

SCOMM

94:6

SENATE COMMITTEE REPORT
FIRST COMMITTEE OF REFERRAL

DATE: 2/1/93

FURTHER: JUDICIARY

Date of 5-Day Notice: 1/28/93
(in accordance with Uniform Rule 23)

DATE TURNED
INTO OFFICE: 2-16-93

Senate Special Committee on Oil & Gas considered SB 81

"An Act repealing the 65-day time limit for approval or disapproval of a proposed oil discharge contingency plan by the Department of Environmental Conservation; and providing for an effective date."

and recommends:

☐ replace with _____ CS _____ ()

☐ attaches amendment(s)

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

☐ adopts _____ Letter of Intent

☐ further referral to the _____

☐ do pass

☐ do not pass

☐ no recommendation

☐ individual recommendations

FISCAL NOTE INFORMATION

Department	Date	Zero	Fiscal
DEC	2/3/93	✓	

Department	Date	Zero	Fiscal

☐ Appropriation No Fiscal Note

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

DO PASS:

OTHER RECOMMENDATIONS:

Rick Halford
Scott Sharp

Loren A. Luman DO PASS
Chair: Signature and Recommendation

FISCAL NOTE

No. 1STATE OF ALASKA
1993 LEGISLATIVE SESSIONBILL Bill Version: 3B81
(S) Publish Date: 2-17-93Revision Date:
Title: Repeal of 65 day limit to approve or
disapprove contingency plans
Sponsor: Senate Resources
Requestor: Senate Oil & GasDepartment Affected: Environmental
Conservation
BRU: Spill Prevention & Response
Component: Prevention & Planning ManagementCOMPONENT SERIAL NO. 1430

EXPENDITURES/REVENUES:

(Thousands of Dollars)

OPERATING	FY 94	FY 95	FY 96	FY 97	FY 98	FY 99
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

REVENUE
FUND SOURCE:

FUNDING:

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 RECPT	0.0	0.0	0.0	0.0	0.0	0.0
1006 GF/MHTLA	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

POSITIONS: NONE

FULL-TIME						
PART-TIME						
TEMPORARY						

Estimate of current year (FY93) impact: \$ NONE

ANALYSIS: (Attach a separate page if necessary.)

Prepared by: Janice Adair
Division: Commissioner's OfficePhone: 465-5010
Date: 2/3/93Approved by Commissioner: Janice Adair
Agency: Department of Environmental ConservationDate: 2/3/93

Distribution (by preparer): Legislative Finance, Legislative Sponsor, Requestor, OMB, & Impacted Agency(ies).

Rev. 12/92

Page of

BACKGROUND

Companion bill in the Senate -SB 81- heard in Senate Oil and Gas Committee.

Majority recommended do pass.

Supported by: Alaska Oil and Gas Association, Alaska Environmental Lobby, Municipalities, Native Corporations, Coastal Management Districts and the National Wildlife Federation among other support.

WHAT IT DOES

Repeals AS 46.04.030(p):

Currently this statute requires the Department of Environmental Conservation to "...approve or disapprove a proposed contingency plan within 65 days after it receives a complete application for approval...".

This 65-day requirement conflicts with the Alaska Coastal Management Plan regulations carried out by the Division of Governmental Coordination.

Coastal Management regulations call for a decision in 55 days. This has been cumbersome for applicants, the departments and the public wishing to participate in the review process.

Removing the 65-day statutory requirement would align the review process and allow efficient public review.

DRAFT

SENATE BILL NO. ____

IN THE LEGISLATURE OF THE STATE OF ALASKA
EIGHTEENTH LEGISLATURE - FIRST SESSION

BY

Introduced:
Referred:

A BILL

FOR AN ACT ENTITLED

"An Act relating to the time period for approval or disapproval of oil discharge prevention and contingency plans; and providing for an effective date."

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

- * Section 1. AS 46.04.030(p) is repealed.
- * Sec. 2. This Act takes effect immediately under AS 01.10.070(c).

water, the time requirement for clean up of the portion of the discharge that enters the receiving environment may, in the department's discretion, be within the shortest possible time consistent with minimizing damage to the environment.

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

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

(n) A tank vessel or oil barge that is conducting, or is available only for conducting, oil discharge response operations is exempt from the requirements of (c) of this section if the tank vessel or oil barge has received prior approval of the department. The department may approve exemptions under this subsection upon application and presentation of information required by the department.

(o) A holder of an approved contingency plan does not violate the terms of the contingency plan by furnishing to another plan holder, with the approval of the department, equipment, materials, or personnel to assist the other plan holder in a response to an oil discharge. The plan holder shall replace or return the transferred equipment, materials, and personnel as soon as feasible. The department shall by regulation determine the maximum amount of equipment, materials, or personnel and the maximum amount of time for which it will approve a transfer.

(p) The department shall approve or disapprove a proposed contingency plan within 65 days after it receives a complete application for approval under this section.

(q) In this section,

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

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

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

The original purpose for the 65-day provision of the statute was to give certainty to applicants. This certainty did not occur for two reasons:

- 1) If the agency was not ready to approve or disapprove the oil spill plan within the timeframe required, the applicants weren't at liberty to demand compliance with the statute because the agency could just disapprove the plan and require the applicant to start the 65-day process all over again.
- 2) Once the new oil spill regulations were approved the 65-day requirement became academic because of when the agency started the 65-day clock. The 65-day clock started when all possible times to stop the ACMP review had passed. The 65-day review clock would be started when there was only 15 days left on the ACMP review clock.

Oil Spill Plans are subject to two review schedules: 1) 6 AAC 50 (ACMP), and 2) 18 AAC 75.455 (ADEC). These schedules are in conflict and cannot be reconciled without deleting the 65-day requirement from the statute. Even if the majority of the conflicts could be reconciled, there would still be two review processes to follow when only one is necessary. The following are a few areas of conflict:

The ADEC regulations require the agency to determine if an application is sufficient for public review within 7 days (18 AAC 75.455(a)). The ACMP regulations require that the coordinating agency make that determination immediately (6 AAC 50.070 (e)).

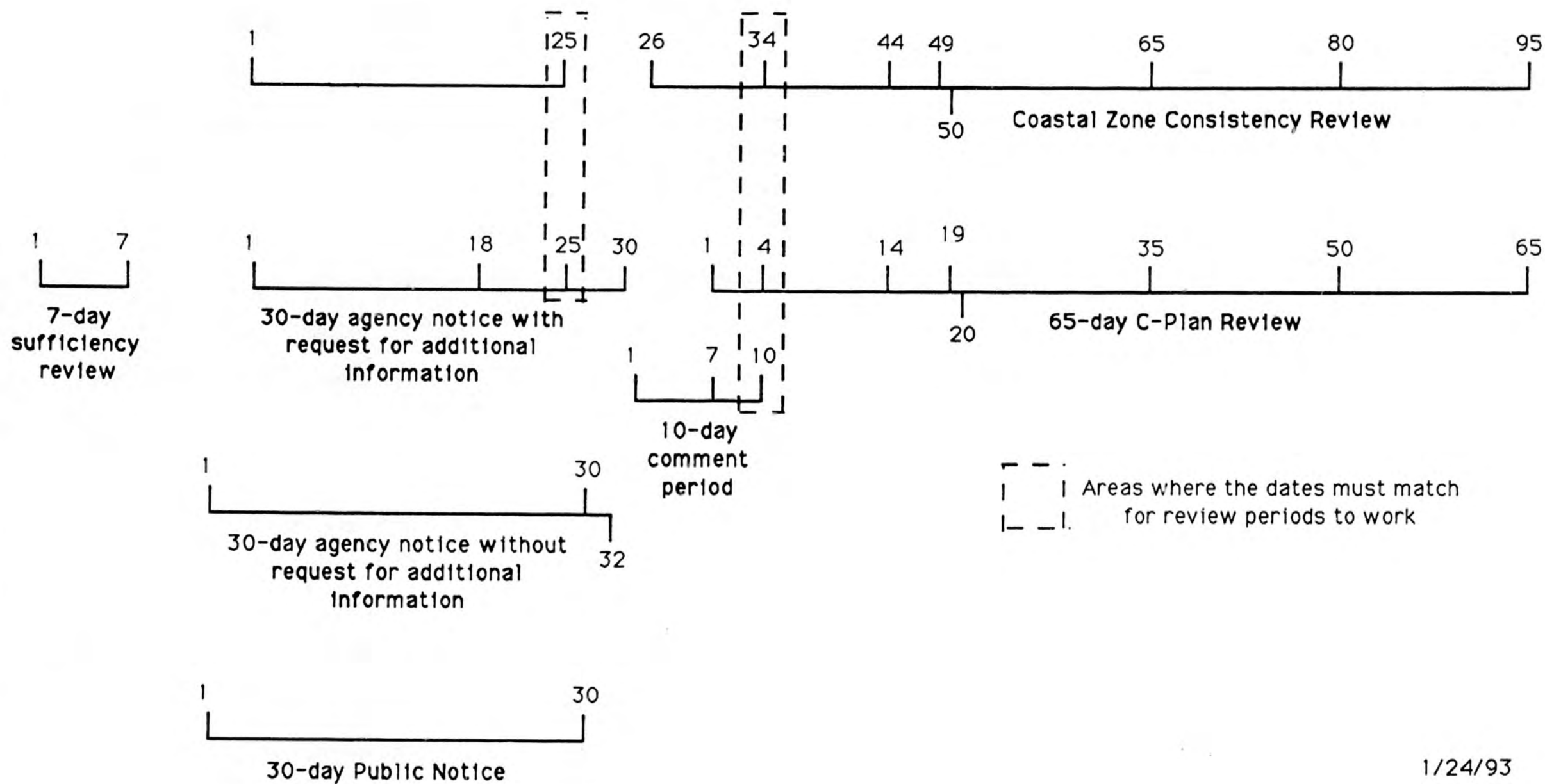
The ADEC regulations allow for requests for additional information up to a date to be determined by the department within the 18th to 25th day of a 30-day review (18 AAC 75.455(b)(3)). The ACMP regulations allow for requests for additional information up to the 25th day of a 50-day review. (6 AAC 50.070(g))

The ADEC regulations allow for a 10-day review period for information obtained during the request for additional information. Within that 10-day review period the department has 7 days to determine if additional information is necessary and 3 additional days (total 10 days) to make comments on the oil spill plan and the additional information. (18 AAC 75.455(d)(2), 18 AAC 75.455(e)). The ACMP regulations allow an indefinite time to review the additional information received and 9 days after the determination that no additional information is necessary to comment on the oil spill plan and the additional information (6 AAC 50.070(e)).

The ADEC 65-day review process starts at day 7 of the 10-day review process when there is only 15 days left in the ACMP review process (18 AAC 75.455(i). (ACMP review calculated based on a 50-day review).

A complex review process has been created to accomodate one provision of the statute, the 65-day review requirement in AS 46.04.030(p). Our recommendation is to delete the 65-day provision from the statute and reconcile the two review processes.

A graph is attached which depicts the above regulatory processes.



1/24/93



Official Business

Alaska State Legislature

SENATE

State Capitol
Juneau, AK 99801-1182

RESOURCES COMMITTEE

SUMMARY OF SENATE BILL 81

REPEAL OF 65 DAY LIMIT ON OIL SPILL CONTINGENCY PLANS

Senate Bill 81 is an attempt to clarify the time-line requirements for approving oil discharge prevention and contingency plans.

Currently, AS 46.04.030 (p) requires the Department of Environmental Conservation to "...approve or disapprove a proposed contingency plan within 65 days after it receives a complete application...". However, the time-line necessitated by the 65-day statutory requirement conflicts with the time-line set out in the Alaska Coastal Management Plan (ACMP) regulations carried out by the Division of Governmental Coordination (DGC).

While DEC is limited to 65 days to make a decision on a plan, DGC follows a 55-day time-line. The conflicts between the two time lines make the process cumbersome for both the applicant and members of the public wishing to participate in the review process.

Removal of the 65-day statutory requirement allows DEC and DGC to align their time lines for approving contingency plans.



A HARBOR ENTERPRISES COMPANY

1600 A Street, Suite 307 • Anchorage, Alaska 99503 • (907) 278-7586

Seward
224-3190

January 26, 1993

The Honorable Rick Halford
President, Alaska State Senate
Alaska State Capitol
Juneau, AK 99811-1182

Nikiski
776-8000

Dear Senator Halford:

Petro Marine Services supports the attached draft legislation which repeals AS 46.04.030(p). This legislation, if passed would delete the requirement for the Alaska Department of Environmental Conservation to approve or disapprove a proposed contingency plan within 65 days. This deletion will result in the improved efficiency of the review process identified in the implementing regulations in 18AAC75 which we support. We urge prompt passage of this legislation. Because of the sensitive nature of the legislation, we request that no substantive changes or amendments be made. If changes are made we will withdraw our support for the legislation.

Kodiak
486-3421

Sincerely,

W.B. Schoephoester
Manager Projects and Planning

WBS:hg

Dutch Harbor
581-1350

JAN-28-93 THU 16:44

DOYON LTD

FAX NO. 4566785

P.02

**Doyon, Limited**

Doyon Building
201 First Avenue
Fairbanks, Alaska 99701
Tel: (907) 452-4755 Fax: (907) 458-8785
Toll Free in Alaska: 1-800-478-4755

January 28, 1993

To Members of the Alaska State Legislature:

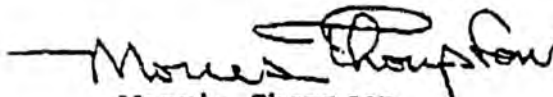
Doyon, Limited, the Regional Native Corporation for Alaska's Interior, is pleased to join with a wide range of organizations, including the Alaska Oil and Gas Association and the Alaska Environmental Lobby, Inc., in asking your support to expeditiously adopt the enclosed draft legislation which repeals Alaska Statutes 46.04.030(p).

The proposed legislation repeals a provision of Alaska Statutes which require the Alaska Department of Environmental Conservation to approve or disapprove a proposed contingency plan within 65 days. Deletion of this requirement will allow necessary regulatory changes to be made to eliminate the conflicting review processes mandated by 18 Alaska Admin. Code 75 and 6 Alaska Admin. Code 50.

Doyon urges that the proposed legislation be adopted in its present form without further amendment.

We appreciate your consideration of Doyon's position.

Sincerely,


Morris Thompson,
President & CEO



Working for the Nature of Tomorrow.

NATIONAL WILDLIFE FEDERATION

750 W. Second Ave., Suite 200, Anchorage, AK 99501 (907) 258-4800

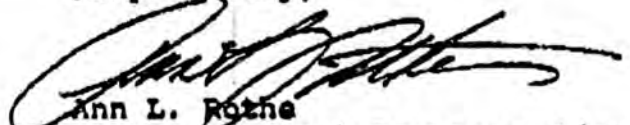
January 26, 1993

Members of the Alaska State Legislature:

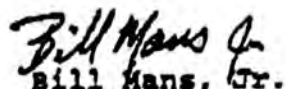
The National Wildlife Federation and the Wildlife Federation of Alaska urge prompt passage of House Bill 99. This bill repeals AS 46.04.030(p) which requires the Alaska Department of Environmental Conservation to approve or disapprove a proposed oil spill contingency plan within 65 days of receipt. Repeal of this statutory requirement would eliminate the conflict that presently exists between this requirement and the review process mandated under the Alaska Coastal Management Program (18 AAC 75 and 6 AAC 50.)

Please be aware that we support passage of this bill only so long as no substantive changes or amendments are made.

Respectfully,



Ann L. Rothe
Alaska Regional Representative
National Wildlife Federation



Bill Mans, Jr.
President
Wildlife Federation of Alaska



Senate Special Committee On Oil and Gas

GOLDEN VALLEY ELECTRIC: Vayla Colonel calling on behalf of Mr. Kelly

DEC has been unable to respond in the 65-day time period.

Submitted their plan 8/12/92 along with everyone else;

8/13 they got a letter saying... letter attached.

She didn't have any idea what is an "acceptable" time limit for DEC turn-around.

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

How will DEC amend reg?



SB
SDB

"The mission of the Council is to ensure the safe operation of the oil terminals, tankers, and facilities in Cook Inlet so that environmental impacts associated with the oil industry are minimized."

FEB 16 1993

February 8, 1993

The Honorable Rick Halford
Senate President
Alaska State Senate
P.O. Box V
Juneau, Alaska 99811

Dear Senator Halford:

Cook Inlet Regional Citizens' Advisory Council (Cook Inlet RCAC) recommends the legislature seriously consider enactment of HB99, Repealing 65 Day Time Limit Approval/Disapproval of Contingency Plans, which would repeal AS 46.04.030(p). This legislation, if passed, would delete the requirement for the Alaska Department of Environmental Conservation to approve or disapprove a proposed contingency plan within 65 days. This deletion will result in the improved efficiency of the review process identified in the implementing regulations (18AAC75).

Cook Inlet RCAC would recommend prompt passage of this legislation. If the Alaska State Legislature feels there is a need for substantive modifications to the proposed legislation then Cook Inlet RCAC would withdraw the recommendation for adoption of this legislation.

Should you have any questions please feel free to contact me or Lisa Parker, Executive Director, at 907-283-7222.

Sincerely yours,

Jack Brown
President

cc: ✓ Senator Loren Leman, Chair, Senate Special Committee on Oil & Gas
Cook Inlet RCAC Board of Directors
Charter Funding Companies
Mr. Larry Smith

Cook Inlet Regional Citizens Advisory Council

11355 Frontage Rd. • Suite 228 • Kenai, Alaska 99611 • (907) 283-7222 • FAX (907) 283-6102



Alaska Environmental Lobby, Inc.

P.O. Box 22151 Juneau, Alaska 99802

907-463-3366

January 25, 1993

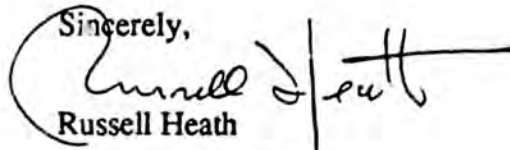
To the Members of the Alaska State Legislature:

The Alaska Environmental Lobby (AEL) represents the environmental concerns of 19 Alaskan environmental groups in the Alaska state legislature.

The Alaska Environmental Lobby supports the draft legislation repealing AS 46.04.030(p), which requires the Alaska Department of Environmental Conservation to approve or disapprove a proposed contingency plan within 65 days. Deletion of this requirement will allow necessary regulatory changes to be made to eliminate the conflicting review processes which presently exist in 18AAC75 and 6AAC50. AEL requests that a representative of the environmental community be involved in the revisions to these regulations.

AEL will withdraw our support of this draft legislation if any substantive changes or amendments are made to it. We urge prompt passage of this legislation as worded.

Sincerely,


Russell Heath
Executive Director

LETTERS OF SUPPORT

ALASKA CENTER FOR THE ENVIRONMENT • ALASKA CHAPTER, SIERRA CLUB • ALASKA FRIENDS OF THE EARTH
ANCHORAGE AUDUBON SOCIETY • ARCTIC AUDUBON SOCIETY • CLEAN AIR COALITION • DENALI CITIZENS' COUNCIL
DENALI GROUP, SIERRA CLUB • JUNEAU AUDUBON SOCIETY • JUNEAU, GROUP, SIERRA CLUB
KACHEMAK BAY CONSERVATION SOCIETY • KENAI PENINSULA AUDUBON SOCIETY • KNIK CANOERS AND KAYAKERS
KNIK GROUP, SIERRA CLUB • KODIAK AUDUBON SOCIETY • LYNN CANAL CONSERVATION • NORTHERN ALASKA ENVIRONMENTAL CENTER
PRINCE WILLIAM SOUND CONSERVATION ALLIANCE • SITKA CONSERVATION SOCIETY • SOUTHEAST ALASKA CONSERVATION COUNCIL



Alaska Oil and Gas Association



121 West Fireweed Lane, Suite 207
Anchorage, Alaska 99503-2035
Phone: (907) 272-1481 Fax: (907) 279-8114

January 22, 1993

To the Members of the Alaska State Legislature:

The Alaska Oil and Gas Association (AOGA) is a trade association whose member companies account for the majority of oil and gas exploration, production, transportation and marketing activities in Alaska.

AOGA supports the attached draft legislation repealing AS 46.04.030(p), which requires the Alaska Department of Environmental Conservation to approve or disapprove a proposed contingency plan within 65 days. Deletion of this requirement will allow necessary regulatory changes to be made to eliminate the conflicting review processes which presently exist in 18AAC75 and 6AAC50.

AOGA's support of this draft legislation is contingent upon no substantives changes or amendments being made. We urge prompt passage of this legislation as worded.

Sincerely,

WILLIAM W. HOPKINS
Executive Director

Attachment

ALEUTIANS EAST BOROUGH

SERVING THE COMMUNITIES OF

■ KING COVE ■ SAND POINT ■ AKUTAN ■ COLD BAY ■ FALSE PASS ■ NELSON LAGOON

January 21, 1993

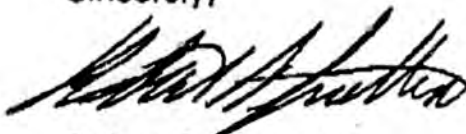
Representative Carl Moses
P.O. Box V
Juneau, AK 99803

Dear Representative Moses:

The Aleutians East Borough supports the repeal of AS 46.04.030(p). The attached draft legislation would delete the requirement for the Alaska Department of Environmental Conservation to approve or disapprove a proposed oil spill contingency plan within 65 days. Deleting this statutory provision would result in the improved efficiency of the review process identified in the implementing regulations in 18 AAC 75, which we support.

We urge introduction and prompt passage of this draft legislation. Because of the sensitive nature of the legislation, we request that no substantive changes or amendments be made. If changes are made we will withdraw our support.

Sincerely,



Robert S. Juettner
Borough Administrator

RSJ:amn

CLERK/PLANNER
P.O. BOX 349
SAND POINT, ALASKA 99661
(907) 383-2699
(907) 383-3488 FAX

BOROUGH ADMINISTRATOR
1800 A STREET, SUITE 103
ANCHORAGE, ALASKA 99501-5148
(907) 274-7555
(907) 276-7569 FAX

FINANCE DIRECTOR
P.O. BOX 49
KING COVE, ALASKA 99812
(907) 497-2588
(907) 497-2388 FAX

ALEUTIANS EAST BOROUGH

SERVING THE COMMUNITIES OF

■ KING COVE ■ SAND POINT ■ AKUTAN ■ COLD BAY ■ FALSE PASS ■ NELSON LAGOON

January 21, 1993

Senator George Jacko
P.O. Box V
Juneau, AK 99803

Dear Senator Jacko:

The Aleutians East Borough supports the repeal of AS 46.04.030(p). The attached draft legislation would delete the requirement for the Alaska Department of Environmental Conservation to approve or disapprove a proposed oil spill contingency plan within 65 days. Deleting this statutory provision would result in the improved efficiency of the review process identified in the implementing regulations in 18 AAC 75, which we support.

We urge introduction and prompt passage of this draft legislation. Because of the sensitive nature of the legislation, we request that no substantive changes or amendments be made. If changes are made we will withdraw our support.

Sincerely,



Robert S. Juettner
Borough Administrator

RSJ:emn

CLERK/PLANNER
P.O. BOX 349
SAND POINT, ALASKA 99681
(907) 383-2699
(907) 383-3496 FAX

BOROUGH ADMINISTRATOR
1800 A STREET, SUITE 103
ANCHORAGE, ALASKA 99501-5146
(907) 274-7555
(907) 276-7569 FAX

FINANCE DIRECTOR
P.O. BOX 49
KING COVE, ALASKA 99612
(907) 497-2588
(907) 497-2386 FAX

A LEUTIANS WEST T

COASTAL RESOURCE SERVICE AREA

January 21, 1993

Dear Member of the 1993 Legislature:

The Aleutians West CRSA supports the attached draft legislation to repeal AS 46.04.030(p). This draft legislation would delete the requirement for the Alaska Department of Environmental Conservation to approve or disapprove a proposed contingency plan within 65 days. This time frame has proved to be problematic and its deletion will result in the improved efficiency of the review process identified in the implementing regulations in 18 AAC 75 which the AWCERSA supports. We strongly urge the introduction and prompt passage of this legislation. Because of the sensitive nature of the legislation, we request that no substantive changes or amendments be made. If changes are made we will withdraw our support for the legislation.

Sincerely,



Darcy Richards
Program Director

cc: -AWCRSA Board of Directors

January 22, 1993

Dear Member of the Legislature:

The Lake and Peninsula Borough and the Bristol Bay Coastal Resource Service Area (CRSA) understand that draft legislation has been prepared which would repeal AS 46.04.030(p), and want you to know that we fully support this proposal.

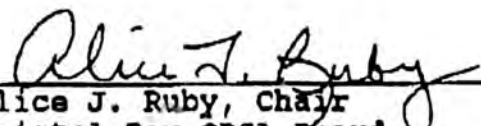
The effect of the draft legislation would be to delete the requirement for the Department of Environmental Conservation to approve or disapprove a proposed oil spill contingency plan within 65 days. Repealing this statutory provision will enable DEC to revise the implementing regulations in 18 AAC 75 to address problems with the review process for contingency plans that have been identified by coastal districts, industry, and other organizations.

We hope the draft legislation is introduced and passed this session provided that no substantive changes or amendments are made. If changes are made we will withdraw our support.

Thank you for consideration of our letter.

Sincerely,


Glen Vernon, Borough Manager
Lake and Peninsula Borough


Alice J. Ruby, Chair
Bristol Bay CRSA Board



Cenaliulriit

Coastal
Management
District

For the Yukon-Kuskokwim Coastal Resource Service Area
P.O. Box 1169 • Bethel, Alaska 99559 • 907/543-2243

January 21, 1993

Alaska State Legislature
State Capitol
Juneau, Ak. 99801-1182

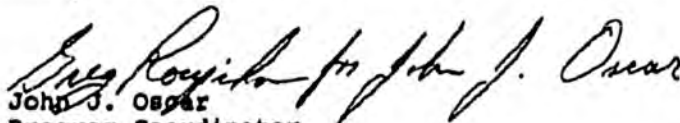
Dear Member of the Legislature:

The Cenaliulriit Coastal Management District supports amendment of HB 567 in the attached draft legislation which would repeal AS 46.04.030(p). This draft legislation would delete the requirement for the Alaska Department of Environmental Conservation to approve or disapprove a proposed oil spill contingency plan within 65 days. Deleting this statutory provision would result in improved efficiency of the review process identified in the implementing regulations of 18 AAC 75, which we support.

We urge introduction and prompt passage of this draft legislation. Because of its sensitive nature, we request that no substantive changes or amendments be made to this legislation. If such changes are made we will withdraw our support.

Sincerely,

MOSES PAUKAN/CHAIRMAN, CENALIULRIIT COASTAL ZONE MANAGEMENT DISTRICT


John J. Oscar
Program Coordinator

CC

CIRI PRODUCTION COMPANY

January 22, 1993

Mr. Steve Porter
Arco Alaska, Inc.
P.O. Box 100360
Anchorage, AK 99519-0360

Dear Mr. Porter:

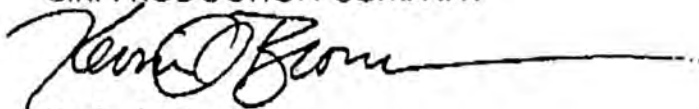
CIRI Production Company (CPC) is aware of the effort being made by of a number of organizations to repeal AS 46.04.030(p). Such legislation, if adopted, would delete the requirement for the Alaska Department of Environmental Conservation to approve or disapprove proposed oil discharge prevention and contingency plans within sixty five days. CPC supports the repeal of the sixty five day requirement.

While CPC is not currently a holder of a contingency plan, CPC has held contingency plans in the past for certain exploratory drilling activities. Moreover, both CPC and Cook Inlet Region, Inc. are active participants in the oil and gas industry on the Kenai Peninsula and the North Slope.

Contingency plans are required to undergo review through the Alaska coastal management program. The sixty five day requirement in AS 46.04.030(p) does not mesh with this process and is unnecessarily burdensome. We understand this view is shared by regional citizens advisory councils, environmental interests, state agencies and industry. CPC, therefore, supports a simple, targeted repeal of AS 46.04.030(p).

Sincerely,

CIRI PRODUCTION COMPANY



Kevin A. Brown
Vice President

KAB:CD:lsg:3001
File: 061,001



Office of Community Development

January 20, 1993

Dear Member of the Legislature:

I support the attached draft legislation which would repeal as 46.04.030(p). This draft legislation would delete the requirement for the Alaska Department of Environmental Conservation to approve or disapprove a proposed oil spill contingency plan within 65 days.

Deleting this statutory provision would result in the improved efficiency of the review process identified in implementing regulations in 18 AAC 75, which I support.

I urge introduction and prompt passage of this draft legislation. Because of the sensitive nature of the legislation, I request that no substantive changes or amendments be made. If changes are made we will withdraw my support.

Thank you for your consideration of this matter.

Sincerely,

David Dengel

Director of Community Development



KENAI PENINSULA BOROUGH

144 N. BINKLEY • SOLDOTNA, ALASKA 99669
PHONE (907) 262-4441

DON GILMAN
MAYOR

January 19, 1993

Mr. Steven B. Porter
ARCO Alaska, Inc.
PO Box 100360
Anchorage, AK. 99510-0360

Subject: Repeal of AS 46.04-030(p)

Dear Mr. Porter:

The Kenai Peninsula Borough Coastal Management Program supports the attached legislation which repeals AS 46.04.030(p). This legislation, if passed, would delete the requirement for the Alaska Department of Environmental Conservation to approve or disapprove a proposed contingency plan within sixty-five days. This deletion will result in the improved efficiency of the review process identified in the implementing regulations in 18 AAC 75 which we support.

The oil and gas industry encompass a large portion of resource development activities which are located within the Kenai Peninsula Borough. We encourage passage of this legislation.

Sincerely,

Richard P. Troeger
Planning Director

RPT/nj

c: Don Gilman, Mayor
Mary Pearsall, KPB Planner

NORTH SLOPE BOROUGH

OFFICE OF THE MAYOR

P.O. Box 69
Barrow, Alaska 99723

Phone: 907-852-2611

Jeslie Kaleak, Sr., Mayor



January 20, 1993

Steve Porter
ARCO Alaska, Inc.
P.O. Box 100360
Anchorage, Alaska 99519-0360

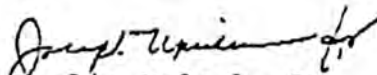
Re: Proposed Legislation on Oil Spill Contingency Plan Review

You have asked for our comments on the attached proposed bill. This proposed bill is the result of a statewide committee of coastal zone management representatives, including the North Slope Borough Planning Department. It is my understanding that if enacted the proposed bill would result in more efficient review and approval of oil spill contingency plans by correcting a current oversight in state law [AS 46.04.030(p)] which sets a different review time line than the regulations of the Department of Environmental Conservation and the Division of Governmental Coordination.

More efficient review and approval of oil spill contingency plans would not only be beneficial to operators involved in the exploration, production, transportation and distribution of hydrocarbons, but would also streamline administrative efforts of federal, state and local government regulators. As a distributor and regulator, the North Slope Borough fits into both categories.

We would support the repeal of AS 46.04.030(p) if the attached bill is introduced.

Sincerely,


Jeslie Kaleak, Sr.
Mayor

cc: Rena Bukovich, Representative Eileen MacLean's Office
Rebecca Brower, Eskimos, Inc.
Dennis Alt, UIC Construction
Forrest D. Olemaun, NSB Fuel Manager



Resource Development Council

for Alaska, Inc.

121 West Fireweed Lane, Suite 250, Anchorage, Alaska 99503-2035
Phone 907/276-0700 Fax 276-3887

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Senator Frank Murkowski

Congressman Don Young

January 22, 1993

Dear Members of the Alaska Legislature:

The Resource Development Council for Alaska, Inc. (RDC) supports the attached draft legislation that would repeal AS 46.04.030(p). This legislation relates to the time period for approval or disapproval of oil discharge prevention and contingency plans. Specifically, it would delete the requirement for the Alaska Department of Environmental Conservation to approve or disapprove a proposed contingency plan within 65 days.

The deletion would allow necessary regulatory changes to be made to resolve the conflicting review requirements which now exist in 18 AAC 75 and 6 AAC 50. This action would result in the improved efficiency of the review process.

RDC urges prompt passage of this legislation as worded. Because of the sensitive nature of the legislation, RDC requests that no substantive changes or amendments be made.

Sincerely,

RESOURCE DEVELOPMENT COUNCIL
for Alaska, Inc.


Becky Gay
Executive Director



Southeast Alaska Petroleum Resource Organization, Inc.

540 Water Street Suite 202 • Ketchikan, Alaska 99901
(907) 225-7002 • fax (907) 247-1117

January 20, 1993

Steven B. Porter
ARCO Alaska, Inc.
P.O. Box 100380
Anchorage, AK 99516-0380

Dear Mr. Porter,

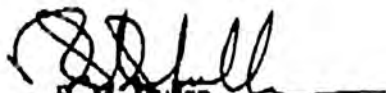
Pursuant to our conversation, and the proposed legislation which you faxed this afternoon, I have polled my Board of Directors and established that SEAPRO supports this legislative proposal as offered.

Many of our member companies have serious concerns regarding ACMP review, especially the extraordinary costs associated with document submission to the numerous coastal jurisdictions where our transient operations may take us. However, the inefficiency of the current plan review process, or lack of process, being utilized by ADEC has been clearly demonstrated to many of our members since August 1992. Clearly, adoption of a more efficient and reasonable review process is necessary.

As offered, the proposed legislation would repeal AS 46.04.030(p). This legislation, if passed, would delete the requirement for the Alaska Department of Environmental Conservation to approve or disapprove oil spill prevention and response contingency plans within 65 days. This deletion will result in the improved efficiency of the implementing regulations in 18AAC75. We urge prompt passage of this legislation. Because of the sensitive nature of the legislation, we request that no substantive changes or amendments be made. If changes are made we will withdraw our support for the legislation.

Please contact me if I can provide any further assistance.

Respectfully,


R. M. Mullen
Manager



Southwest Alaska Municipal Conference

Putting Resources to Work For People

3300 Arctic Blvd., Suite 203 • Anchorage, Alaska 99503 • (907) 562-7380 • FAX (907) 562-0438

RESOLUTION 93 - 01

A RESOLUTION OF THE SOUTHWEST ALASKA MUNICIPAL CONFERENCE IN SUPPORT OF DELETING THE TIME PERIOD FOR APPROVAL OR DISAPPROVAL OF OIL DISCHARGE PREVENTION AND CONTINGENCY PLANS FROM THE OIL AND HAZARDOUS POLLUTION CONTROL STATUTE

WHEREAS, in 1990 the Alaska State Legislature enacted House Bill 567 relating to Oil and Hazardous Pollution Control; and

WHEREAS, one of the provisions of HB 567, AS 46.04.030(p), requires that the Department of Environmental Conservation approve or disapprove a proposed oil discharge prevention and contingency plan within 65 days after it receives a complete application for approval; and

WHEREAS, the Department of Environmental Conservation (DEC) promulgated regulatory revisions pursuant to HB 567; and

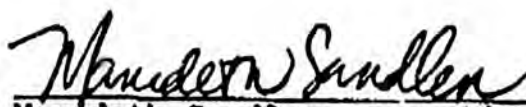
WHEREAS, proposed oil discharge prevention and contingency plans must also be reviewed under the Alaska Coastal Management Program (ACMP) regulations; and

WHEREAS, the review provisions of the ACMP regulations and the review provisions of the DEC regulations are in conflict and cannot be reconciled without deleting the 65-day statutory review provision.

NOW, THEREFORE, BE IT RESOLVED, that the Southwest Alaska Municipal Conference supports repealing the 65-day review provision found at AS 46.04.030(p) in order to allow the DEC the opportunity to resolve its regulatory conflicts with the ACMP.

PASSED AND APPROVED BY THE SOUTHWEST ALASKA MUNICIPAL CONFERENCE THIS 24th DAY OF JANUARY, 1993.


Richard G. Wilson, President


Marjeth Sandler, Executive Director



Northern Alaska Environmental Center

218 DRIVEWAY
FAIRBANKS, ALASKA 99701
(907) 452-5021

January 29, 1993

Alaska State Legislature
State Capitol
Juneau, Alaska 99801-1182

Dear Member of the Legislature:

The Northern Alaska Environmental Center supports the proposed amendment to HB 567 which would repeal AS 46.04.030(p). This draft legislation would delete the requirement for the Alaska Department of Environmental Conservation to approve or disapprove a proposed oil spill contingency plan within 65 days. Deleting this statutory provision would result in improved efficiency of the review process identified in the implementing regulations of 18 AAC 75, and would extend the public comment if needed.

Because of the sensitive nature of this legislation, our support is conditional: if substantive changes or amendments are made to this legislation, we will withdraw our support.

Sincerely,

David van den Berg
Arctic Issues Director



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FISCAL NOTE

STATE OF ALASKA
1993 LEGISLATIVE SESSION

BILL NO. SB 81

Revision Date: _____
Title: Repeal of 65 day limit to approve or
disapprove contingency plans
Sponsor: Senate Resources
Requestor: Senate Oil & Gas

Department Affected: Environmental
Conservation
BRU: Spill Prevention & Response
Component: Prevention & Planning Management

COMPONENT SERIAL NO. 1430

EXPENDITURES/REVENUES:

(Thousands of Dollars)

OPERATING	FY 94	FY 95	FY 96	FY 97	FY 98	FY 99
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						
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REVENUE						
FUND SOURCE:						

FUNDING:

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 RECPT	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

POSITIONS: NONE

FULL-TIME						
PART-TIME						
TEMPORARY						

Estimate of current year (FY93) impact: \$ NONE

ANALYSIS: (Attach a separate page if necessary.)

Prepared by: Janice Adair
Division: Commissioner's Office

Phone: 465-5010
Date: 2/3/93

Approved by Commissioner: *Janice Adair*
Agency: Department of Environmental Conservation

Date: 2/3/93

Distribution (by preparer): Legislative Finance, Legislative Sponsor, Requestor, OMB, & Impacted Agency(ies).

Rev. 12/92

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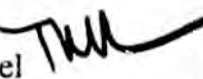
MEMORANDUM

February 2, 1993

FEB - 2 1993

SUBJECT: Oil Discharge Contingency Plans (SB 81)

TO: Senator Loren Leman
ATTN: Annette

FROM: Terri Lauterbach 
Legislative Counsel

You have asked two questions about SB 81, an Act that would repeal a statute that currently sets a 65-day deadline on DEC's consideration of a complete application for approval of an oil discharge contingency plan:

(1) How would this repeal affect 6 AAC 50.070(g), a regulation that sets some time limits related to consistency determinations by the division of governmental coordination under its Coastal Zone Management program responsibilities, and 18 AAC 75.455, a regulation that sets a 65-day time limit for DEC's action on a complete contingency plan application?

(2) Whose plans are affected by the current 65-day time limit in AS 46.04.030(p)?

Question (1). Repealing AS 46.04.030(p) would have no direct effect on either regulation you have asked about. AS 46.04.030(p) is a time limit imposed by statute. However, either agency would be free to impose the same deadlines it already has in its regulations even if the statutory deadline is repealed. That's because each agency has the power to adopt regulations to implement their respective programs. To the extent that the statutory deadline may have affected the deadlines that have been set by the agencies in their regulations, then its repeal would allow the agencies to choose other deadlines. However, the repeal of AS 46.04.030(p) would not force a change in the regulations you have asked about.

Question (2). The persons whose plans are affected by AS 46.04.030 are the persons who are required to have oil discharge contingency plans under (a) - (c) of that section: operators of oil terminal facilities, pipelines, exploration facilities, production

facilities, tank vessels, and oil barges. These terms are defined in AS 46.04.900 as follows:

(8) "exploration facility" means a platform, vessel, or other facility used to explore for hydrocarbons in or on the waters of the state or in or on land in the state; the term does not include platforms or vessels used for stratigraphic drilling or other operations that are not authorized or intended to drill to a producing formation;

* * *

(10) "oil" means oil of any kind and in any form, whether crude, refined, or a petroleum by-product, including but not limited to petroleum, fuel oil, gasoline, lubricating oils, oily sludge, oil refuse, oil mixed with other wastes, crude oils, liquefied natural gas, propane, butane, or other liquid hydrocarbons regardless of specific gravity;

(11) "oil barge" means a vessel which is not self-propelled and which is constructed or converted to carry oil as cargo in bulk;

(12) "oil terminal facility" means an onshore or offshore facility of any kind, and related appurtenances, including but not limited to a deepwater port, bulk storage facility or marina, located in, on, or under the surface of the land or waters of the state, including tide and submerged land, which is used for the purpose of transferring, processing, refining, or storing oil; a vessel is considered an oil terminal facility only when it is used to make a ship-to-ship transfer of oil, and when it is traveling between the place of the ship-to-ship transfer of oil and an oil terminal facility;

(13) "operator" means the person who, through contract, lease, sublease, or otherwise, exerts general supervision and control of activities at the facility; the term includes, by way of example and not limitation, a prime or general contractor, the master of a vessel and the master's employer, or any other person who, personally or through an agent or contractor, undertakes the general functioning of the facility;

(14) "person" means an individual, public or private corporation, political subdivision, government agency, municipality, industry, partnership, association, firm, trust, estate, or any other entity;

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

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

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

* * *

(18) "self-propelled" means propelled either by machinery aboard the vessel, or by a tug or other vessel secured into the cargo-carrying vessel through special hull design;

* * *

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

(21) "vessel" includes tank vessels and oil barges;

- - - - -

I hope you find this information helpful. Please let me know if I can be of further assistance.

TML:pl
93-056.plm

(i) response contractor information. If a plan holder proposes to use the services of a response action contractor to meet a requirement of AS 46.04.030 or of 18 AAC 75.400 — 18 AAC 75.495, the plan holder shall include a true, correct, and complete list of all contractors, with names, addresses, telephone numbers, and affiliation by company, and a copy of the contract or a summary which clearly demonstrates

(1) the contractor's obligation to respond if a discharge occurs and the contractor's liability to the plan holder for the contractor's failure to respond or for an inadequate response;

(2) the contractor's availability to respond to a department-conducted discharge exercise as well as an actual discharge; and

(3) that equipment and other spill response resources to be provided by the contractor are maintained in a state of readiness and are compatible with the type of facility or operation and the oil product handled by the plan holder.

(j) training. In addition to maintaining continuous compliance with other applicable state and federal training requirements, the plan holder shall demonstrate that designated oil spill response personnel are trained and kept current in the specifics of plan implementation, including deployment of containment boom, operation of skimmers and lightering equipment, and organization and mobilization of personnel and resources. The plan holder shall ensure that proof of training is maintained for three years and is made available to the department upon request. (Eff. 5/14/92, Register 122)

Authority: AS 46.03.020

AS 46.04.030

AS 46.04.070

18 AAC 75.455. DEPARTMENT REVIEW PROCEDURES. (a) Within seven days after receipt of an application and plan, the department will determine if the application and plan are sufficient for public review. If the application or plan is not sufficient for public review, the department will request the necessary additional information from the applicant.

(b) When the department determines that an application and plan are sufficient for public review, the department will

(1) send a notice setting a 30-day comment period to the Department of Natural Resources, the Department of Fish and Game, affected coastal districts and regional citizens advisory councils, and persons who have made a written request for information regarding submission subject to review under this section;

(2) direct the applicant to provide a copy of the application and the plan to the Department of Natural Resources, the Department of Fish and Game, affected coastal districts and regional citizens advisory councils, and other persons designated by the department;

(3) set a date, within the 18th to 25th day of the 30-day comment period, by which the department will convey to the applicant any request from the department or a person reviewing the application that the department finds necessary to make a determination that the application or plan is complete; and

(4) publish one 30-day notice of the application, in the manner described in 18 AAC 15.050(b), stating the deadline for comments established under (1) of this subsection and the date established under (3) of this subsection for conveying requests for additional information; the applicant is responsible for paying the cost of the notice under this paragraph.

(c) The notice published under (b) of this section will state that a copy of the application and plan are available for review at the district and regional offices of the department nearest to the affected area of the state. It is the applicant's responsibility to provide a copy of the application and plan if the department receives a request for a copy.

(d) If, by the date set under (b)(3) of this section, the department determines that additional information is necessary to evaluate the application or plan, the department will

(1) notify the applicant of the information needed; and

(2) extend the 30-day comment period established under (b)(1) of this section until the information is received, plus 10 days.

(e) If the department determines that additional information is necessary under (d) of this section and requests the information from the applicant, the applicant shall send a copy of any additional information requested to the department and to the Department of Natural Resources, the Department of Fish and Game, affected coastal districts and regional citizens advisory councils, and other persons designated by the department.

(f) Upon receipt by the department of the additional information requested under (d) of this section, the department will provide to the parties described in (e) of this section notice of (1) receipt of the information and (2) the final comment deadline, as extended.

(g) The department will make a determination as to whether an application and plan are complete within seven days after the receipt of any additional information under (e) of this section or, if no additional information was requested under (d) of this section, within two days after the end of the 30-day comment period established under (b)(1) of this section.

(h) Notwithstanding the review procedures set out in this section, if, at any time after receipt of an application and plan, and after consultation with the Department of Natural Resources, the Department of Fish and Game, and affected coastal districts and regional citizens advisory councils, the department determines that all infor-

mation necessary to evaluate the application and plan has been received, the department will, in its discretion, find the application and plan complete. However, no decision will be made under (i) of this section until after the comment deadline established under (b)(1) of this section.

(i) Following the comment deadline established under (b)(1) of this section, including any extension under (d)(2) of this section, and within 65 days after the department determines that an application and plan are complete, the department will approve, approve with conditions, or disapprove a plan.

(j) The department will, if it determines good cause exists, hold a public hearing on an application and plan in the manner provided under 18 AAC 15.060.

(k) To assist the department in its review of contingency plans under this chapter, the department will enter into an annual agreement with the Department of Natural Resources and the Department of Fish and Game to provide expertise regarding protection of fish and game, state land, areas of public concern, and environmentally sensitive areas. (Eff. 5/14/92, Register 122)

Authority: AS 46.03.020

AS 46.04.030

AS 46.04.070

18 AAC 75.457. EMERGENCY MODIFICATION OF REVIEW PROCESS. If, due to an emergency as described in AS 26.23 or AS 46.04.080 or other applicable law, an applicant needs an expedited review, or if the commissioner or the commissioner's designee finds that an expedited review is necessary for the preservation of the public peace, health, safety, or general welfare, the commissioner or the commissioner's designee will, in that person's discretion, and consistent with the requirements of AS 46.04.030(j) that a copy of the applicant's plan be provided to the Department of Fish and Game and the Department of Natural Resources, modify the review process established in 18 AAC 75.455 as necessary to meet the emergency. Any modifications in the review process made under this section will be made in writing by the commissioner or the commissioner's designee based upon clear and convincing evidence of a need for the modification. (Eff. 5/14/92, Register 122)

Authority: AS 46.03.020

AS 46.04.030

AS 46.04.070

18 AAC 75.459. PREISSUANCE CONFERENCE. (a) At any time before the department's decision under 18 AAC 75.460, the applicant may request a preissuance conference from the appropriate regional office of the department. The request may be made orally, and will be granted if the applicant demonstrates that holding a conference will materially aid the department in reaching its decision.

water, the time requirement for clean up of the portion of the discharge that enters the receiving environment may, in the department's discretion, be within the shortest possible time consistent with minimizing damage to the environment.

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

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

(n) A tank vessel or oil barge that is conducting, or is available only for conducting, oil discharge response operations is exempt from the requirements of (c) of this section if the tank vessel or oil barge has received prior approval of the department. The department may approve exemptions under this subsection upon application and presentation of information required by the department.

(o) A holder of an approved contingency plan does not violate the terms of the contingency plan by furnishing to another plan holder, with the approval of the department, equipment, materials, or personnel to assist the other plan holder in a response to an oil discharge. The plan holder shall replace or return the transferred equipment, materials, and personnel as soon as feasible. The department shall by regulation determine the maximum amount of equipment, materials, or personnel and the maximum amount of time for which it will approve a transfer.

(p) The department shall approve or disapprove a proposed contingency plan within 65 days after it receives a complete application for approval under this section.

(q) In this section,

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

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

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