORT
FIRST COMMITTEE OF REFERRAL

DATE: 1/10/94

FURTHER: Judiciary

Date of 5-Day Notice: 1-19-94
(in accordance with Uniform Rule 23)

DATE TURNED
INTO OFFICE: 2-3-94

Senate Special Committee on Oil and Gas considered SB 239

"An Act relating to evidence of financial responsibility provided by persons who conduct noncrude oil operations; and providing for an effective date."

and recommends:

☒ replace with _____ CS SB239 (O+G)

☐ attaches amendment(s)

☐ adopts _____ Letter of Intent

☐ further referral to the _____

☐ do pass

☐ do not pass

☐ no recommendation

☐ individual recommendations

☐ same title
☒ new title
☐ technical
title change
(HB only)

Department	Date	Zero	Fiscal
DEC	1-21-94	☒	

FISCAL NOTE INFORMATION

Department	Date	Zero	Fiscal

☐ Appropriation No Fiscal Note

☐ Governor's Bill with Previous Fiscal Notes (enter information above)

DO PASS:

[Signature]
[Signature]

OTHER RECOMMENDATIONS:

Ad Adams - No Rec
Judith E. Salo No Rec

[Signature]
Chair: Signature and Recommendation

8-LS1408E -
Lauterbach
1/26/94

CS FOR SENATE BILL NO. 239(O&G)
IN THE LEGISLATURE OF THE STATE OF ALASKA
EIGHTEENTH LEGISLATURE - SECOND SESSION

BY THE SENATE SPECIAL COMMITTEE ON OIL AND GAS

Offered:
Referred:

Sponsor(s): SENATE SPECIAL COMMITTEE ON OIL AND GAS

A BILL

FOR AN ACT ENTITLED

1 "An Act relating to evidence of financial responsibility provided by persons who
2 conduct oil operations; and providing for an effective date."

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

4 * Section 1. AS 46.04.040(b) is amended to read:

5 (b) A person may not cause or permit the operation of a pipeline or an
6 exploration or production facility in the state unless the person has furnished to the
7 department, and the department has approved, proof of financial ability to respond in
8 damages. Proof of financial responsibility required for

9 (1) a pipeline or an offshore exploration or production facility is
10 \$50,000,000 per incident;

11 (2) [. PROOF OF FINANCIAL RESPONSIBILITY REQUIRED FOR]
12 an onshore production facility is

13 (A) \$20,000,000 per incident if the facility produces over
14 10,000 barrels per day of oil;

1 (B) \$10,000,000 per incident if the facility produces over
2 5,000 barrels per day but not more than 10,000 barrels per day of oil;

3 (C) \$5,000,000 per incident if the facility produces over
4 2,500 barrels per day but not more than 5,000 barrels per day of oil;

5 (D) \$1,000,000 per incident if the facility produces 2,500
6 barrels per day or less of oil;

7 (3) [. PROOF OF FINANCIAL RESPONSIBILITY REQUIRED FOR]
8 an onshore exploration facility is \$1,000,000 [\$5,000,000] per incident.

9 * Sec. 2. Section 6, ch. 102, SLA 1992, is repealed.

10 * Sec. 3. If this Act takes effect after June 1, 1994, sec. 2 of this Act is retroactive to
11 June 1, 1994.

12 * Sec. 4. This Act takes effect immediately under AS 01.10.070(c).

Amendment #1

A BILL

FOR AN ACT ENTITLED

1 "An Act eliminating the temporary character of alternative procedures available
2 to persons who must show evidence of financial responsibility before conducting
3 noncrude oil operations; and providing for an effective date."

4 **BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:**

5 * **Section 1.** Section 6, ch. 102, SLA 1992, ~~is repealed.~~

6 * **Sec. 2.** If this Act takes effect after June 1, 1994, sec. 1 of this Act is retroactive to
7 June 1, 1994.

8 * **Sec. 3.** This Act takes effect immediately under AS 01.10.070(c).

8-LS1408A
Lauterbach
12/7/93

SENATE BILL NO.

IN THE LEGISLATURE OF THE STATE OF ALASKA

EIGHTEENTH LEGISLATURE - SECOND SESSION

BY THE SENATE SPECIAL COMMITTEE ON OIL AND GAS

Introduced:

Referred:

A BILL

FOR AN ACT ENTITLED

1 "An Act relating to evidence of financial responsibility provided by persons who
2 conduct noncrude oil operations; and providing for an effective date."

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

4 * Section 1. Section 6, ch. 102, SLA 1992, is amended to read:

5 Sec. 6. Section 2 of this Act is repealed June 1, 1996 [1994].

6 * Sec. 2. If this Act takes effect after June 1, 1994, sec. 1 of this Act is retroactive to
7 June 1, 1994.

8 * Sec. 3. This Act takes effect immediately under AS 01.10.070(c).

WORK ORDER REQUEST FORM

W.O. [18] LS-1408

KEYWORDS: INSURANCE ASSIGNED: Lauterbach

LIABILITY

OIL/GAS

REQUEST FOR: New Bill

TAKEN BY: Chenoweth

SUBJECT: Oil/Gas Financial Responsibility

REQUESTED FOR: SC SO&G BY: Annette Kreitzer PHONE: -

DELIVER TO: Sen. Leman

INSTRUCTIONS: Extend sec. 2, ch. 102, SLA 1992 (relating to exemption for non-crude operators from proof of financial responsibility) for another two years, until 6/1/96.

OBTAIN

SPECIAL DRAFTING INSTRUCTIONS ATTACHED []
AUTHORIZED TO CONFER WITH _____

RETURN _____
_____ TO REQUESTOR

APPROVED: X DIRECTOR, LEGAL SERVICES

REVIEWED _____

IN 12/03/93 DUE _____

TYPED: Draft _____ Date _____

Final _____ Date _____

PROOFED _____ DELIVERED _____

SPECIAL INSTRUCTIONS to TYPING/PROOFING

Request for DRAFT



Alaska State Legislature

Session:
State Capitol
Juneau AK 99801-1182

Senate Special Committee on Oil & Gas

Interim:
716 W 4th Avenue
Anchorage AK 99501-2133

MEMORANDUM

TO: Legislative Affairs Agency
Division of Legal Services
Jack Chenoweth, Attorney — *Terri Lawlerbach*
FAX: 465-2029 7 pages

FROM: Annette Kreitzer, Staff (258-8189)
Senator Loren Leman, Chairman
Senate Special Committee on Oil and Gas

DATE: December 3, 1993

RE: AS 46.04.040(e)

Chapter 102 Temporary and Special Acts (Effective 6/21/92), allowed a two-year exemption for non-crude operators from proof of financial responsibility that would provide for a direct action and appointment of an agent for service (CSSB 405(O&G)).

Please draft legislation that would continue this exemption through June 1, 1996.

**CROWLEY MARINE SERVICES, INC.**

January 24, 1994

House Special Committee on Gas & Oil
Senate Special Committee on Gas & Oil

Subject: Direct access insurance for noncrude operators

Crowley Marine Services, Inc. ("Crowley") is a major tug and barge transporter of noncrude petroleum products in the State of Alaska. Crowley transports and delivers approximately 100 million gallons of bulk petroleum products annually to the Western Alaska region. Deliveries are performed to approximately 125 coastal and river communities. These communities are spread across some 4,000 miles of coastlines and rivers stretching from Kodiak Island to Barter Island. Virtually all of these villages are dependent on seasonal deliveries of fuel for their existence.

Our company has asked its insurance brokers to investigate the availability of direct access insurance. Direct access insurance is currently not available with the limits and extent of coverage provided by the P&I insurance in place for the Crowley fleet. Crowley presently has one billion dollars per occurrence P&I insurance coverage for pollution liability. Any limited direct access insurance would be in addition to our P&I insurance and a significant business cost with questionable benefit.

We ask that you enact SB 239 and HB 384 repealing the temporary nature of ADEC's authority to approve applications for Certification of Financial Responsibility (COFR) for noncrude operators. The temporary law which permits ADEC to approve COFR without direct access should be permanently adopted. We believe that the uncertainty of continued operations in Alaska by having to ask the legislature to reenact ACEC's authority to approve Crowley's COFR will be eliminated by this legislation.

I thank you for your interest and action in eliminating this confusing and unnecessary work.

Sincerely,

Charles F. Nalen
Vice President Environmental Affairs



A Division of Western Pioneer, Inc.

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510 L Street, Suite 306
Post Office Box 102916
Anchorage, Alaska 99501
Toll-Free: (800) 478-2688
Tel: (907) 276-2688
Fax: (907) 276-3741

☐ DILLINGHAM
Post Office Box 1209
Dillingham, Alaska 99576
Tel: (907) 842-5441
Fax: (907) 842-2697

☐ DUTCH HARBOR
1577 E. Pt. Loop Rd.
Pouch 716
Dutch Harbor, Alaska 99692
Tel: (907) 581-1284
Fax: (907) 581-1764

☐ JUNEAU
449 W. Willoughby
Juneau, Alaska 99801
Tel: (907) 586-2800
Fax: (907) 586-1226

☐ NAKNEK
Post Office Box 209
Naknek, Alaska 99633
Tel: (907) 246-6174
Fax: (907) 246-6843

☐ NIKISKI
53209 Nikiski Beach Road
Post Office Box 8069
Nikiski, Alaska 99635
Tel: (907) 776-3400
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☐ SEATTLE
4601 Shilshole Avenue N.W.
Post Office Box 70438
Seattle, Washington 98107
Toll-Free (800) 528-0191
Tel: (206) 782-6977
Fax: (206) 784-8348

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☐ SELDOVIA
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Fax: (907) 234-7442

☐ WRANGELL
Post Office Box 50
Wrangell, Alaska 99929
Tel: (907) 874-2388
Fax: (907) 874-3917

☐ YAKUTAT
Post Office Box 29
Yakutat, Alaska 99689
Tel: (907) 784-3311
Fax: (907) 784-3409

January 24, 1994

House Special Committee on Oil & Gas
Senate Special Committee on Oil & Gas

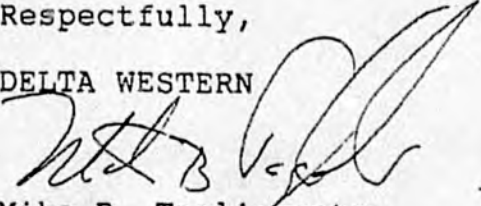
Subject: Direct access insurance for noncrude operators

Delta Western is one of the largest fuel distributors in the State of Alaska specializing in bulk fuels, Chevron lubricants and petroleum transportation services. We operate ten bulk fuel facilities and provide marine transportation throughout Southeast Alaska, Cook Inlet, the Alaska Peninsula, the Aleutian Chain, Bristol Bay and in the Kuskokwim and Yukon Rivers. Delta Western has been unsuccessful in its endeavors to obtain direct access insurance as a means of certifying financial responsibility. We have had no indication at this time that such insurance will be available to us in a form we can afford.

In the absence of any indications that such insurance is or soon will be available, the temporary law which permits ADEC to approve Certification of Financial Responsibility (COFR) without direct access should be permanently adopted. I encourage you to enact SB 239 and HB 384 thereby repealing the temporary nature of ADEC's authority to approve applications for COFR for noncrude operators. This action would assure that we could continue to operate without continually having to ask the legislature to reenact ADEC's authority to approve our COFR. I appreciate your attention and interest in eliminating this extra and unnecessary work.

Respectfully,

DELTA WESTERN



Mike B. Tagliavento
General Manager
Marketing/Operations

PETRO MARINE SERVICES

Petroleum Marketing to the Marine Industry

January 20, 1994

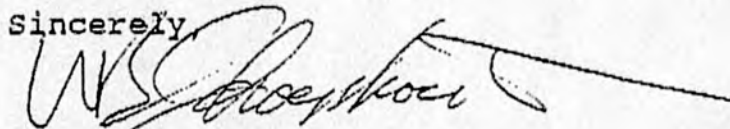
House Special Committee on Oil & Gas
Senate Special Committee on Oil & Gas

Subject: Direct access insurance for noncrude operators

Petro Marine Services is the largest Alaskan owned fuel distributor and specializes in marketing bulk fuel and packaged petroleum products to the marine industry. We operate seven bulk marine terminals and several harbor fuel facilities in Alaska. We have been trying unsuccessfully to obtain direct access insurance as a means of certifying financial responsibility. At this time we do not have any indication that such insurance is available to us in a form we can afford.

In the absence of any indications that such insurance is or soon will be available, the temporary law which permits ADEC to approve Certification of Financial Responsibility (COFR) without direct access should be permanently adopted. I encourage you to enact SB 239 and HB 384 thereby repealing the temporary nature of ADEC's authority to approve applications for COFR for noncrude operators. This action would assure that we could continue to operate without continually having to ask the legislature to reenact ADEC's authority to approve our COFR. I appreciate your attention and interest in eliminating this extra and unnecessary work.

Sincerely,



W. B. Schoephoester
Manager, Planning & Projects

SENATE SPECIAL COMMITTEE ON OIL & GAS
March 25, 1993
5:12 p.m.

MEMBERS PRESENT

Senator Loren Leman, Chairman
Senator Judith Salo

MEMBERS ABSENT

Senator Rick Halford
Senator Bert Sharp
Senator Al Adams

COMMITTEE CALENDAR

Group Insurance Pooling

WITNESS REGISTER

Larry Eppenbach
Legislative Research Agency
130 Seward St. Suite 218
Juneau, Alaska 99801-2196

POSITION STATEMENT: Commented on Group Insurance Pooling.

Ray Gillespie
Association of Refined Fuel Distributors
9478 Riverbend Court
Juneau, Alaska 99801

POSITION STATEMENT: Commented on Direct Action Insurance.

James Cantor, Assistant Attorney General
Department of Law
1031 W. 4th, Suite 200
Anchorage, Alaska 99501-1994

POSITION STATEMENT: Commented on Direct Action Insurance.

ACTION NARRATIVE

TAPE 93-11, SIDE A
Number 001

SENATOR LEMAN called the Special Committee on Oil and Gas meeting to order at 5:12 p.m. and announced they would discuss group insurance pooling.

LARRY EPPENBACH, Legislative Research, said his report grew out of SB 405 from last year which was remedial in nature. It solved the open ended liability insurance companies faced with uncertain coverage amounts that could have exceeded their

Senate Oil & Gas

-1-

March 25, 1993

policies. SB 405 limited the policy amounts.

The Section of SB 405 addressed to non-crude operators waived a requirement for non-crude operators to pay for financial responsibility with insurance with a direct action clause.

The major findings in this report say that state or private pooling isn't likely to create a competitive insurance product, because there are not that many non-crude operators. There are about 72 in the state and 9 of those are exempt (because they're part of the federal government), 29 are quite large and self insure or are guaranteed by others. Thirty one of them purchase insurance. Six of those have insurance that successfully contains a direct action clause. The other 25 have been granted waivers by the DEC.

The most attractive alternative is for a private insurance product to be developed that would have a direct action clause. There are two ways that could occur, MR. EPPENBACH said. One, the clause could be directly in the insurance, and two, an umbrella policy could be written that provided direct action in addition to other insurance the operator might possess. Therefore, the package of the two might meet all the requirements.

Number 177

SENATOR LEMAN asked if the direct action clause would be secondary to the other insurance. MR. EPPENBACH answered almost certainly.

MR. CANTOR said some private entities are working to put together a package with Lloyd's of London that will solve Alaska's problems.

MR. EPPENBACH commented that it looked a lot like private insurance would be solving the insurance problem in the very immediate future and the delay suggested in the report was not unreasonable.

Number 244

RAY GILLESPIE, representing three refined product distributors, said direct action insurance has been consistently unavailable since the Exxon-Valdez incident. He said right now the companies have an indemnification policy underwritten by Lloyd's of London, which says if there is a judgement rendered against the company, they will come in and pay the judgement. Lloyd's of London has never agreed to be sued in any court in the United States.

MR. GILLESPIE said that the direct action requirement for

companies like the ones he represents is superfluous, because they have strong ties in Alaska and have assets large enough to cover any spill. He noted that California, Florida, Washington, and Virginia have dropped their direct action requirement. These states have in law a requirement for a bond. The bond is waived if the company meets certain conditions - that is substantial assets and a history of connections with the state.

Number 323

SENATOR SALO asked what our history was on lawsuits over direct action issues. MR. GILLESPIE said there had been maybe one at the most.

SENATOR SALO said she understood that Lloyd's of London was having financial difficulties and asked if that would affect their ability to write insurance for direct action.

MR. CANTOR explained that one part of Lloyd's was in trouble and possibly the Exxon Valdez incident was making it difficult to purchase this type of insurance.

Number 355

SENATOR LEMAN asked why other states were dropping the direct action provision. MR. CANTOR said that the realities of the insurance market have caused the other states to change their financial responsibility requirements.

SENATOR LEMAN thanked everyone for their participation and adjourned the meeting at 5:40 p.m.