

ALASKA LEGISLATURE COMMITTEE FILES, 1989-1990 8672
6030 HOUSE RESOURCES

439

Continuation of fiscal note analysis

FY91 Line Itemization -

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

EXPLANATION

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

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

Continuation of Explanation

the identification of areas that are biologically suitable for oil dispersant use, identification of areas of highest priority for containment or defensive booming, identification of criteria for deploying shoreline cleanup equipment and crews, and the selection of shoreline cleanup techniques that will maximize biological benefits and minimize biological costs.

At present, ADF&G has no funding allocated to perform this function. Between February 16 and June 30 of FY90, ADF&G will need: 9 months of HBIII, 2.25 months of CTIII, and 1.0 month of CartIII. ADF&G will also require two computers and funding for other support services as noted above.

STATE OF ALASKA
1990 LEGISLATIVE SESSION

BILL VERSION: HB 567 No. 2
PUBLISH DATE: HOUSE 2/22/90

FISCAL NOTE

REQUEST:

Revision Date: _____ Agency Affected: Environ Conservation
 Title: An Act relating to the strengthening
of the DEC's oil contingency plan BRU: Environ Quality
 Sponsor: Rules Committee Components: Environ Quality
 Requestor: Governor

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 91	FY 92	FY 93	FY 94	FY 95	FY 96
PERSONAL SERVICES	489.8	489.8	489.8	489.8	489.8	489.8
TRAVEL	30.0	30.0	30.0	30.0	30.0	30.0
CONTRACTUAL	376.0	376.0	376.0	376.0	376.0	376.0
SUPPLIES	9.5	9.5	9.5	9.5	9.5	9.5
EQUIPMENT	47.5	47.5	47.5	47.5	47.5	47.5
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	952.8	952.8	952.8	952.8	952.8	952.8

CAPITAL	0.0	0.0	0.0	0.0	0.0	0.0
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REVENUE	0.0	0.0	0.0	0.0	0.0	0.0
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FUNDING: (Thousands of Dollars)

GENERAL FUND	952.8	952.8	952.8	952.8	952.8	952.8
FEDERAL FUNDS	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	952.8	952.8	952.8	952.8	952.8	952.8

POSITIONS:

FULL-TIME	9.0	9.0	9.0	9.0	9.0	9.0
PART-TIME	1.0	1.0	1.0	1.0	1.0	1.0
TEMPORARY	0.0	0.0	0.0	0.0	0.0	0.0

ANALYSIS: (Attach a separate page if necessary)
Impact on FY 90 depends upon effective date.

Prepared by: Dan Easton
Division: Environmental Quality

Phone: 465-2640
Date: 2/16/90

Approved by Commissioner: [Signature]
Agency: Environmental Conservation

Date: 2/19/90

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

A M E N D M E N T

OFFERED IN THE HOUSE

TO: CSHB 567 (Resources)

Page 2, line 1, after "discharge":

Insert "prevention and"

Page 2, line 2, after "state":

Insert ", including agreements relating to development and enforcement of vessel traffic control and monitoring systems for tank vessels and oil barges operating in or near the waters of the state"

3,000,000.00

400,000.00
2,000,000.00

AMENDMENT TO HB 567

APRIL 11, 1990

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

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

(1) \$300, per incident, for each barrel transported or \$20,000,000, whichever is greater, subject to a maximum of \$500,000,000, for a tank vessel or barge carrying crude oil;

(2) \$100, per incident, for each barrel transported or \$1,000,000, whichever is greater, subject to a maximum of \$35,000,000, for a tank vessel or barge carrying noncrude oil or other hazardous substance in an amount of 5,000 barrels or more [RESPONSIBILITY FOR THE TANK VESSEL OR BARGE HAS BEEN ACCEPTED BY THE DEPARTMENT. FINANCIAL RESPONSIBILITY UNDER THIS SUBSECTION ...]

PROPOSED AMENDMENT FOR H.B. 567

APRIL 11, 1990

SEC. 10. AS 46.04.040(e) is amended to read:

(e) Financial responsibility may be demonstrated by self-insurance, insurance, surety, [OR] guarantee, or other security approved by the department or other security approved by the department, under terms the department may prescribe. An action brought under AS 46.03.758, 46.03.759, 46.03.760 (a) or (e), 46.03.822, or AS 46.03.030(g) [or to collect penalties imposed under AS 46.03.759] may be brought [in a state court] directly against the insurer or another person providing evidence of financial responsibility. The applicant, and an insurer, surety, [or] guarantor, or other person providing security approved by the department shall, if otherwise doing business in the state, appoint an agent for service of process in the state. An insurer must either be:

(1) authorized by the Department of Commerce and Economic Development to sell insurance in the state [or be an unauthorized insurer listed by the Department of Commerce and Economic Development as not disapproved for use in the state.];
or

(2) an established insurer of pollution risk, or a club or association of insureds covering pollution risk, satisfactory to the department.

ANALYSIS OF AMENDMENTS
 HB 567
 DATED APRIL 11, 1990

1. The first amendment is to Sec. 8 and changes the level of financial responsibility for crude oil vessels to an amount that corresponds with the size of cargo transported based on a \$300 per barrel rate with a minimum coverage of \$20 Million and a cap at \$500 Million. This is consistent with the methodology currently recommended for non-crude oil transporters and recognizes the wide variance in crude oil tanker cargoes in Alaska. The actual affect on financial responsibility levels is illustrated in the following vessels which for these purposes are presumed to be fully loaded:

EXAMPLES OF FINANCIAL RESPONSIBILITY AT TOTAL
 VESSEL CAPACITY

Vessel	Size (MDWT)	Capacity [98%] 7.2 bbl/ton	Financial Responsibility Required
Northern Lion	265	1,869,840	\$560,952,000 [\$500,000,000]
Brooklyn	225	1,587,600	\$476,280,000
Chevron Oregon	150	1,058,400	\$317,520,000
Cove Liberty	69	486,864	\$146,059,200
Nordic Sun	20	141,120	\$ 42,336,000
Note: Actual cargoes often are less than maximum rated capacities.			

The second change to this section is to change the basis of financial responsibility from vessel size to cargo for noncrude as well as crude.

2. The second amendment is to Sec. 10. AS 46.04.040(e) which is amended to address the problems of acquiring insurance coverage under the proposed higher levels of financial responsibility. The changes are intended to make proof of coverage through a protection and indemnity club of insurers (often referred to as "P & I Clubs"). There are several provisions of current law (AS 46.04.040(e)) that prevent P & I Clubs from being accepted as insurers:

1. The required "direct action" against the insurer;
2. The requirement that the direct action may be brought in Alaska "state court";
3. The requirement that the insurer be authorized by the Division of Insurance to sell insurance in Alaska, or be listed by that Division as an authorized insurer "not disapproved for use"; and
4. The requirement that the insurer appoint an agent of service of process in the state.

This proposed amendment deletes three of the 4 provisions listed above and retain the "direct action" requirement.

A M E N D M E N T

OFFERED IN THE HOUSE

TO: CSHB 567 (Resources)

Page 4, lines 1 - 2:

Delete "of the best available technology by the applicant"

Insert "by the applicant of the best technology that was available at the time the contingency plan was submitted or renewed [OF THE BEST AVAILABLE TECHNOLOGY BY THE APPLICANT]"

A M E N D M E N T

OFFERED IN THE HOUSE

TO: CSHB 567 (Resources)

Page 5, lines 20 - 21:

Delete "a reasonable opportunity"

Insert "no more than 15 days"

A M E N D M E N T

OFFERED IN THE HOUSE

TO: CSHB 567 (Resources)

Page 5, line 22:

Delete "An applicant for a"

Insert "The holder of an approved"

A M E N D M E N T

OFFERED IN THE HOUSE

TO: CSHB 567 (Resources)

Page 5, line 23:

Delete "maintain in its area of operation"

Insert "have access to"

Page 5, line 24:

Delete "in its area of operation"

A M E N D M E N T

OFFERED IN THE HOUSE

TO: CSHB 567 (Resources)

Page 8, lines 18 - 19:

Delete "or other hazardous substance"

A M E N D M E N T

OFFERED IN THE HOUSE

TO: CSHB 567 (Resources)

Page 14, after line 6: ✓

Insert a new bill section to read:

"* Sec. 19. AS 46.04.900(15) is amended to read:

(15) "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;"

Renumber the following bill sections accordingly.

A M E N D M E N T

OFFERED IN THE HOUSE

TO: CSHB 567 (Resources)

Page 7, line 24, after "\$50,000,000":

Insert "For purposes of this subsection, an oil terminal facility that stores both crude oil and noncrude oil is subject to the financial responsibility requirements applicable to the type of facility that corresponds to the type of oil storage that predominates at the facility. However, if the facility stores more noncrude oil than crude oil, the \$25 per incident, per barrel requirement of this subsection applies to each barrel of oil storage capacity at the facility"

SB 504/HB 567

Facility Contingency Plans Strengthened

- o Strengthens DEC's authority to require and enforce oil discharge contingency plans.
- o Requires that plans be implemented.
- o Clarifies authority to approve, modify or revoke.
- o Requires response capability to remove a realistic maximum oil discharge within the shortest possible time.
- o Provides opportunity for other agencies to comment on contingency plans.
- o Authorizes DEC to revoke contingency plans if not implemented.

Financial Responsibility Requirements Strengthened

- o Strengthens financial responsibility requirements.
- o Establishes a 50,000,000 financial responsibility limit for crude oil terminal facilities.
- o Establishes a 1,000,000 financial responsibility for non-crude oil terminal facilities with a storage capacity of 5,000 to 10,000 barrels.
- o Establishes a 50,000,000 financial responsibility for non-crude terminal facilities with a storage capacity of more than 10,000 barrels.
- o Establishes 50,000,000 financial responsibility for offshore exploration and product facilities.
- o Establishes 50,000,000 financial responsibility for crude oil tank vessels and barges.
- o Establishes a 20,000,000 financial responsibility requirement for > 300 gross ton tank vessels and barges carrying non-crude oil. (300 gross tons = 224,400 gallons = 5342 bbls)
- o Establishes a 1,000,000 financial responsibility requirement for < 300 gross ton tank vessels and barges carrying non-crude.

Extend the Requirement for Contingency Plans

- o Lowers the effective storage capacity above which a contingency plan is required from 10,000 barrels to 5,000 barrels.

Inspection Authority Strengthened

- o Authorizes DEC to enter and inspect oil terminal facilities, exploration and production facilities, tank vessels and oil barges.
- o Authorizes DEC to examine structural integrity of tank vessels and oil barges.

Spill Scenario

- o Defines "realistic maximum oil discharge" and requires facility plans to address this.

SENATE BILL 504/HOUSE BILL 567
Oil Contingency Plan Requirements
Financial Responsibility Requirements
Vessel Inspection
2/21/90 Version

This bill has three major components:

- 1) It strengthens the Department of Environmental Conservation's (DEC's) authority to require and enforce oil discharge contingency plans.
- 2) It strengthens the financial responsibility requirements for shippers of oil and hazardous substances.
- 3) Authorizes DEC to inspect facilities related to the production and shipping of oil, as well as examine the structural integrity of tank vessels and oil barges.

OIL CONTINGENCY PLAN REQUIREMENTS

- * Establishes an explicit standard for facility oil spill contingency plans to include a response capability for response to a realistic maximum discharge within the shortest possible time.
- * Requires that contingency plans be properly implemented and gives DEC authority to revoke the plan if not properly implemented.
- * Provides the Department of Fish & Game and the Department of Natural Resources an opportunity to comment on contingency plans.
- * Requires contingency plans for facilities with a storage capacity of 5,000 barrels or more.

FINANCIAL RESPONSIBILITY REQUIREMENTS

- * Requires proof of financial responsibility in the following amounts:

Crude oil terminal facilities	\$ 50 million
Non-crude oil terminal facilities	
5,000 - 10,000 barrel storage capacity	\$ 1 million
Non-crude oil terminal facilities	
10,000+ barrel storage capacity	\$ 50 million
Offshore exploration and production facilities	\$ 50 million
Onshore exploration and production facilities	Not addressed
Crude oil tank vessels and barges	\$500 million
Non-crude oil tank vessels and barges	
Larger than 300 gross tons	\$ 20 million
Non-crude oil tank vessels and barges	
Smaller than 300 gross tons	\$ 1 million
- * Ensures that shippers and handlers of oil and hazardous substances have the financial capability of dealing with the damages from a major spill.

VESSEL INSPECTION

- * Provides the state with the authority to inspect tankers to ensure their structural integrity.
- * Asserts affirmatively that the state may inspect oil terminal facilities, exploration and production facilities, tank vessels and oil barges.

SB 503/HB 566

Use of Response Fund During Declared Disaster Emergency

- o Authorizes Governor to use money from response fund for declared disaster emergencies.

Expand Role of Division of Emergency Services (DES) during Declared Disaster Emergency

- o Clarifies DEC emergency order authority and distinguishes it from DES's authority to respond to declared disaster emergencies.
- o Returns duties of DES during catastrophic oil discharges from DEC during declared disaster emergencies.

State Emergency Response Commission

- o Establishes the Alaska State Emergency Response Commission.

SB 502/HB 565

Strengthen Civil Penalties

- o Modify legislative findings in non-crude oil damages and penalty provisions to make consistent.
- o Increase maximum per gallon civil penalties for non-crude oil discharges into various receiving environments.
- o Provides that spiller establish the amount of oil which entered each receiving environment.
- o Removes penalty exemption for non-crude oil discharges less than 18,000 gallons.
- o Allows spiller to deduct the number of gallons of non-crude oil recovered within 36 hours of the spill.
- o Allows that civil penalties may be offset without affecting ability to recover damages, restoration or other costs.
- o Removes penalty exemption for crude oil discharges of less than 18,000 gallons.
- o Changes the multiplier for negligence to five
- o Revises and streamlines civil penalties and damages statute.
- o Raises civil penalties for 500 to 2,500 per day for each violation.
- o Expands states authority to recover attorney fees.
- o Removes mitigation defense and makes other changes to Section 11.

Amends Rule 82. Alaska Rule of Civil Procedure

- o Rule 82 amended by Section 10.

For the Record

R Foster 24 MAR 90

Notes: CSHB 567

1. Commercial insurance only covers insured for 3rd party liability, not for cost of clean up on insured's own property.
 2. Testimony from various representatives of the electric co-op or fuel carriers have expressed doubts about even the availability of necessary coverage.
 3. Letter presented by Mr. Ray Gillespie (lobbyist for Petro Marine, Crowley and Delta Western), indicated the state would not be able to apply statutes requiring coverage when such coverage is unavailable in the marketplace. This issue needs to be addressed, if not now, certainly before final passage.
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Specific amendments or points to be read into the record:

1. Although Section 13 EXEMPTIONS relieves the 72 hour clean up requirements of Section 4 (page 5, line 16-18), facilities greater than 10,000 barrels (420,000 gallons) are not excluded. From my experience in rural Alaska, this mandate to clean up the maximum oil discharge possible, is unrealistic. There are limited resources to draw from and little suggestion as to where a community or firm is to obtain assistance. This is all very new to the industry and I feel relief is in order for non-crude facilities. Paragraph "j", page 5, lines 8-12 list necessary arrangements that must be on stand by at any given time. This is far beyond the capacity of communities like Nome or Naknek or Kotzebue. I would suggest we limit this immediate response to crude oil terminals, not applying to non-crude facilities. The contingency plans that are approved by the department can address the response appropriate for the non-crude operation.
2. Section 20, page 14, SURVEY OF SMALL NONCRUDE OIL TERMINAL FACILITIES. This survey is required to be completed by January 31, 1991. From past experience with state government, and from the condition of rural community tank farms, let alone the sheer number of facilities, there is no way this will get done. The department has grown so fast and the issues so complex, they will need far more time to adequately address the

requirement and provide a meaningful report to the legislature.

3. SECTION 20, page 14, SURVEY OF SMALL NONCRUDE OIL TERMINAL FACILITIES. This section directs the department to survey and inspect all storage facilities between 5,000 and 10,000 barrels (210,000 - 420,000 gallons) in the state but I don't see a fiscal note attached to fund this survey project. I can only imagine there are some 200-300 such facilities all across the state. This could be a significant financial burden and heavily impacts this bill.

4. Finally, reference the letter from Mr. Dave Hutchens letter to Rep. Davidson, regarding the insurance issue, SECTION 5, page 6, line 13. This increase from current law, \$10.00 per barrel, to \$35.00 per barrel, as proposed in this bill, has serious financial consequences for small rural utilities and I would request the committee reconsider the \$25.00 per barrel, as Mr. Hutchens suggests.

DEPARTMENT OF ENVIRONMENTAL CONSERVATION

Barges in Alaska trade

CROWLEY MARITIME CORPORATION

BARGE NAME:	OFFICIAL #:	GRT:	CAPACITY:
B&R 5	284930	247	4019 BBL.
" 80-1	261941	109	1667
" 80-2	271650	121	1904
" 80-3	271651	121	1904
120-1	622202	318	4128
120-2	627820	318	4128
548	502911	320	5300
160-1	517535	530	9402
160-4	525850	569	8608
BC 151	507673	629	10000
BC 152	507674	629	10000
BC 154	508468	629	10000
210	524569	1256	6010
211	524570	1256	6010
212	524571	1256	6010
213	524572	1256	6010
218	524577	1256	6010
251	518644	2637	33800
255	520633	2971	49508
312-3	292360	3157	6905
ARCTIC CHALLENGER	574046	4717	51000
PAC 570	503135	5057	57878
CORDOVA	522842	5051	6370
NIKISKI	517734	5051	6370
KETCHIKAN	526660	5051	6370
PALMER	516339	5051	36568
KODIAK	229125	5051	10562
JUNEAU	524833	5145	6370
101	513536	5498	103968
102	528789	7970	154608
450-2	570955	8123	136882
450-3	571894	5123	148242
450-4	573167	8123	149726
450-6	531167	8987	148502
450-7	633295	8987	148238
450-8	631688	8123	148238
450-9	636557	8134	148238
450-11	647827	8923	148502
250-10			
UT-10			

FOSS MARITIME

FOSS 255

525880

2637

39114

FOSS 256	525881	2637	37505
FOSS 248-P1	625262	2060	33354
FOSS 248-P2	630656	2060	35000
FOSS TONGASS	515337	744	11394
SEA "76"	519398	830	12654
TESORO ENERGIZER	646688	4757	75510
PHOENIX 121	651632	3218	48000
HANALEA		1840	27315

YUTANA DARGE LINDO, INC.

O.B. 2	650872	207	3291
O.B. 3	009449	473	7150
O.B. 4	002718	473	7150
O.B. 5	295687	495	7600
O.B. 6	532598	485	7600
O.B. STEWART	008755	265	2000
FRANK TURNER #1	273812	105	1274
POLARIS #6	175265	62	714
RIVERWAYS #7	274076	129	1476
RIVERWAYS #8	293716	319	4376
RIVERWAYS #9	287766	319	4394
RIVERWAYS #10	176106	454	7123
RIVERWAYS #11	271235	353	5000

NORTHLAND SERVICES, INC.

ZPC 401		1739	30000
KVICHAK TRADER		2227	39000

UNITED MARINE TUG AND BARGE, INC.

MLC 281	590980		
MLC 282	596502		
MLC 283	639882		
MLC 330	645770		
MLC 331	646673		
MLC 332	648909		
MLC 333	653764		
MLC 340-1	657024	5214	74100
MLC 344	647179	5214	74100

ALASKA MARINE CHARTERS, INC.

INVESTIGATOR	638965	1730	16031
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Original sponsor(s): Rules/Governor

1 IN THE HOUSE

BY THE RESOURCES COMMITTEE

2 CS FOR HOUSE BILL NO 567 (Resources)

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 SIXTEENTH LEGISLATURE - SECOND SESSION

5 A BILL

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

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

19 * ^{NEW Sec.} Section 1. AS 29.35.020 is amended by adding a new subsection to
20 read:

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

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

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

1 (1) the discharge was caused by the gross negligence or
2 intentional act of the defendant;

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

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

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

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

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

17 (2) provide for cooperative review of oil discharge preven-
18 tion and contingency plans submitted to the department under AS 46.-
19 04.030;

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

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

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

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

27 (a) A person may not cause or permit the operation of an oil terminal
28 facility in the state unless an oil discharge prevention and contin-
29 gency plan for the facility has been approved by the department and

1 has been properly implemented [. THE DEPARTMENT IS THE ONLY STATE
2 AGENCY WHICH HAS THE POWER TO APPROVE AN OIL DISCHARGE CONTINGENCY
3 PLAN FOR THE PURPOSES OF THIS SECTION].

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

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

19 (d) A [AN OIL DISCHARGE] contingency plan must be renewed at
20 least every three years.

21 (e) The department may attach reasonable terms and conditions to
22 its approval or modification of a [AN OIL DISCHARGE] contingency plan
23 that the department [WHICH IT] determines are necessary to ensure
24 [INSURE] that the applicant for a [AN OIL DISCHARGE] contingency plan
25 has access to sufficient resources to protect environmentally sensi-
26 tive areas and to contain, clean up, and mitigate potential oil dis-
27 charges at or from the facility or vessel as provided in (j) of this
28 section, and to ensure that the applicant properly implements the
29 contingency plan [WITHIN THE SHORTEST FEASIBLE TIME]. The [OIL

1 DISCHARGE] contingency plan must provide for the use of the best
2 available technology by the applicant. The department may require an
3 applicant or holder of an approved contingency plan to take steps
4 necessary to demonstrate its ability to carry out the contingency
5 plan, including

- 6 (1) periodic training;
- 7 (2) response team exercises; and
- 8 (3) verifying access to inventories of available equipment,
9 supplies, and personnel.

10 (f) The department, after notice and opportunity for hearing,
11 may modify its approval of a [AN OIL DISCHARGE] contingency plan if
12 the department [IT] determines that a change has occurred in the
13 operation of a facility [, MARINA] or vessel necessitating an amended
14 or supplemented plan, or the operator's discharge experience demon-
15 strates a necessity for modification. The department, after notice
16 and opportunity for hearing, may revoke its approval of a [AN OIL
17 DISCHARGE] contingency plan if the department [IT] determines that

- 18 (1) approval was obtained by fraud or misrepresentation;
- 19 (2) the operator does not have access to the quality or
20 quantity of resources identified in the plan; [OR]
- 21 (3) a term or condition of approval or modification has
22 been violated; or
- 23 (4) the plan is not been properly implemented.

24 (g) Failure of a holder of an approved or modified [OIL DIS-
25 CHARGE] contingency plan to properly implement the plan, or to have
26 access to the quality or quantity of resources identified in the plan
27 or [AND, IN THE EVENT OF A SPILL,] to respond with those resources as
28 required under (j) of this section in the event of a spill. [WITHIN
29 THE SHORTEST FEASIBLE TIME] is a violation of this chapter for

1 purposes of AS 46.03.760(a), 46.03.765, 46.03.790, and any other
2 applicable law. If the holder of an approved or modified [OIL DIS-
3 CHARGE] contingency plan fails to respond to and conduct cleanup
4 operations of an unpermitted discharge of crude oil with the quality
5 and quantity of resources identified in the plan and in a manner
6 required under the plan, the holder is strictly liable, jointly and
7 severally, for the civil penalty assessed under AS 46.03.758, 46.03.-
8 759, or 46.03.760 against any other person for that discharge.

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

10 (h) The department is the only state agency that has the power
11 to approve, modify, or revoke a contingency plan for the purposes of
12 this section. The department shall exercise its power under this
13 section in a timely manner. Except for prosecutions under AS 46.03.-
14 790(b), it is not a defense to an action brought for a violation of
15 (a) - (c) of this section that the person charged believed that a
16 current contingency plan had been approved by the department.

17 (i) Before the department approves or modifies a contingency
18 plan under this section, the department shall provide a copy of the
19 contingency plan to the Department of Fish and Game and to the Depart-
20 ment of Natural Resources and shall provide those departments a rea-
21 sonable opportunity to review and comment on the plan.

22 (j) An applicant for contingency plan required under this
23 section shall maintain in its area of operation, singly or in conjunc-
24 tion with other operators in its area of operation, sufficient oil
25 discharge containment, storage, transfer, and removal equipment,
26 personnel, and resources to rapidly contain a

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

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

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

13 (k) In this section

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

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

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

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

23 (C) fulfill the assurances espoused in the plan in the
24 manner described in the plan;

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

28 (E) successfully demonstrate the ability to carry out
29 the plan when required by the department under (e) of this

1 section;

2 (3) "realistic maximum oil discharge" means the maximum and
3 most damaging oil discharge that the department estimates could occur
4 during the lifetime of the vessel or facility based on the size,
5 location, and capacity of the vessel or facility; on the department's
6 knowledge and experience with the vessel or facility or with similar
7 vessels or facilities; and on the department's analysis of possible
8 mishaps at the vessel or facility or at similar vessels or facilities.

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

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

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

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

1 financial responsibility for an onshore exploration or production
2 facility may not be less than \$20,000,000 per incident.

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

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

11 (1) \$500,000,000 per incident for a tank vessel or barge
12 carrying crude oil;

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

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

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

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

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

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

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

8 (e) Financial responsibility may be demonstrated by self-insur-
9 ance, insurance, surety, [OR] guarantee, or other security approved by
10 the department, under terms the department may prescribe. An action
11 brought under AS 46.03.758, 46.03.759, 46.03.760(a) or (e), 46.03.822,
12 or AS 46.04.030(g) [OR TO COLLECT PENALTIES IMPOSED UNDER AS 46.03.-
13 759] may be brought in a state court directly against the insurer or
14 another person providing evidence of financial responsibility. The
15 applicant, and an insurer, surety, [OR] guarantor, or other person
16 providing security approved by the department shall appoint an agent
17 for service of process in the state. An insurer must either be au-
18 thorized by the Department of Commerce and Economic Development to
19 sell insurance in the state or be an unauthorized insurer listed by
20 the Department of Commerce and Economic Development as not disapproved
21 for use in the state.

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

23 (f) Acceptance of proof of financial responsibility expires
24 (1) one year from its issuance for self-insurance;
25 (2) on the effective date of a change in the surety bond,
26 guarantee, [OR] insurance agreement, or other security approved by the
27 department; or
28 (3) on the expiration or cancellation of the surety bond,
29 guarantee, [OR] insurance agreement, or other security approved by the

1 department.

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

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

11 * Sec. 13. AS 46.04 is amended by adding a new section to read:

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

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

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

1 section is the one represented by the Bureau of Labor Statistics as
2 reflecting most accurately changes in the purchasing power of the
3 dollar for Alaskan consumers.

4 (d) The department shall adopt a regulation announcing

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

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

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

15 * Sec. 14. AS 46.04.050 is amended to read:

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

22 * Sec. 15. AS 46.04.060 is amended to read:

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

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

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

7 * Sec. 16. AS 46.04.200 is amended to read:

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

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

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

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

19 (A) agencies of the state;

20 (B) municipalities of the state;

21 (C) appropriate federal agencies;

22 (D) operators of facilities;

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

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

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

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

4 (c) In preparing and annually reviewing the state master plan,
5 the commissioner shall

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

8 (2) submit the draft plan to the public for review and
9 comment;

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

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

17 * Sec. 17. AS 46.04.210(a) is amended to read:

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

25 * Sec. 18. AS 46.04.900(8) is amended to read:

26 (8) "[OFFSHORE] exploration or production facility" means a
27 platform, vessel, or other facility used to explore for or produce
28 hydrocarbons in the waters of the state or on land in the state; the
29 term does not include vessels used for stratigraphic drilling or other

1 operations that [WHICH] are not authorized or intended to drill to a
2 producing formation;

3 * Sec. 19. AS 46.08.040 is amended to read:

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

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

12 (2) pay all costs incurred

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

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

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

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

28 (3) provide matching funds for participation in federal oil
29 discharge cleanup activities and under 42 U.S.C. 9601 - 9657

1 (Comprehensive Environmental Response, Compensation, and Liability Act
2 of 1980); [AND]

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

6 (5) prepare, review, and revise

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

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

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

15 * Sec. 20. SURVEY OF SMALL NONCRUDE OIL TERMINAL FACILITIES. (a) By
16 January 31, 1992, the Department of Environmental Conservation shall sur-
17 vey, inspect, and prepare an inventory of noncrude oil terminal facilities
18 in the state with an effective storage capacity of 5,000 to 10,000 barrels
19 in order to determine for each facility

20 (1) its actual storage capacity;

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

22 (3) its age, design, construction, and general condition;

23 (4) the design and construction standards applicable or rele-

24 vant;

25 (5) the presence or absence of containment structures and equip-

26 ment;

27 (6) its ability to respond to a release or threatened release;

28 (7) the environmental sensitivity of the surrounding area and
29 the potential risk to the environment if a release occurs;

1 (8) the presence or absence of surface and subsurface pipelines
2 and storage tanks; and

3 (9) other appropriate information.

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

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

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

14 (2) provide each facility with recommendations and technical
15 assistance concerning identified deficiencies.

16 (d) The Department of Environmental Conservation may conduct the
17 inspections required under this section notwithstanding the provisions of
18 AS 46.04.050. The department shall conduct the inspections at reasonable
19 times.

20 * Sec. 21. This Act takes effect immediately under AS 01.10.070(c).
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Original sponsor(s): Rules/Governor

1 IN THE HOUSE

BY THE RESOURCES COMMITTEE

2 CS FOR HOUSE BILL NO 567 (Resources)

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 SIXTEENTH LEGISLATURE - SECOND SESSION

5 A BILL

6 For an Act entitled: "An Act relating to oil discharge prevention and
7 contingency plan requirements, financial respon-
8 sibility requirements related to oil and hazardous
9 substances, and inspection authority of the Depart-
10 ment of Environmental Conservation; authorizing
11 certain additional uses of the oil and hazardous
12 substance release response fund; and providing for an
13 effective date."

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

15 * Section 1. AS 46.03.759(c) is amended to read: *Ruckie*

16 (c) Subject to the \$500,000,000 maximum set under (a) of this
17 section the court shall assess four⁵ times the penalty set out in (a)
18 of this section if the court finds

19 (1) the discharge was caused by the gross negligence or
20 intentional act of the defendant;

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

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

25 * Sec. 2. AS 46.04.020(e) is amended to read:

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

1 (1) facilitate coordinated and effective oil discharge
2 response in the state;

3 (2) provide for cooperative review of oil discharge preven-
4 tion and contingency plans submitted to the department under AS 46.-
5 04.030;

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

9 (4) provide for cooperative oil discharge notification
10 procedures.

11 * Sec. 3. AS 46.04.030 is amended to read:

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

13 (a) A person may not cause or permit the operation of an oil terminal
14 facility in the state unless an oil discharge prevention and contin-
15 gency plan for the facility has been approved by the department and
16 has been properly implemented [. THE DEPARTMENT IS THE ONLY STATE
17 AGENCY WHICH HAS THE POWER TO APPROVE AN OIL DISCHARGE CONTINGENCY
18 PLAN FOR THE PURPOSES OF THIS SECTION].

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

24 (c) A person may not operate a tank vessel or ^{RICKIE} an oil barge
25 within the waters of the state, or cause or permit the transfer of oil
26 to or from a tank vessel or [, OR, AFTER JANUARY 1, 1981, TO OR FROM]
27 an oil barge, unless an oil discharge prevention and contingency plan
28 for the tank vessel or oil barge has been approved by the department
29 and has been properly implemented [EXCEPT FOR PROSECUTIONS UNDER

1 AS 46.03.790(b), IT IS NOT A DEFENSE TO AN ACTION BROUGHT FOR VIOLA-
2 TION OF THIS SUBSECTION THAT THE PERSON CHARGED BELIEVED THAT A CUR-
3 RENT OIL DISCHARGE CONTINGENCY PLAN FOR THE TANK VESSEL OR OIL BARGE
4 HAD BEEN APPROVED BY THE DEPARTMENT].

5 (d) A [AN OIL DISCHARGE] contingency plan must be renewed at
6 least every three years.

7 (e) The department may attach reasonable terms and conditions to
8 its approval or modification of a [AN OIL DISCHARGE] contingency plan
9 that the department [WHICH IT] determines are necessary to ensure
10 [INSURE] that the applicant for a [AN OIL DISCHARGE] contingency plan
11 has access to sufficient resources to protect environmentally sensi-
12 tive areas and to contain, clean up, and mitigate potential oil dis-
13 charges at or from the facility or vessel as provided in (j) of this
14 section, and to ensure that the applicant properly implements the
15 contingency plan [WITHIN THE SHORTEST FEASIBLE TIME]. The [OIL DIS-
16 CHARGE] contingency plan must provide for the use of the best avail-
17 able technology by the applicant. The department may require an
18 applicant or holder of an approved contingency plan to take steps
19 necessary to demonstrate its ability to carry out the contingency
20 plan, including

- 21 (1) periodic training;
22 (2) response team exercises; and
23 (3) verifying access to inventories of available equipment,
24 supplies, and personnel.

25 (f) The department, after notice and opportunity for hearing,
26 may modify its approval of a [AN OIL DISCHARGE] contingency plan if
27 the department [IT] determines that a change has occurred in the
28 operation of a facility [, MARINA] or vessel necessitating an amended
29 or supplemented plan, or the operator's discharge experience

1 demonstrates a necessity for modification. The department, after
2 notice and opportunity for hearing, may revoke its approval of a [AN
3 OIL DISCHARGE] contingency plan if the department [IT] determines that

4 (1) approval was obtained by fraud or misrepresentation;

5 (2) the operator does not have access to the quality or
6 quantity of resources identified in the plan; [OR]

7 (3) a term or condition of approval or modification has
8 been violated; or

9 (4) the plan has not been properly implemented.

10 (g) Failure of a holder of an approved or modified [OIL DIS-
11 CHARGE] contingency plan to properly implement the plan, or to have
12 access to the quality or quantity of resources identified in the plan
13 or [AND, IN THE EVENT OF A SPILL,] to respond with those resources as
14 required under (j) of this section in the event of a spill, [WITHIN
15 THE SHORTEST FEASIBLE TIME] is a violation of this chapter for pur-
16 poses of AS 46.03.760(a), 46.03.765, 46.03.790, and any other applica-
17 ble law. If the holder of an approved or modified [OIL DISCHARGE]
18 contingency plan fails to respond to and conduct cleanup operations of
19 an unpermitted discharge of crude oil with the quality and quantity of
20 resources identified in the plan and in a manner required under the
21 plan, the holder is strictly liable, jointly and severally, for the
22 civil penalty assessed under AS 46.03.758, 46.03.759, or 46.03.760
23 against any other person for that discharge.

24 * Sec. 4. AS 46.04.030 is amended by adding new subsections to read:

25 (h) The department is the only state agency that has the power
26 to approve, modify, or revoke a contingency plan for the purposes of
27 this section. The department shall exercise its power under this
28 section in a timely manner. Except for prosecutions under AS 46.03.-
29 790(b), it is not a defense to an action brought for a violation of

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DEC only

1 (a) - (c) of this section that the person charged believed that a
2 current contingency plan had been approved by the department.

3 (i) Before the department approves or modifies a contingency
4 plan under this section, the department shall provide a copy of the
5 contingency plan to the Department of Fish and Game and to the Depart-
6 ment of Natural Resources and shall provide those departments a rea-
7 sonable opportunity to review and comment on the plan.

8 (j) An applicant for a contingency plan required under this
9 section shall maintain in its area of operation, singly or in conjunc-
10 tion with other operators in its area of operation, sufficient oil
11 discharge containment, storage, transfer, and removal equipment,
12 personnel, and resources to rapidly ^{respond} ~~contain~~ a

13 (1) realistic maximum oil discharge and to remove that
14 discharge within the shortest possible time if the contingency plan is
15 for an ^{deleted offshore deals w/ both on shore + offshore} exploration or production facility;

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

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

28 (k) In this section

29 (1) "contingency plan" means an oil discharge prevention

1 and contingency plan required under this section;

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

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

7 (a) A person may not cause or permit the operation of an oil
8 terminal facility in the state unless the person has furnished to the
9 department, and the department has approved, proof of financial abil-
10 ity to respond in damages. Proof of financial responsibility for a
11 crude oil terminal may not be less than \$50,000,000 per incident.
12 Proof of financial responsibility for a noncrude oil terminal may not
13 be less than \$25 per barrel ^{or 1 million} for the first 80,000 barrels of total
14 noncrude oil storage capacity at the terminal and \$50 per barrel for
15 each barrel of noncrude oil storage capacity that exceeds 80,000
16 barrels [WHICH HAS BEEN ACCEPTED BY THE DEPARTMENT. ABILITY TO RE-
17 SPOND IN DAMAGES NEED NOT EXCEED \$50,000,000 BUT MUST BE IN AN AMOUNT
18 (1) NOT LESS THAN \$10, PER INCIDENT, FOR EACH BARREL OF STORAGE CAPAC-
19 ITY AT THE OIL TERMINAL FACILITY: OR (2) \$1,000,000, WHICHEVER IS
20 GREATER]. *Maximum \$50 million*

21 * Sec. 6. AS 46.04.040(b) is amended to read:

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

29 * Sec. 7. AS 46.04.040(c) is amended to read:

Rucker
2/24/81

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

8 (1) \$500,000,000 per incident for a tank vessel or barge
9 carrying crude oil;

10 (2) \$100 per barrel of storage capacity or \$1,000,000,
11 whichever is greater, for a tank vessel or barge carrying noncrude oil
12 or other hazardous substance in an amount of 5,000 barrels or more
13 [RESPONSIBILITY FOR THE TANK VESSEL OR BARGE HAS BEEN ACCEPTED BY THE
14 DEPARTMENT. FINANCIAL RESPONSIBILITY UNDER THIS SUBSECTION SHALL BE
15 IN THE FOLLOWING AMOUNTS:

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

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

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

26 * Sec. 8. AS 46.04.040(d) is amended to read:

27 (d) Except for prosecutions under AS 46.03.790(b), it is not a
28 defense to an action brought for violation of (a) - (c) [(c)] of this
29 section that the person charged believed in good faith that proof of

1 financial ability to respond in damages had been furnished to, and
2 approved by, the department [THE VESSEL OPERATOR POSSESSED PROOF OF
3 FINANCIAL RESPONSIBILITY ACCEPTED BY THE DEPARTMENT].

4 * Sec. 9. AS 46.04.040(e) is amended to read:

5 (e) Financial responsibility may be demonstrated by self-insur-
6 ance, insurance, surety, [OR] guarantee, or other security approved by
7 the department, under terms the department may prescribe. An action
8 brought under AS 46.03.758, 46.03.759, 46.03.760(a) or (e), 46.03.822,
9 or AS 46.04.030(g) [OR TO COLLECT PENALTIES IMPOSED UNDER AS 46.03.-
10 759] may be brought in a state court directly against the insurer or
11 another person providing evidence of financial responsibility. The
12 applicant, and an insurer, surety, [OR] guarantor, or other person
13 providing security approved by the department shall appoint an agent
14 for service of process in the state. An insurer must either be au-
15 thorized by the Department of Commerce and Economic Development to
16 sell insurance in the state or be an unauthorized insurer listed by
17 the Department of Commerce and Economic Development as not disapproved
18 for use in the state.

19 * Sec. 10. AS 46.04.040(f) is amended to read:

20 (f) Acceptance of proof of financial responsibility expires

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

22 (2) on the effective date of a change in the surety bond,
23 guarantee, [OR] insurance agreement, or other security approved by the
24 department; or

25 (3) on the expiration or cancellation of the surety bond,
26 guarantee, [OR] insurance agreement, or other security approved by the
27 department.

28 * Sec. 11. AS 46.04.040(g) is amended to read:

29 (g) The person whose proof of financial responsibility is

1 accepted by the department under this section shall notify the depart-
2 ment at least 30 days before the effective date of a change, expira-
3 tion or cancellation in the surety bond, guarantee, [OR] insurance
4 agreement, or other security approved by the department. Application
5 for renewal of acceptance of proof of financial responsibility under
6 this section must be filed at least 30 days before the date of ex-
7 piration.

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

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

16 (b) The dollar amounts change on October 1 of each year. After
17 calculation of the new amounts, the resulting amounts shall be rounded
18 to the nearest cent.

19 (c) If the index is revised, the percentage of change is cal-
20 culated on the basis of the revised index. If a revision of the index
21 changes the reference base index, a revised reference base index is
22 determined by multiplying the reference base index applicable by the
23 rebasing factor furnished by the United States Bureau of Labor Statis-
24 tics. If the index is superseded, the index referred to in this sec-
25 tion is the one represented by the Bureau of Labor Statistics as
26 reflecting most accurately changes in the purchasing power of the
27 dollar for Alaskan consumers.

28 (d) The department shall adopt a regulation announcing

29 (1) on or before June 30 of each year, the changes in

1 dollar amounts required by (b) of this section; and

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

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

10 * Sec. 13. AS 46.04.050 is amended to read:

11 Sec. 46.04.050. EXEMPTIONS. Because of the restricted nature of
12 the operations and the minimal danger to the environment posed by the
13 activities, AS 46.04.030, 46.04.040 and 46.04.060 do not apply to an
14 oil terminal facility that has an effective storage capacity of less
15 than 5,000 [10,000] barrels of crude oil or less than 10,000 barrels
16 of noncrude oil.

17 * Sec. 14. AS 46.04.060 is amended to read:

18 Sec. 46.04.060. INSPECTIONS. ^{Adm.} In addition to other rights of
19 access or inspection conferred upon the department by law or other-
20 wise, the department may at reasonable times enter and inspect oil
21 [OIL] terminal facilities, [OFFSHORE] exploration and production
22 facilities, tank vessels, and oil barges within the territorial juris-
23 isdiction of the state in order [ARE SUBJECT TO INSPECTION BY THE DE-
24 PARTMENT] to

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

26 or

27 ~~(2)~~ (2) examine the structural integrity of tank vessels and
28 oil barges. { terminals & pipelines

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

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

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

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

8 (2) clarify and specify the respective responsibilities of
9 each of the following in the assessment, containment, and cleanup of a
10 catastrophic oil discharge or of a significant discharge of a hazard-
11 ous substance into the environment of the state:

12 (A) agencies of the state;

13 (B) municipalities of the state;

14 (C) appropriate federal agencies;

15 (D) operators of facilities;

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

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

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

23 (4) identify actions necessary to reduce the likelihood of
24 catastrophic oil discharges and significant discharges of hazardous
25 substances.

26 (c) In preparing and annually reviewing the state master plan,
27 the commissioner shall

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

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

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

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

10 * Sec. 16. AS 46.04.210(a) is amended to read:

11 (a) For any region of the state, the boundaries of which are
12 determined by the commissioner by regulation, in which the department
13 is required to review and approve an oil discharge prevention and
14 contingency plan submitted by a person under AS 46.04.030, the depart-
15 ment shall prepare and annually review and revise a regional master
16 oil and hazardous substance discharge [AND] prevention and contingency
17 plan.

18 * Sec. 17. AS 46.04.900(8) is amended to read:

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

25 * Sec. 18. AS 46.04.900 is amended by adding a new paragraph to read:

26 (18) "realistic maximum oil discharge" means the maximum and
27 most damaging oil discharge that the department estimates could occur
28 during the lifetime of the vessel or facility based on the size,
29 location, and capacity of the vessel or facility; on the department's

1 knowledge and experience with the vessel or facility or with similar
2 vessels or facilities; and on the department's analysis of possible
3 mishaps at the vessel or facility or at similar vessels or facilities.

4 * Sec. 19. AS 46.08.040 is amended to read:

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

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

13 (2) pay all costs incurred

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

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

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

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

29 (3) provide matching funds for participation in federal oil

1 discharge cleanup activities and under 42 U.S.C. 9601 - 9657 (Compre-
2 hensive Environmental Response, Compensation, and Liability Act of
3 1980); [AND]

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

7 (5) prepare, review, and revise

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

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

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

16 * Sec. 20. SURVEY OF SMALL NONCRUDE OIL TERMINAL FACILITIES. By
17 January 25, 1992, the Department of Environmental Conservation shall sur-
18 vey, inspect, and prepare an inventory of noncrude oil terminal facilities
19 in the state with an effective storage capacity of 5,000 to 10,000 barrels
20 and report to the legislature its written recommendations concerning dis-
21 charge prevention and contingency requirements or design review require-
22 ments that should be enacted for these facilities.

23 * Sec. 21. This Act takes effect immediately under AS 01.10.070(c).
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29

Original sponsor(s): Rules/Governor

1 IN THE HOUSE

BY THE RESOURCES COMMITTEE

2 CS FOR HOUSE BILL NO 567 (Resources)

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 SIXTEENTH LEGISLATURE - SECOND SESSION

5 A BILL

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

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

19 * ^{NEW Sec.} Section 1. AS 29.35.020 is amended by adding a new subsection to
20 read:

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

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

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

1 (1) the discharge was caused by the gross negligence or
2 intentional act of the defendant;

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

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

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

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

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

17 (2) provide for cooperative review of oil discharge preven-
18 tion and contingency plans submitted to the department under AS 46.-
19 04.030;

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

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

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

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

27 (a) A person may not cause or permit the operation of an oil terminal
28 facility in the state unless an oil discharge prevention and contin-
29 gency plan for the facility has been approved by the department and

1 has been properly implemented [. THE DEPARTMENT IS THE ONLY STATE
2 AGENCY WHICH HAS THE POWER TO APPROVE AN OIL DISCHARGE CONTINGENCY
3 PLAN FOR THE PURPOSES OF THIS SECTION].

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

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

19 (d) A [AN OIL DISCHARGE] contingency plan must be renewed at
20 least every three years.

21 (e) The department may attach reasonable terms and conditions to
22 its approval or modification of a [AN OIL DISCHARGE] contingency plan
23 that the department [WHICH IT] determines are necessary to ensure
24 [INSURE] that the applicant for a [AN OIL DISCHARGE] contingency plan
25 has access to sufficient resources to protect environmentally sensi-
26 tive areas and to contain, clean up, and mitigate potential oil dis-
27 charges at or from the facility or vessel as provided in (j) of this
28 section, and to ensure that the applicant properly implements the
29 contingency plan [WITHIN THE SHORTEST FEASIBLE TIME]. The {OIL

1 DISCHARGE] contingency plan must provide for the use of the best
2 available technology by the applicant. The department may require an
3 applicant or holder of an approved contingency plan to take steps
4 necessary to demonstrate its ability to carry out the contingency
5 plan, including

- 6 (1) periodic training;
- 7 (2) response team exercises; and
- 8 (3) verifying access to inventories of available equipment,
9 supplies, and personnel.

10 (f) The department, after notice and opportunity for hearing,
11 may modify its approval of a [AN OIL DISCHARGE] contingency plan if
12 the department [IT] determines that a change has occurred in the
13 operation of a facility [, MARINA] or vessel necessitating an amended
14 or supplemented plan, or the operator's discharge experience demon-
15 strates a necessity for modification. The department, after notice
16 and opportunity for hearing, may revoke its approval of a [AN OIL
17 DISCHARGE] contingency plan if the department [IT] determines that

- 18 (1) approval was obtained by fraud or misrepresentation;
- 19 (2) the operator does not have access to the quality or
20 quantity of resources identified in the plan; [OR]
- 21 (3) a term or condition of approval or modification has
22 been violated; or
- 23 (4) the plan has not been properly implemented.

24 (g) Failure of a holder of an approved or modified [OIL DIS-
25 CHARGE] contingency plan to properly implement the plan, or to have
26 access to the quality or quantity of resources identified in the plan
27 or [AND, IN THE EVENT OF A SPILL,] to respond with those resources as
28 required under (j) of this section in the event of a spill. [WITHIN
29 THE SHORTEST FEASIBLE TIME] is a violation of this chapter for

1 purposes of AS 46.03.760(a), 46.03.765, 46.03.790, and any other
2 applicable law. If the holder of an approved or modified [OIL DIS-
3 CHARGE] contingency plan fails to respond to and conduct cleanup
4 operations of an unpermitted discharge of crude oil with the quality
5 and quantity of resources identified in the plan and in a manner
6 required under the plan, the holder is strictly liable, jointly and
7 severally, for the civil penalty assessed under AS 46.03.758, 46.03.-
8 759, or 46.03.760 against any other person for that discharge.

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

10 (h) The department is the only state agency that has the power
11 to approve, modify, or revoke a contingency plan for the purposes of
12 this section. The department shall exercise its power under this
13 section in a timely manner. Except for prosecutions under AS 46.03.-
14 790(b), it is not a defense to an action brought for a violation of
15 (a) - (c) of this section that the person charged believed that a
16 current contingency plan had been approved by the department.

17 (i) Before the department approves or modifies a contingency
18 plan under this section, the department shall provide a copy of the
19 contingency plan to the Department of Fish and Game and to the Depart-
20 ment of Natural Resources and shall provide those departments a rea-
21 sonable opportunity to review and comment on the plan.

22 (j) An applicant for a contingency plan required under this
23 section shall maintain in its area of operation, singly or in conjunc-
24 tion with other operators in its area of operation, sufficient oil
25 discharge containment, storage, transfer, and removal equipment,
26 personnel, and resources to rapidly contain a

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

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

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

13 (k) In this section

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

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

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

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

23 (C) fulfill the assurances espoused in the plan in the
24 manner described in the plan;

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

28 (E) successfully demonstrate the ability to carry out
29 the plan when required by the department under (e) of this

1 section;

2 (3) "realistic maximum oil discharge" means the maximum and
3 most damaging oil discharge that the department estimates could occur
4 during the lifetime of the vessel or facility based on the size,
5 location, and capacity of the vessel or facility; on the department's
6 knowledge and experience with the vessel or facility or with similar
7 vessels or facilities; and on the department's analysis of possible
8 mishaps at the vessel or facility or at similar vessels or facilities.

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

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

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

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

1 financial responsibility for an onshore exploration or production
2 facility may not be less than \$20,000,000 per incident.

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

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

11 (1) \$500,000,000 per incident for a tank vessel or barge
12 carrying crude oil;

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

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

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

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

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

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

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

8 (e) Financial responsibility may be demonstrated by self-insur-
9 ance, insurance, surety, [OR] guarantee, or other security approved by
10 the department, under terms the department may prescribe. An action
11 brought under AS 46.03.758, 46.03.759, 46.03.760(a) or (e), 46.03.822,
12 or AS 46.04.030(g) [OR TO COLLECT PENALTIES IMPOSED UNDER AS 46.03.-
13 759] may be brought in a state court directly against the insurer or
14 another person providing evidence of financial responsibility. The
15 applicant, and an insurer, surety, [OR] guarantor, or other person
16 providing security approved by the department shall appoint an agent
17 for service of process in the state. An insurer must either be au-
18 thorized by the Department of Commerce and Economic Development to
19 sell insurance in the state or be an unauthorized insurer listed by
20 the Department of Commerce and Economic Development as not disapproved
21 for use in the state.

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

23 (f) Acceptance of proof of financial responsibility expires
24 (1) one year from its issuance for self-insurance;
25 (2) on the effective date of a change in the surety bond,
26 guarantee, [OR] insurance agreement, or other security approved by the
27 department; or
28 (3) on the expiration or cancellation of the surety bond,
29 guarantee, [OR] insurance agreement, or other security approved by the

1 department.

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

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

11 * Sec. 13. AS 46.04 is amended by adding a new section to read:

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

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

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

1 section is the one represented by the Bureau of Labor Statistics as
2 reflecting most accurately changes in the purchasing power of the
3 dollar for Alaskan consumers.

4 (d) The department shall adopt a regulation announcing

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

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

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

15 * S. 14. AS 46.04.050 is amended to read:

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

22 * Sec. 15. AS 46.04.060 is amended to read:

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

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

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

7 * Sec. 16. AS 46.04.200 is amended to read:

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

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

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

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

19 (A) agencies of the state;

20 (B) municipalities of the state;

21 (C) appropriate federal agencies;

22 (D) operators of facilities;

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

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

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

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

4 (c) In preparing and annually reviewing the state master plan,
5 the commissioner shall

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

8 (2) submit the draft plan to the public for review and
9 comment;

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

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

17 * Sec. 17. AS 46.04.210(a) is amended to read:

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

25 * Sec. 18. AS 46.04.900(8) is amended to read:

26 (8) "[OFFSHORE] exploration or production facility" means a
27 platform, vessel, or other facility used to explore for or produce
28 hydrocarbons in the waters of the state or on land in the state; the
29 term does not include vessels used for stratigraphic drilling or other

1 operations that [WHICH] are not authorized or intended to drill to a
2 producing formation;

3 * Sec. 19. AS 46.08.040 is amended to read:

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

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

12 (2) pay all costs incurred

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

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

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

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

28 (3) provide matching funds for participation in federal oil
29 discharge cleanup activities and under 42 U.S.C. 9601 - 9657

1 (Comprehensive Environmental Response, Compensation, and Liability Act
2 of 1980); [AND]

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

6 (5) prepare, review, and revise

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

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

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

15 * Sec. 20. SURVEY OF SMALL NONCRUDE OIL TERMINAL FACILITIES. (a) By
16 January 31, 1992, the Department of Environmental Conservation shall sur-
17 vey, inspect, and prepare an inventory of noncrude oil terminal facilities
18 in the state with an effective storage capacity of 5,000 to 10,000 barrels
19 in order to determine for each facility

20 (1) its actual storage capacity;

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

22 (3) its age, design, construction, and general condition;

23 (4) the design and construction standards applicable or rele-
24 vant;

25 (5) the presence or absence of containment structures and equip-
26 ment;

27 (6) its ability to respond to a release or threatened release;

28 (7) the environmental sensitivity of the surrounding area and
29 the potential risk to the environment if a release occurs;

1 (8) the presence or absence of surface and subsurface pipelines
2 and storage tanks; and

3 (9) other appropriate information.

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

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

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

14 (2) provide each facility with recommendations and technical
15 assistance concerning identified deficiencies.

16 (d) The Department of Environmental Conservation may conduct the
17 inspections required under this section notwithstanding the provisions of
18 AS 46.04.050. The department shall conduct the inspections at reasonable
19 times.

20 * Sec. 21. This Act takes effect immediately under AS 01.10.070(c).
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Lauterbach
3/28/90

Original sponsor(s): Rules/Governor

1 IN THE HOUSE

BY THE RESOURCES COMMITTEE

2 CS FOR HOUSE BILL NO 567 (Resources)

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 SIXTEENTH LEGISLATURE - SECOND SESSION

5 A BILL

6 For an Act entitled: "An Act relating to oil discharge prevention and
7 contingency plan requirements, financial respon-
8 sibility requirements related to oil and hazardous
9 substances, and inspection authority of the Depart-
10 ment of Environmental Conservation; authorizing
11 certain additional uses of the oil and hazardous
12 substance release response fund; and providing for an
13 effective date."

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

15 * Section 1. AS 46.03.759(c) is amended to read:

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

19 (1) the discharge was caused by the gross negligence or
20 intentional act of the defendant;

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

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

25 * Sec. 2. AS 46.04.020(e) is amended to read:

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

1 (1) facilitate coordinated and effective oil discharge
2 response in the state;

3 (2) provide for cooperative review of oil discharge preven-
4 tion and contingency plans submitted to the department under AS 46.-
5 04.030;

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

9 (4) provide for cooperative oil discharge notification
10 procedures.

11 * Sec. 3. AS 46.04.030 is amended to read:

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

13 (a) A person may not cause or permit the operation of an oil terminal
14 facility in the state unless an oil discharge prevention and contin-
15 gency plan for the facility has been approved by the department and
16 has been properly implemented [. THE DEPARTMENT IS THE ONLY STATE
17 AGENCY WHICH HAS THE POWER TO APPROVE AN OIL DISCHARGE CONTINGENCY
18 PLAN FOR THE PURPOSES OF THIS SECTION].

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

24 (c) A person may not operate a tank vessel or an oil barge
25 within the waters of the state, or cause or permit the transfer of oil
26 to or from a tank vessel or [, OR, AFTER JANUARY 1, 1981, TO OR FROM]
27 an oil barge, unless an oil discharge prevention and contingency plan
28 for the tank vessel or oil barge has been approved by the department
29 and has been properly implemented [EXCEPT FOR PROSECUTIONS UNDER

1 AS 46.03.790(b), IT IS NOT A DEFENSE TO AN ACTION BROUGHT FOR VIOLA-
2 TION OF THIS SUBSECTION THAT THE PERSON CHARGED BELIEVED THAT A CUR-
3 RENT OIL DISCHARGE CONTINGENCY PLAN FOR THE TANK VESSEL OR OIL BARGE
4 HAD BEEN APPROVED BY THE DEPARTMENT].

5 (d) A [AN OIL DISCHARGE] contingency plan must be renewed at
6 least every three years.

7 (e) The department may attach reasonable terms and conditions to
8 its approval or modification of a [AN OIL DISCHARGE] contingency plan
9 that the department [WHICH IT] determines are necessary to ensure
10 [INSURE] that the applicant for a [AN OIL DISCHARGE] contingency plan
11 has access to sufficient resources to protect environmentally sensi-
12 tive areas and to contain, clean up, and mitigate potential oil dis-
13 charges at or from the facility or vessel as provided in (j) of this
14 section, and to ensure that the applicant properly implements the
15 contingency plan [WITHIN THE SHORTEST FEASIBLE TIME]. The [OIL DIS-
16 CHARGE] contingency plan must provide for the use of the best avail-
17 able technology by the applicant. The department may require an
18 applicant or holder of an approved contingency plan to take steps
19 necessary to demonstrate its ability to carry out the contingency
20 plan, including

- 21 (1) periodic training;
22 (2) response team exercises; and
23 (3) verifying access to inventories of available equipment,
24 supplies, and personnel.

25 (f) The department, after notice and opportunity for hearing,
26 may modify its approval of a [AN OIL DISCHARGE] contingency plan if
27 the department [IT] determines that a change has occurred in the
28 operation of a facility [, MARINA] or vessel necessitating an amended
29 or supplemented plan, or the operator's discharge experience

1 demonstrates a necessity for modification. The department, after
2 notice and opportunity for hearing, may revoke its approval of a [AN
3 OIL DISCHARGE] contingency plan if the department [IT] determines that

4 (1) approval was obtained by fraud or misrepresentation;

5 (2) the operator does not have access to the quality or
6 quantity of resources identified in the plan; [OR]

7 (3) a term or condition of approval or modification has
8 been violated; or

9 (4) the plan has not been properly implemented.

10 (g) Failure of a holder of an approved or modified [OIL DIS-
11 CHARGE] contingency plan to properly implement the plan, or to have
12 access to the quality or quantity of resources identified in the plan
13 or [AND, IN THE EVENT OF A SPILL,] to respond with those resources as
14 required under (j) of this section in the event of a spill, [WITHIN
15 THE SHORTEST FEASIBLE TIME] is a violation of this chapter for pur-
16 poses of AS 46.03.760(a), 46.03.765, 46.03.790, and any other applica-
17 ble law. If the holder of an approved or modified [OIL DISCHARGE]
18 contingency plan fails to respond to and conduct cleanup operations of
19 an unpermitted discharge of crude oil with the quality and quantity of
20 resources identified in the plan and in a manner required under the
21 plan, the holder is strictly liable, jointly and severally, for the
22 civil penalty assessed under AS 46.03.758, 46.03.759, or 46.03.760
23 against any other person for that discharge.

24 * Sec. 4. AS 46.04.030 is amended by adding new subsections to read:

25 (h) The department is the only state agency that has the power
26 to approve, modify, or revoke a contingency plan for the purposes of
27 this section. The department shall exercise its power under this
28 section in a timely manner. Except for prosecutions under AS 46.03.-
29 790(b), it is not a defense to an action brought for a violation of

1 (a) - (c) of this section that the person charged believed that a
2 current contingency plan had been approved by the department.

3 (i) Before the department approves or modifies a contingency
4 plan under this section, the department shall provide a copy of the
5 contingency plan to the Department of Fish and Game and to the Depart-
6 ment of Natural Resources and shall provide those departments a rea-
7 sonable opportunity to review and comment on the plan.

8 (j) An applicant for a contingency plan required under this
9 section shall maintain in its area of operation, singly or in conjunc-
10 tion with other operators in its area of operation, sufficient oil
11 discharge containment, storage, transfer, and removal equipment,
12 personnel, and resources to rapidly contain a

13 (1) realistic maximum oil discharge and to remove that
14 discharge within the shortest possible time if the contingency plan is
15 for an exploration or production facility;

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

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

28 (k) In this section

29 (1) "contingency plan" means an oil discharge prevention

1 and contingency plan required under this section;

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

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

7 (a) A person may not cause or permit the operation of an oil
8 terminal facility in the state unless the person has furnished to the
9 department, and the department has approved, proof of financial abil-
10 ity to respond in damages. Proof of financial responsibility for a
11 crude oil terminal may not be less than \$50,000,000 per incident.
12 Proof of financial responsibility for a noncrude oil terminal may not
13 be less than \$35 per barrel of total noncrude oil storage capacity at
14 the terminal or [WHICH HAS BEEN ACCEPTED BY THE DEPARTMENT. ABILITY
15 TO RESPOND IN DAMAGES NEED NOT EXCEED \$50,000,000 BUT MUST BE IN AN
16 AMOUNT (1) NOT LESS THAN \$10, PER INCIDENT, FOR EACH BARREL OF STORAGE
17 CAPACITY AT THE OIL TERMINAL FACILITY: OR (2)] \$1,000,000, whichever
18 is greater, subject to a maximum of \$50,000,000.

19 * Sec. 6. AS 46.04.040(b) is amended to read:

20 (b) A [AFTER JULY 1, 1981, A] person may not cause or permit the
21 operation of an [OFFSHORE] exploration or production facility in the
22 state unless the person has furnished to the department, and the
23 department has approved, proof of financial ability to respond in
24 damages [HAS BEEN ACCEPTED BY THE DEPARTMENT]. Proof of financial
25 responsibility for an offshore exploration or production facility may
26 not be less than \$50,000,000 [\$35,000,000] per incident. Proof of
27 financial responsibility for an onshore exploration or production
28 facility may not be less than \$20,000,000 per incident.

29 * Sec. 7. AS 46.04.040(c) is amended to read:

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

8 (1) \$500,000,000 per incident for a tank vessel or barge
9 carrying crude oil;

10 (2) \$100 per barrel of storage capacity or \$1,000,000,
11 whichever is greater, subject to a maximum of \$35,000,000, for a tank
12 vessel or barge carrying noncrude oil or other hazardous substance in
13 an amount of 5,000 barrels or more [RESPONSIBILITY FOR THE TANK VESSEL
14 OR BARGE HAS BEEN ACCEPTED BY THE DEPARTMENT. FINANCIAL RESPONSIBIL-
15 ITY UNDER THIS SUBSECTION SHALL BE IN THE FOLLOWING AMOUNTS:

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

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

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

26 * Sec. 8. AS 46.04.040(d) is amended to read:

27 (d) Except for prosecutions under AS 46.03.790(b), it is not a
28 defense to an action brought for violation of (a) - (c) [(c)] of this
29 section that the person charged believed in good faith that proof of

1 financial ability to respond in damages had been furnished to, and
2 approved by, the department [THE VESSEL OPERATOR POSSESSED PROOF OF
3 FINANCIAL RESPONSIBILITY ACCEPTED BY THE DEPARTMENT].

4 * Sec. 9. AS 46.04.040(e) is amended to read:

5 (e) Financial responsibility may be demonstrated by self-insur-
6 ance, insurance, surety, [OR] guarantee, or other security approved by
7 the department, under terms the department may prescribe. An action
8 brought under AS 46.03.758, 46.03.759, 46.03.760(a) or (e), 46.03.822,
9 or AS 46.04.030(g) [OR TO COLLECT PENALTIES IMPOSED UNDER AS 46.03.-
10 759] may be brought in a state court directly against the insurer or
11 another person providing evidence of financial responsibility. The
12 applicant, and an insurer, surety, [OR] guarantor, or other person
13 providing security approved by the department shall appoint an agent
14 for service of process in the state. An insurer must either be au-
15 thorized by the Department of Commerce and Economic Development to
16 sell insurance in the state or be an unauthorized insurer listed by
17 the Department of Commerce and Economic Development as not disapproved
18 for use in the state.

19 * Sec. 10. AS 46.04.040(f) is amended to read:

20 (f) Acceptance of proof of financial responsibility expires
21 (1) one year from its issuance for self-insurance;
22 (2) on the effective date of a change in the surety bond,
23 guarantee, [OR] insurance agreement, or other security approved by the
24 department; or
25 (3) on the expiration or cancellation of the surety bond,
26 guarantee, [OR] insurance agreement, or other security approved by the
27 department.

28 * Sec. 11. AS 46.04.040(g) is amended to read:

29 (g) The person whose proof of financial responsibility is

1 accepted by the department under this section shall notify the depart-
2 ment at least 30 days before the effective date of a change, expira-
3 tion or cancellation in the surety bond, guarantee, [OR] insurance
4 agreement, or other security approved by the department. Application
5 for renewal of acceptance of proof of financial responsibility under
6 this section must be filed at least 30 days before the date of ex-
7 piration.

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

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

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

21 (c) If the index is revised, the percentage of change is cal-
22 culated on the basis of the revised index. If a revision of the index
23 changes the reference base index, a revised reference base index is
24 determined by multiplying the reference base index applicable by the
25 rebasing factor furnished by the United States Bureau of Labor Statis-
26 tics. If the index is superseded, the index referred to in this sec-
27 tion is the one represented by the Bureau of Labor Statistics as
28 reflecting most accurately changes in the purchasing power of the
29 dollar for Alaskan consumers.

1 (d) The department shall adopt a regulation announcing

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

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

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

12 * Sec. 13. AS 46.04.050 is amended to read:

13 Sec. 46.04.050. EXEMPTIONS. Because of the restricted nature of
14 the operations and the minimal danger to the environment posed by the
15 activities, AS 46.04.030, 46.04.040 and 46.04.060 do not apply to an
16 oil terminal facility that has an effective storage capacity of less
17 than 5,000 [10,000] barrels of crude oil or less than 10,000 barrels
18 of noncrude oil.

19 * Sec. 14. AS 46.04.060 is amended to read:

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

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

28 or

29 (2) examine the structural integrity of tank vessels, oil

1 barges, oil terminal facilities, oil exploration and production facil-
2 ities, pipelines, and other facilities related to the exploration,
3 production, storage, and transportation of oil.

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

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

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

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

12 (2) clarify and specify the respective responsibilities of
13 each of the following in the assessment, containment, and cleanup of a
14 catastrophic oil discharge or of a significant discharge of a hazard-
15 ous substance into the environment of the state:

16 (A) agencies of the state;

17 (B) municipalities of the state;

18 (C) appropriate federal agencies;

19 (D) operators of facilities;

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

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

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

27 (4) identify actions necessary to reduce the likelihood of
28 catastrophic oil discharges and significant discharges of hazardous
29 substances.

1 (c) In preparing and annually reviewing the state master plan,
2 the commissioner shall

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

5 (2) submit the draft plan to the public for review and
6 comment;

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

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

14 * Sec. 16. AS 46.04.210(a) is amended to read:

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

22 * Sec. 17. AS 46.04.900(8) is amended to read:

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

29 * Sec. 18. AS 46.04.900 is amended by adding a new paragraph to read:

1 (18) "realistic maximum oil discharge" means the maximum and
2 most damaging oil discharge that the department estimates could occur
3 during the lifetime of the vessel or facility based on the size,
4 location, and capacity of the vessel or facility; on the department's
5 knowledge and experience with the vessel or facility or with similar
6 vessels or facilities; and on the department's analysis of possible
7 mishaps at the vessel or facility or at similar vessels or facilities.

8 * Sec. 19. AS 46.08.040 is amended to read:

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

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

17 (2) pay all costs incurred

18 (A) to establish and maintain the oil and hazardous
19 substance response office and for the expenses of the oil and
20 hazardous substance response corps and the oil and hazardous
21 substance response depots established by that office;

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

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

1 contingency plan to act in accordance with that plan; and

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

4 (3) provide matching funds for participation in federal oil
5 discharge cleanup activities and under 42 U.S.C. 9601 - 9657 (Compre-
6 hensive Environmental Response, Compensation, and Liability Act of
7 1980); [AND]

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

11 (5) prepare, review, and revise

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

15 (B) a regional master oil and hazardous substance
16 discharge [AND] prevention and contingency plan required by
17 AS 46.04.210; and

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

20 * Sec. 20. SURVEY OF SMALL NONCRUDE OIL TERMINAL FACILITIES. (a) By
21 January 31, 1991, the Department of Environmental Conservation shall sur-
22 vey, inspect, and prepare an inventory of noncrude oil terminal facilities
23 in the state with an effective storage capacity of 5,000 to 10,000 barrels
24 in order to determine for each facility

25 (1) its actual storage capacity;

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

27 (3) its age, design, construction, and general condition;

28 (4) the design and construction standards applicable or rele-

29 vant;

1 (5) the presence or absence of containment structures and equip-
2 ment;

3 (6) its ability to respond to a release or threatened release;

4 (7) the environmental sensitivity of the surrounding area and
5 the potential risk to the environment if a release occurs;

6 (8) the presence or absence of surface and subsurface pipelines
7 and storage tanks; and

8 (9) other appropriate information.

9 (b) By January 31, 1991, the Department of Environmental Conservation
10 shall report to the legislature the results of the survey required under
11 (a) of this section and its written recommendations concerning discharge
12 prevention and contingency requirements or design review requirements that
13 should be enacted for noncrude oil terminal facilities with storage capac-
14 ities of less than 10,000 barrels.

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

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

19 (2) provide each facility with recommendations and technical
20 assistance concerning identified deficiencies.

21 * Sec. 21. This Act takes effect immediately under AS 01.10.070(c).
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To: All Teleconference Sites

From: Rep. Menard, Co-chair House Resources
Rep. Davidson, Co-chair House Resources

Attached is the Governor's new proposal regarding financial responsibility requirements in HB 567. The financial responsibility requirements in the original version of HB 567 have been withdrawn.

Both HB 565 and HB 567 are being modified by the House Resources Committee. Tonight we welcome additional assistance and comments on both bills as we continue our efforts to craft legislation that meets the needs of Alaskans and minimize costs for small utilities and fuel distributors.

NON-CRUDE ISSUES ADDRESSED IN HB 565 AND HB 567

<u>ISSUE</u>	<u>EXISTING LAW</u>	<u>ADMINISTRATION PROPOSAL 3/15/90</u>
Penalty Levels	<p>\$10/gallon for anadromous stream or other freshwater environment;</p> <p>\$2.50/gallon for sensitive or confined saltwater areas;</p> <p>\$1/gallon for unconfined saltwater, public land or freshwater without significant aquatic resources.</p> <p>Subject to a schedule that varies for toxicity, degradability and dispersal characteristics, as well as receiving environment.</p>	<p>\$12.50/gallon for any surface or subsurface freshwater environment;</p> <p>\$8/gallon for sensitive or confined saltwater areas;</p> <p>\$6/gallon for unconfined saltwater, public land or subsurface land.</p> <p>Subject to the existing schedule that varies for toxicity, degradability and dispersal characteristics.</p>
Exemptions	Spills of less than 18,000 gallons <u>are not</u> subject to penalties under AS 46.03.758.	Spills of less than 18,000 gallons <u>are</u> subject to penalties under AS 46.03.758.
Cleanup Credit	Allows the court to deduct the amount of oil removed from the environment when calculating penalties, with no regard for the length of time involved in the cleanup operation.	Allows the court to deduct the amount of oil removed from the environment within the first 36 hours of a discharge onto surface water or land when calculating penalties. Does not allow any credit for subsurface spills.
Financial Responsibility	SEE ATTACHED CHART	SEE ATTACHED CHART
Contingency Plans	Not required for facilities with less than 10,000 barrels storage capacity.	Not required for facilities with less than 10,000 barrels storage capacity. The department would be given the authority to survey, inspect, and inventory facilities with a storage capacity between 5,000 and 10,000 barrels. The department will report back to the legislature within a year with recommendations to address oil spill prevention and response for facilities under 10,000 barrels.

TABLE 1

**Oil Contingency Plan Requirements
Financial Responsibility Requirements
Vessel Inspection**

TYPE OF FACILITY	CURRENT FINANCIAL RESPONSIBILITY REQUIREMENTS	SB 504 HB 567	PROPOSED 3/15 REVISION
Crude Oil Terminals			
> 10,000 bbl.	\$1 million up to \$50 million @ \$10/bbl. capacity	\$50 million	\$50 million
5 - 10,000 bbl.	None	\$50 million	\$50 million
Non-Crude Terminals			
> 10,000 bbl.	\$1 million up to \$50 million @ \$10/bbl. capacity	\$50 million	10 to 20,000 bbl. = \$5 million > 20,000 bbl. = \$10 million
5 to 10,000 bbl.	None	\$1 million	None
Offshore exploration and production facilities	\$35 million	\$50 million	\$50 million
Crude Oil Tank Vessels and Barges	TAPS = \$14 million, Non-TAPS = \$20 million. TAPS covered for an additional \$86 million per vessel.	\$500 million	\$500 million
Non-Crude Oil Tank Vessels and Barges	Tank Vessels = \$20 million, Barges = \$1 million	\$20 million	< 5,000 bbl. = None 5,000 to 10,000 bbl. = \$5 million 10,000 to 50,000 bbl. = \$1 million 50,000 to 100,000 bbl. = \$10 million 100,000 + bbl. = \$20 million

Note: the following notes are not based on a comprehensive review of vessels and facilities; rather, they are examples of how the proposed revisions might affect some operators.

Currently there are 6 Tanker Vessels chartered by Petro-Diamond and Petro-Marine that are under 50,000 bbl. capacity and are required to have \$20 million coverage. Under proposed revisions of 3/15 their Financial Responsibility requirement would drop to \$1 million.

From information provided in contingency plans, all of Yutana Barge Lines barges are under 10,000 bbl., therefore their Financial Responsibility requirement would be cut in half to \$500 thousand.

Crowley has 10 barges listed at over 100,000 bbl., but they are covered by surety bond and not a regular insurance policy.

United Marine Tug and Barge, Inc. has at least 2 barges over 50,000 bbl., so their coverage would increase from \$1 million to \$10 million.