

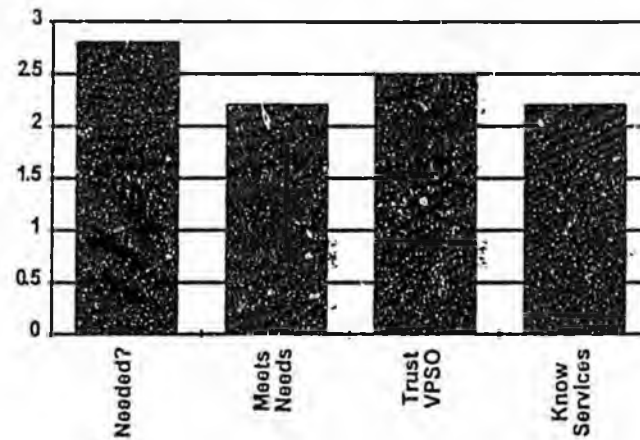
ALASKA LEGISLATURE COMMITTEE FILES 1993-1994 8672

7855 HOUSE JUDICIARY

## D.I - Summary Totals

---

0=strongly disagree, 1=somewhat disagree,  
2=somewhat agree, 3=strongly agree



## D.II - PS Overall Ratings

---

- ◆ Rate 1,2,3 in order of importance with 1 being most important
  - Fire Suppression and Prevention
  - Law Enforcement
  - Emergency Medical Services
  
- ◆ 179 surveys returned
  - Lowest possible score (most important) = 179
  - Highest possible score (least important) = 537

## D.II - PS Services Rating

---

	Fire Services	Law Enforcement	EMS
Angoon	Second	Second	First
Hoonah	Third	Second	First
Hydaburg	Third	First	Second
Kake	Third	First	Second
Kasaan	Third	Second	First
Pelican	Third	Second	First
Saxman	Third	First	Second
Tenakee	Second	Third	First
Thorne Bay	Third	First	Second
Yakutat	Third	First	Second

## D.II - PS Overall Ratings

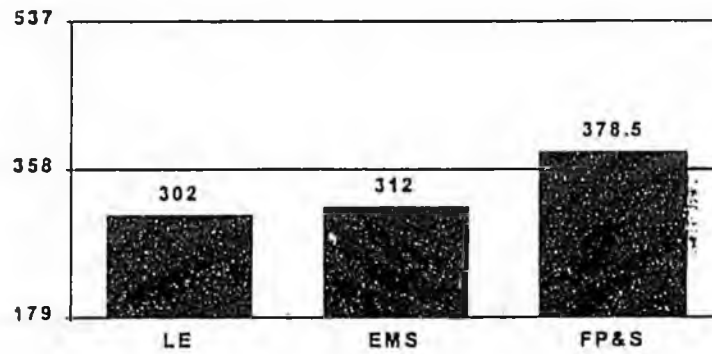
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- ◆ Rate 1,2,3 in order of importance with 1 being most important
  - Fire Suppression and Prevention
  - Law Enforcement
  - Emergency Medical Services
- ◆ 179 surveys returned
  - Lowest possible score (most important) = 179
  - Highest possible score (least important) = 537
- ◆ Actual overall ratings
  - Law Enforcement, 302
  - Emergency Medical, 312
  - Fire Services, 378.5

## D.II - PS Overall Ratings

---

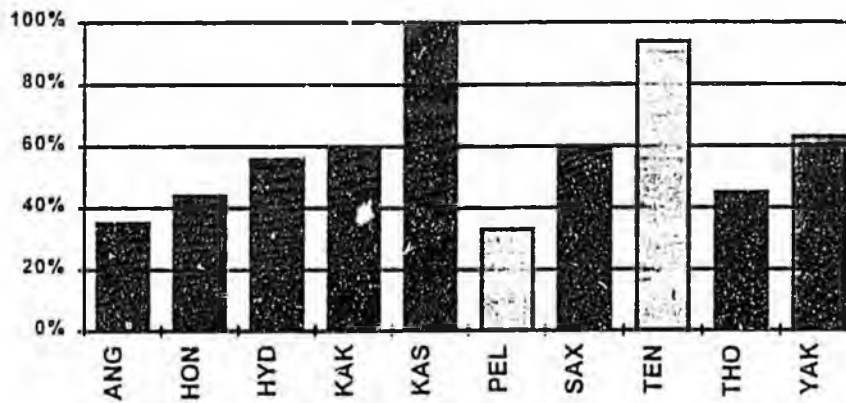
- Lower score = more important
- Range - 179 - 537



## D.III - I used the VPSO services during the past year

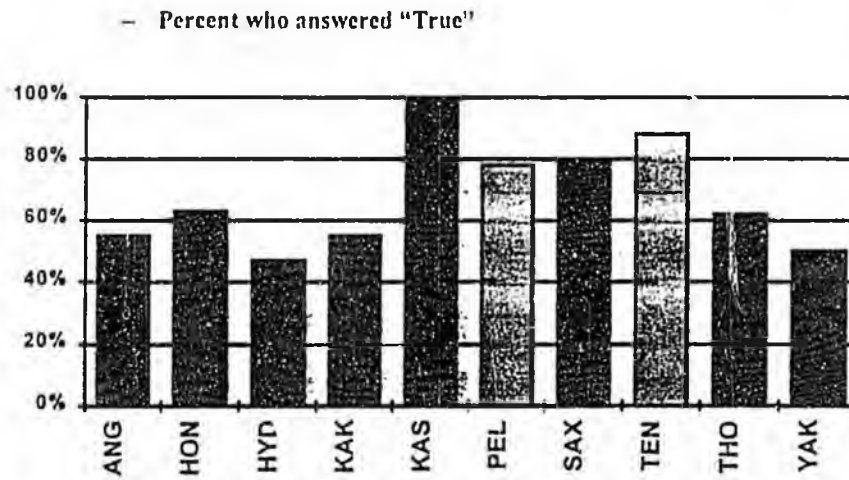
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- Percent who answered "True"



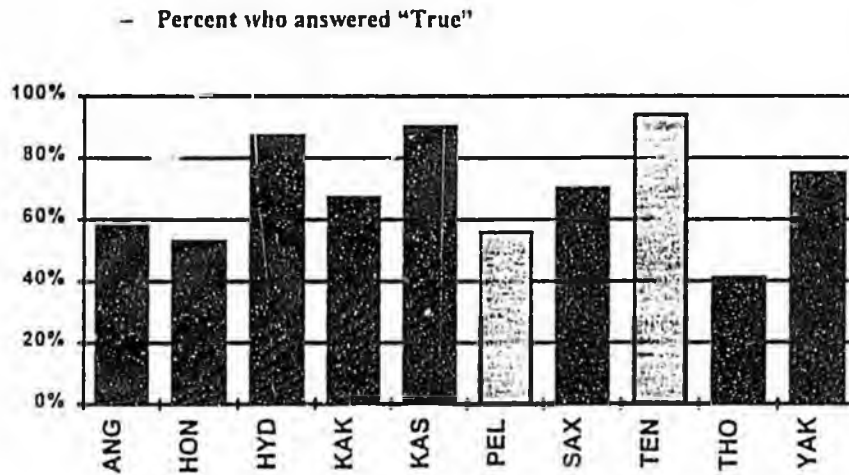
### D.III - I understand my community's role in the program

---



### D.III - I understand AST's role in the program

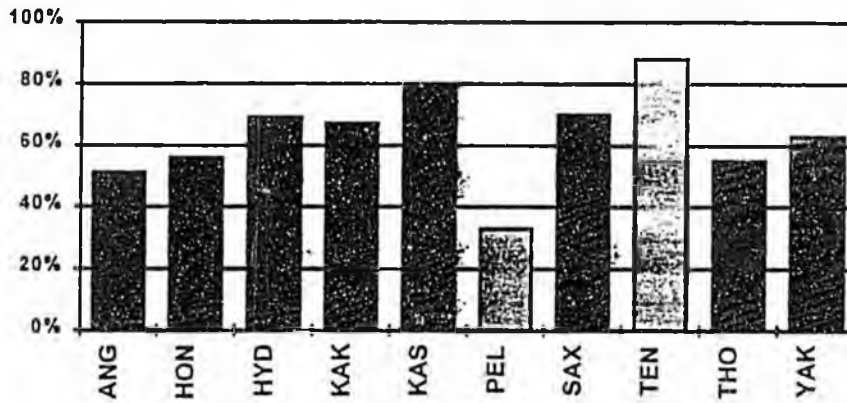
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### D.III - I understand THCC's role

---

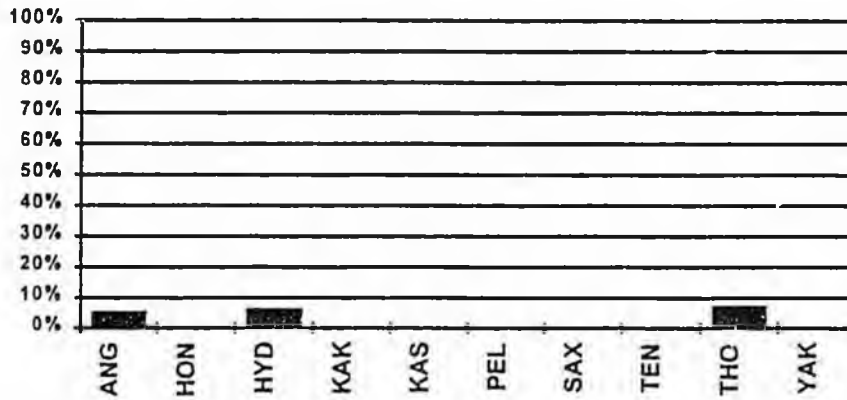
- Percent who answered "True"



### D.III - My community would be better off w/o VPSO

---

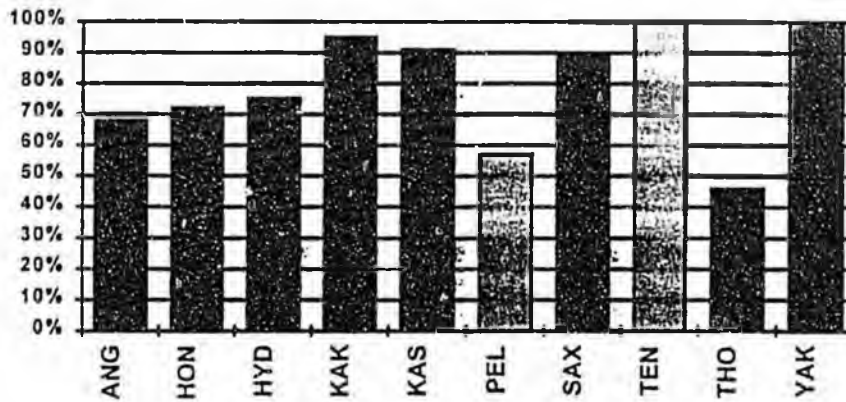
- Percent who answered "True"



### D.III - Our VPSO has the authority of a peace officer

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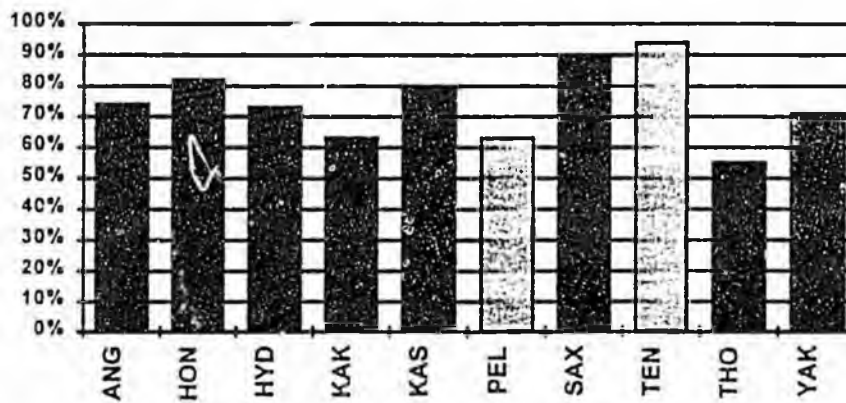
- Percent who answered "True"



### D.III - Train above the level of ETT

---

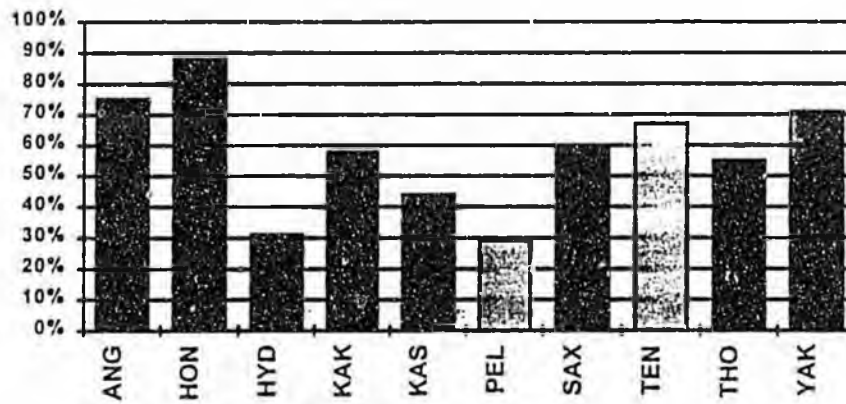
- Percent who answered "True"



### D.III - Our VPSO needs more fire training

---

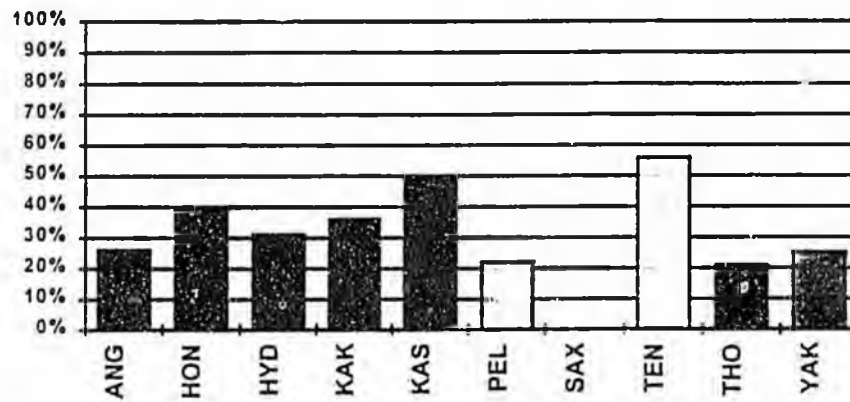
- Percent who answered "True"



### D.III - The Troopers visit often enough

---

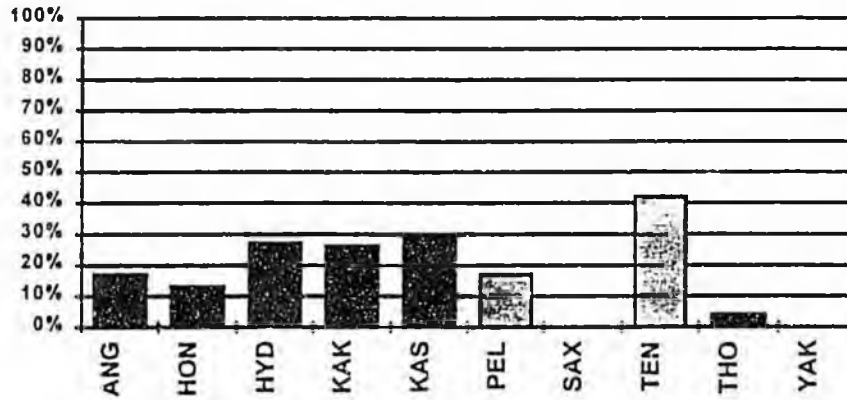
- Percent who answered "True"



### D.III - THCC visits often enough

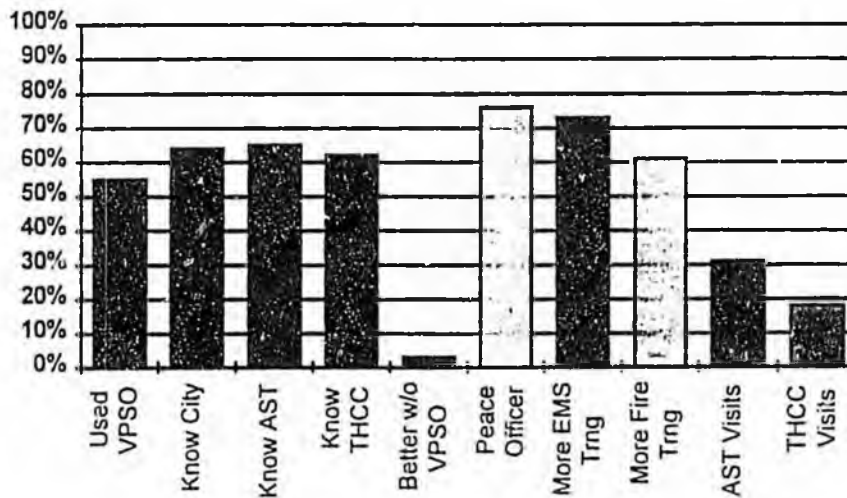
---

- Percent who answered "True"



### D.III - Overall Summary

---



## **D.IV - General Comments**

---

- ◆ **76 persons commented**
  - 9 were irrelevant
- ◆ **21% of comments were concerned about alcohol and illegal drug abuse**
- ◆ **19% were concerned about improper local control**
- ◆ **36% were concerned about law enforcement**
- ◆ **9% concerned EMS**
- ◆ **7% concerned fire services**

## **D.IV General Comments**

---

- ◆ **Most persons who responded want to see more enforcement presence, not less**
- ◆ **The communities with the most negative comments are ones where we had poorly performing VPSOs**
- ◆ **The mostly positive comments come from communities with well performing VPSOs**
- ◆ **They want to see Troopers more often**
- ◆ **They want to see THCC Manager more often**

## **E What does this all mean?**

---

- ◆ **We are providing a needed and used service**
  - 55% who responded used the VPSO service in past year
- ◆ **Although LE rated #1, we need to keep high level of EMS training to meet community desire**
  - LE rated 302, EMS rated 312, Fire rated 378.5
- ◆ **We need to screen our VFSOs more carefully**
  - Positive comments in villages with well performing VPSOs
  - Negative comments in villages with poor performing VPSOs
- ◆ **We (THCC and AST) need to make quality visits that coincide with council meetings**
  - Some confusion about roles
  - Lots of comments about poor local control

## **F - What do we do with this info?**

---

- ◆ **Do it again next year to see if there are changes**
- ◆ **Present it to the funding agency**
  - Hopefully that was done today!
- ◆ **Provide a summary to Legislature**
- ◆ **What do you think?**



**CS FOR HOUSE BILL NO. 93 (CRA)**

**IN THE LEGISLATURE OF THE STATE OF ALASKA**

**EIGHTEENTH LEGISLATURE - FIRST SESSION**

**BY THE HOUSE COMMUNITY AND REGIONAL AFFAIRS COMMITTEE**

**Offered: 3/26/93**

**Referred: Judiciary, Finance**

**Sponsor(s): REPRESENTATIVES FOSTER, Menard, Nicholia**

**A BILL**

**FOR AN ACT ENTITLED**

1 "An Act relating to the village public safety officers program."

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

3 \* Section 1. AS 18.65 is amended by adding a new section to read:

4 **ARTICLE 8. VILLAGE PUBLIC SAFETY OFFICERS.**

5 **Sec. 18.65.670. VILLAGE PUBLIC SAFETY OFFICERS PROGRAM. (a)**

6 There is created in the Department of Public Safety a village public safety officer  
7 program to assist local governments and villages through nonprofit regional  
8 corporations to appoint, train, supervise, and retain persons to serve as village public  
9 safety officers to administer functions relative to the protection of life and property in  
10 rural areas of the state.

11 (b) With funds appropriated for that purpose, the commissioner of public  
12 safety shall provide grants to nonprofit regional corporations for village public safety  
13 officers.

14 (c) The commissioner of public safety may adopt regulations related to village

# FISCAL NOTE

STATE OF ALASKA  
1993 LEGISLATIVE SESSION

BILL NO: CSHB 93

Revision \_\_\_\_\_ Dept. Affected: Public Safety  
 Title: "An Act relating to the village  
public safety officers program." BRU: Alaska State Troopers  
 Sponsor: Representative Foster Component: \_\_\_\_\_  
 Requestor: Representative Foster COMPONENT SERIAL NO. 799

**EXPENDITURES/REVENUES: (Thousands of Dollars) (inflation not included)**

OPERATING	FY 94	FY 95	FY 96	FY 97	FY 98	FY 99
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
<b>TOTAL OPERATING</b>	0.0	0.0	0.0	0.0	0.0	0.0
<b>CAPITAL</b>	0.0	0.0	0.0	0.0	0.0	0.0
REVENUE FUND SOURCE:						

**FUNDING: (Thousands of Dollars)**

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1006 GF/MHTIA						
Other						
<b>TOTAL</b>	0.0	0.0	0.0	0.0	0.0	0.0

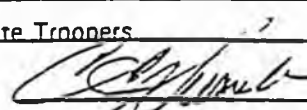
**POSITIONS:**

FULL-TIME	0	0	0	0	0	0
PART-TIME						
TEMPORARY						

Estimate of current year (FY 93) impact: \$ \_\_\_\_\_

**ANALYSIS: (Attach a separate page if necessary.)**

No significant fiscal impact upon the Alaska State Troopers is anticipated.

Prepared By: Francis C. Allan Phone: 269-5691  
 Division: Alaska State Troopers Date: 3/3/93  
 Approved by Commissioner:  Date: 3/4/93  
 Agency: Richard L. Burton, Dept. of Public Safety

PREPARER TO PRC \_\_\_\_\_ LEGISLATIVE OFFICE

For file

SPONSOR STATEMENT

CSHB 93( )

An Act Relating to the Village Public Safety Officers Program  
Representative Richard Foster

This bill would place the Village Public Safety Officer Program into the Alaska Statutes.

The sparsely inhabited communities in rural Alaska face challenges to public safety for individuals threatened with losses to life and property. Every community in the state requires public safety services. The VPSO program, created in 1980, addresses those critical public safety issues in rural Alaskan communities such as reducing loss of life due to fires, drownings, missing persons, and first provider of emergency medical assistance. The VPSO is the trained individual in the community to provide an immediate response to law enforcement issues. The VPSO, as an extension of the Alaska State Troopers, handles serious law enforcement matters until trooper assistance comes upon the scene. The first rung on a public safety career path for interested rural residents is through becoming a trained Village Public Safety Officer.

The VPSO's are the vital partners to the mission of the Department of Public Safety effort in rural Alaska. This bill will formally institute the VPSO program in Alaska statutes, and formalize the program in the Department of Public Safety. This action will enable the department, through regulations, to establish criteria for entry and participation of interested individuals, implement training standards, and provide uniform administrative parameters for the statewide program. Finally, passage of this bill will instill pride within the ranks of those VPSO's now in the frontline public safety efforts in rural Alaska.

**BILL NO:** CSHB 93

**DATE:** March 3, 1993

**TITLE:** "An Act relating to the village public safety officers program"

**CONTACT:** C.E. Swackhammer  
Deputy Commissioner  
465-4322

**POSITION PAPER - Department of Public Safety**

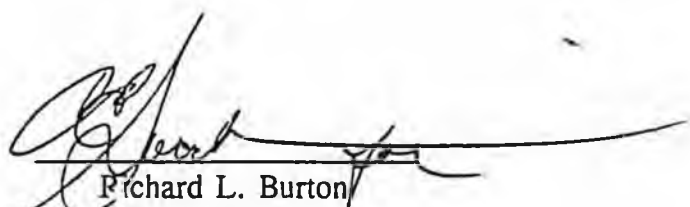
CSHB 93 amends AS 18.65 Police Protection by adding the Village Public Safety Officer Program to the Department of Public Safety's mandated programs, to aid in meeting the Department's responsibility to provide basic public safety services and law enforcement services to Alaska's rural communities. The bill provides the Commissioner with the authority to provide grants to nonprofit regional corporations for village public safety officers.

The Commissioner may adopt regulations related to VPSOs and training requirements for officers and criteria for community participation in this public safety program.

This bill will formalize the Village Public Safety Officer Program as an official responsibility of the Department of Public Safety. The program has informally been associated with the Alaska State Troopers for over twelve years. The passage of the bill is the first step to the orderly progression of this program from a pilot grant endeavor to a career. The results of this bill will be the advancement of qualified persons, skilled in meeting the first responder requirements of delivering public safety in rural villages, to the level of a profession. The ability to regulate the course of the program and its future, define how communities participate, and address the structure of the program will provide management tools to ensure sound efficient use of state resources.

The flexibility of being able to provide grants to nonprofit regional corporations for these services provides the Department the opportunity to continue to encourage village and regional participation in identifying public safety needs and priorities at their level, as well as allowing for the Department to assess the most cost effective approaches to delivering public safety and law enforcement services to rural communities.

The Department of Public Safety does not believe the passage of this bill will have a fiscal impact on the Department. Since this is the foundation step for formalizing and addressing future public safety and law enforcement needs in rural Alaska, this bill requires only that this program be considered as part of the overall mission of the Department.

  
Richard L. Burton  
Commissioner

ALASKA FEDERATION OF NATIVES, INC.

1992 ANNUAL CONVENTION

RESOLUTION 92 - 57

TITLE: SUPPORTING VILLAGE PUBLIC SAFETY OFFICERS

WHEREAS: community based public safety programs are required to maintain public safety in rural Alaska; and

WHEREAS: in 1981, the State Department of Public Safety started the Village Public Safety Officer (VPSO) Program, a community based public safety program, to address law enforcement, fire protection and search and rescue needs in rural Alaska's remote village; and

WHEREAS: since its inception, the VPSO program has dramatically improved public safety in rural Alaskan villages;

NOW THEREFORE BE IT RESOLVED that delegates to the 1992 Annual Convention of the Alaska Federation of Natives, Inc., endorses continuation and strengthening of the Village Public Safety Office Program and calls upon the Legislature to establish the VPSO program in state statute.

SUBMITTED BY: Bristol Bay Native Association

COMMITTEE RECOMMENDATIONS: Do Pass

CONVENTION ACTION: Do Pass



mark

TANANA CHIEFS CONFERENCE, INC.  
Executive Board of Directors

Resolution 93-03

Village Public Safety Officers Program

Whereas, Senator Al Adams of the Alaska Eighteenth Legislature -First Session has introduced Senate Bill Number 15, and

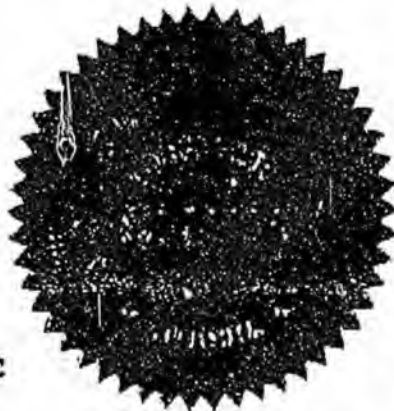
Whereas, Senate Bill Number 15 addresses essential aspects of the Village Public Safety Officers (VPSO) Program, including training and compensation, and


Whereas, Tanana Chiefs Conference, Inc. (TCC) employees VPSO's for the benefit of member villages,

Now Therefore be it Resolved that TCC supports Senate Bill Number 15 and urges the Alaska Legislature to pass this bill into law.

C E R T I F I C A T I O N

I hereby certify that this resolution was duly passed by the Tanana Chiefs Conference, Inc, Executive Board of Directors on January 14, 1993 at Fairbanks, Alaska and that a quorum was duly established.



  
Jonathan Solomon, Sr.  
Secretary/Treasurer

VPSO.DOC

NORTH AND NORTHWEST ALASKA MAYORS' CONFERENCE  
KOTZEBUE, ALASKA  
FEBRUARY 18 & 19, 1993

RESOLUTION NO. 93-27

A RESOLUTION SUPPORTING THE VILLAGE PUBLIC SAFETY OFFICER (VPSO) PROGRAM TO BE INCLUDED IN THE ALASKA STATUTES. REFERENCE SENATE BILL NO. 15 & HOUSE BILL NO. 93.

WHEREAS: the Village Public Safety Officer (VPSO) Program has been of vital importance in rural Alaska for twelve (12) years and VPSO's provide a difficult and critical service to safeguard the lives and property of all residents in their communities; and

WHEREAS: in addition to law enforcement, VPSO's provide a broad range of public safety services, including emergency medical services, fire protection and prevention, water safety, and search and rescue; and

WHEREAS: VPSO's are expected to be on call 24 hours per day, 7 days per week, 365 days per year with no trained relief, and are often personally confronted with life threatening situations while being grossly underpaid; and

WHEREAS: the North and Northwest Alaska Mayors support the Village Public Safety Officer Program in rural Alaska, recognizing the VPSO Program as the first, immediate, and often only public safety service available in rural Alaska; and

WHEREAS: the North and Northwest Alaska Mayors recommend that the State of Alaska formalize the VPSO Program by Alaska Statutory recognition to assure the future of service. Presently, the VPSO Program exists as a budgetary line item in the Department of Public Safety's annual budget. Statutory authority would legitimize and put VPSO Program standards and procedures into the Alaska Administrative Code, thus providing a mechanism for annual legislative review; and

WHEREAS: the North and Northwest Alaska Mayors also support a significant FY94 budget increase for the VPSO Program. Especially in the areas of training, equipment, and salaries; and

NOW, THEREFORE BE IT RESOLVED BY THE CONFERENCE: that the Mayors of North and Northwest Alaska urge the Alaska State Legislature to pass Senate Bill No. 15 and House Bill No. 93; and

BE IT FURTHER RESOLVED BY THE NORTH AND NORTHWEST ALASKA MAYORS' CONFERENCE THAT: we urge Governor Walter J. Hickel and the Alaska State Legislature to educate themselves on the current plight of the VPSO Program and to work with the VPSO Nonprofit Corporation managers and the Department of Public Safety to obtain a needs based Legislative Supplement which will address

the salary needs, equipment, training, and oversight needs of the program for FY94 and beyond.

PASSED AND APPROVED by the first session of the fourteenth annual North and Northwest Alaska Mayors' Conference this \_\_\_\_\_ day of February, 1993.

\_\_\_\_\_  
PRESIDENT

\_\_\_\_\_  
SECRETARY

INTRODUCED BY:           *nmk*          

SECONDED BY: \_\_\_\_\_

VOTE: YES: \_\_\_\_\_ NO: \_\_\_\_\_

DIRECTED TO: Governor Walter J. Hickel  
Alaska State Legislature  
State of Alaska Department of Public Safety  
Regional Non-profit Corporations

*Passed  
undm*

*Ward*

City Council  
City of Atka  
P. O. Box 47070  
Atka, Alaska 99547-0070

Senator Al Adams  
P. O. Box V  
Juneau, Alaska 99811

February 3, 1993

Dear Senator:

We are writing to endorse support for Senate Bill 15.

We thank you for introducing this bill for several reasons. We consider transfer of the VPSO program to the state statutes a wise move. In addition to being under the review of the state legislature, we think that the VPSO program would maintain higher integrity and consistency.

Thank you.

Signed,

*Michael Singewell*  
Mayor

Atka City Council

Traditional Eagle Village Council  
PO Box 19  
Eagle Alaska 99738

Attn. Senator Georgians Lincoln, Representative Eileen Nicholas  
We the members of Eagle Village Council support the VPSO Program  
100% and we also support Senate Bill #15 to put VPSO's into the  
Alaska State Statutes.

Thank You for your time and we will be anxiously awaiting this  
outcome of Senate Bill #15.

Sincerely; Eagle Village Council  
Council Members,

Matthew Malcolm, Chief

Ethel Beck 2nd Chief

Oliver Lyman, Council Member

Rebecca Malcolm, Council Member

Norman David, Council Member

Bertha Ulvi, Council Member

*Matthew Malcolm*  
*Ethel Beck*  
*Oliver Lyman*  
*Rebecca Malcolm*  
*Norman David*  
*Bertha Ulvi*

St. George Office:



*Handwritten mark*  
Anchorage Office:

P.O. Box 929  
St. George, Alaska 99591-0929  
Tel: (907) 859-2263  
Fax: (907) 859-2212

4000 Old Seward Hwy., Suite 301  
Anchorage, Alaska 99503  
Tel: 561-2124  
Fax: (907) 561-4674

Senator Al Adams  
P.O. Box V  
Juneau, Alaska 99811

Dear Senator Adams,

The V.P.S.O. Program has been an essential part of the booming, but orderly growth, of the "outback" rural communities of Alaska. Time and time again the rural radio stations of Nome, Dillingham and St. Paul Island, broadcast on their news hour how VPSO's have intervened with otherwise lawless towns of our State's far flung communities. In some cases giving up their lives for their commitment to law and order.

At St. George a Harbor was built to enhance a stable economy for our community, along with this harbor we get processors who house three hundred fifty respectfully, each. With two floating processor's who dwarf our community of one hundred eighty people and no law enforcement personnel except for one VPSO. We have begun to realize in this community how valuable this position can be. These processors are "dry" companys which means no alcohol consumption is allowed among their workers, however at times some individuals have obtained alcohol and tend to consume until they are in a state of mind which is a danger to themselves, other processors, property and the St. George Community members. Most of these workers are on 30, 60, and 90 day contracts with these seafood processors. When the contract is up these individuals first thoughts are of obtaining alcohol for the soul purpose of getting inebriated in the shortest time possible and when that happens to many individuals all at one time we have a problem. The crab season of 1992 here in the Bering Sea attested to the above problems that only a VPSO can handle safely and correctly. We don't expect the crab season of 1993 to be any different. One finally comment is that the VPSO's in Alaska are the Eyes and Ears of the State Troopers. Thank You for your time.

Sincerely ;

Gregory P. McGlashan  
Harbormaster  
City Councilman

# Allakaket Village Council

P.O. BOX 30 ALLAKAKET, ALASKA 99720  
(907) 968-2241

*Paul*

February 4, 1993

Tanana Chiefs Conference  
122 First Avenue  
Fairbanks, Alaska 99701

TO WHOM IT MAY CONCERN:

We strongly support the Villages Public Safety Officer positions for the rural areas. Mainly because the villages are located in remote areas where the State Troopers cannot respond to calls fast enough to prevent violence or crimes from happening.

Since we have had a Village Public Safety Officer located in our village, we have seen a decrease in suicides, domestic violence, and public disturbances.

I strongly recommend that Tanana Chiefs Conference continue to secure funding for this much needed service to the rural villages.

Sincerely,

*Sally M. Sam*

Sally M. Sam  
City Administrator



# CITY OF MC GRATH

P. O. BOX 30 MCGRATH, ALASKA 99627

PHONE (907) 824-3828

FAX (907) 824-3533

January 29, 1993

Ms. Daisy Stevens  
VPSO Coordinator  
Tanana Chiefs Conference  
122 First Ave.  
Fairbanks, AK. 99701

Dear Ms. Stevens,

The City of McGrath would like to express their support of the VPSO program as an essential service to rural areas. We are in favor of Senate bill 15, which would make the program permanently funded. We hope the bill will pass and the program will be funded enough to raise the pay for these dedicated, underpaid people. If we can do anything to help in this matter, please do not hesitate to call on us.

Sincerely,

*Glen A. Hanway*  
Glen A. Hanway  
Mayor

cc: Senator Lincoln

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ORIGINAL  
COPIES

BEAVER TRIBAL COUNCIL  
P.O. BOX 24029  
BEAVER, AK 99724  
(907) 528-5126  
FAX 528-5812

January 29, 1993

Darryl Stevens,  
V.P.S.O. Coordinator  
Tanana Chiefs Conference  
125 First Avenue  
Fairbanks, AK 99701

RE: Importance of V.P.S.O. program

Dear Darryl,

The Village of Beaver would like to suffer tremendously if the V.P.S.O. program is cut, because of the following reasons:

1. He assists the CHA's with emergencies.
2. He teaches fire prevention, snowmachine safety, gun safety, boat safety, to our children at the school.
3. He checks our fire alarms, fire extinguishers and make sure all equipment is in working order.
4. Enforces curfew, organized a search party for overdue residents via snowmachine or boat.

For these reasons, we feel that the V.P.S.O. program should be a permanent position, and because of the cuts in the State Troopers positions statewide.

Sincerely,

*Carlene Pitka*

Beaver Tribal Council  
Carlene Pitka, Chief

cc: Greg Hope  
files

FAX TRANSMITTAL MEMO

TO: Sern A. Adams  
DEPT: CRA Committee FAX #: 465-3242  
FROM: C Wheeler PHONE: 443-5533  
CO: \_\_\_\_\_ FAX #: \_\_\_\_\_  
Post-It Transmittal memo 7871

NO. OF PAGES  
1

January 27, 1998

The Honorable A. Adams  
Senator  
State Capitol  
Juneau, Alaska 99801 1102

Senator Adams:

I support H.B. #15, statutory recognition of the V.P.S.U. program which is years long overdue.

Those who have served and presently make that commitment to public service risk their lives; relinquish (in relationships); seldom receive recognition for a job well done (on a daily basis); and serve for 'token' compensation. Their duties and responsibilities are paramount with personal sacrifice on a 24-hour basis. Most generally, they are the first on-the-scene as local police officer; coordinator/leader for search and rescue operations; emergency medical technician; and as well as liason to the State Troopers, who respond and are to the scene hours if not days later.

Formalizing the V.P.S.U. program would bring a much greater professional atmosphere, provide greater retention of personnel, a continuous on-going training program, and should provide for a reasonable pay schedule.

Rural law enforcement and public safety services are as important in villages as in urban communities and the value of human life must not be diminished because some choose to live in rural Alaska. They deserve better.

Thank you for your sincere consideration.

Sincerely,  


C. Wheeler  
POB 1209  
Juneau, Alaska 99801-1209

# HOUSE COMMITTEE REPORT

(7)

Date Referred: January 27, 1993

FURTHER REFERRALS:

Judiciary  
Finance

Date of Committee Action: 3-25-93

The COMMUNITY AND REGIONAL AFFAIRS Committee considered:

HB 93

HOUSE BILL NO. 93

VILLAGE PUBLIC SAFETY OFFICERS PROGRAM

"An Act relating to the village public safety officers program."

**RECOMMENDATIONS:**

be replaced with C.S. For HB 93 (CRA)  the same title  
 a new title

have attached amendments(s)

do pass

do not pass

no recommendations

individual recommendations

additional referral to the \_\_\_\_\_ Committee

ADOPTS: \_\_\_\_\_ letter of Intent

ATTACHES NEW FISCAL NOTE(S): (Dept)

APPROVES PREVIOUS: (Dept/Date)

fiscal impact \_\_\_\_\_

fiscal note(s) \_\_\_\_\_

zero fiscal note Pub Safety

zero fiscal note(s) \_\_\_\_\_

SIGNING <u>DO</u> PASS	DP	OTHER RECOMMENDATIONS	DNP	NR	AM
<i>John Samples</i>	✓				
<i>Carl B. White</i>	✓				
<i>John W. Rain</i>	✓				
<i>Ed Willis</i>	✓				
<i>Bill Williams</i>	✓				
<i>John J. [unclear]</i>	✓				
<i>Auley Allberg</i>	✓				

*Auley Allberg*  
CHAIRMAN'S SIGNATURE

HB

97

Rep. Brian Porter, Chairman

# House Judiciary Committee

Date: March 1, 1993  
Place: Capitol Room 120

Subject of Meeting: HB 99 Repeal 65-day Deadline/  
Oil Spill Plans; HB 97 Parental Care for Child in  
State Custody; HB 2 Drug Testing for School Bus

Drivers

Please Print Name	Representing	Business/Personal Mailing Address	Zip	(H) Phone	(W) Phone	Do you Want to Testify?	Which Subject/ Which Bill?
Sonya Brandman	DFYS	403 Rm 407	99811	465-3209		Y <input checked="" type="radio"/> N	HB 97
Patricia Kertule	DOLAW	Cap.			465-6713	Y <input checked="" type="radio"/> N	IF needed, HB 99 ←
Ed Colazzi	ADEC	410 Willoughby Suite 105	99801	465-5220 →		Y <input type="radio"/> N	IF needed HB 99
Russell EARTH	ALASKA ENVIRONMENTAL LOBBY	P.O. Box 27151 Juneau	99802		463-3366	<input checked="" type="radio"/> Y <input type="radio"/> N	
						Y <input type="radio"/> N	
						Y <input type="radio"/> N	
						Y <input type="radio"/> N	
						Y <input type="radio"/> N	
						Y <input type="radio"/> N	
						Y <input type="radio"/> N	
						Y <input type="radio"/> N	
						Y <input type="radio"/> N	
						Y <input type="radio"/> N	

Rep. Brian Porter, Chairman

Date: March 1, 1993

Place: Capitol Room 120

Subject of Meeting: HB 99 Repeal 65-day Deadline/  
Oil Spill Plans; HB 97 Parental Care for Child in  
State Custody; HB 2 Drug Testing for School Bus  
Drivers

# House Judiciary Committee

Please Print Name	Representing	Business/Personal Mailing Address	Zip	(H) Phone	(W) Phone	Do you Want to Testify?	Which Subject/ Which Bill?
✓ Elmer A Lindstrom	DHSS				465-3030	<input checked="" type="radio"/> Y <input type="radio"/> N	HB 97
* Steven B. Porter	ARCO				265-6269	<input checked="" type="radio"/> Y <input type="radio"/> N	HB 99
FREDERICK J. DILLON	AK Trucking Assoc	3443 Minnesota Dr	99503		276-1149	<input checked="" type="radio"/> Y <input type="radio"/> N	HB 2
						<input type="radio"/> Y <input type="radio"/> N	
						<input type="radio"/> Y <input type="radio"/> N	
						<input type="radio"/> Y <input type="radio"/> N	
						<input type="radio"/> Y <input type="radio"/> N	
						<input type="radio"/> Y <input type="radio"/> N	
						<input type="radio"/> Y <input type="radio"/> N	
						<input type="radio"/> Y <input type="radio"/> N	
						<input type="radio"/> Y <input type="radio"/> N	
						<input type="radio"/> Y <input type="radio"/> N	



Alaska State Legislature  
House of Representatives  
COMMITTEE ON HEALTH, EDUCATION  
AND SOCIAL SERVICES

DATE: FEBRUARY 8, 1993

PLACE: Capitol Room 106

SUBJECT OF MEETING:

- HB 114: DRUG DISPENSING: ADV. NURSE PRACT
- HB 2: DRUG TESTING FOR SCHOOL BUS DRIVE
- HB 78: TESTIMONY OF MINORS IN CRIMINAL T
- HB 97: PARENTAL CARE FOR CHILD IN STATE
- HB 100: PROSECUTION OF JUVENILE FELONS

BILLS HELD OVER FROM PREVIOUS CALENDERS

NAME	REPRESENTING	BUSINESS/PERSONAL MAILING ADDRESS	ZIP	(H) PHONE	(W) PHONE	DO YOU WANT TO TESTIFY?		WHAT SUBJECT/ WHICH BILL?
Eomayne Karsen	Dept. of Education	811 W. 10th St Juneau	99801		465-8652	Y	N	Amille HB 2
Peter Nakamura	Dept of Health	A D B			4653090	(Y)	N	HB 114
VINCENT USERA	AGO				465-2399	Y	N	if needed HB 79
KARL Lueck	DCED	Director Occupational Licensing			5-2558	Y	(N)	only if needed HB 114
WELTZIN	self	1014 W. 10th St Juneau			463-1852	Y	N	HB 100
Delworth	DFYS				465-3191	(Y)	N	HB 97
						Y	N	
RENA BUKVICH					-6872	Y	N	
DEBBY LICKHAUPT		ELIZABETH BLAN			-2450	Y	N	
						Y	N	
						Y	N	



Alaska State Legislature  
House of Representatives  
COMMITTEE ON HEALTH, EDUCATION  
AND SOCIAL SERVICES

DATE: FEBRUARY 8, 1993

PLACE: Capitol Room 106

SUBJECT OF MEETING:

- HB 114: DRUG DISPENSING: ADV. NURSE PRACT
- HB 2: DRUG TESTING FOR SCHOOL BUS DRIVE
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- HB 100: PROSECUTION OF JUVENILE FELONS

BILLS HELD OVER FROM PREVIOUS CALENDERS

NAME	REPRESENTING	BUSINESS/PERSONAL MAILING ADDRESS	ZIP	(H) PHONE	(W) PHONE	DO YOU WANT TO TESTIFY?		WHAT SUBJECT/ WHICH BILL?
SHERIE GOE	WOMEN'S LEADERS	P.O. Box 22152, Juneau	99802		463-6744	(Y)	N	HB 100
Chris EADY	DIVERSIFIED SVCS DIV	P.O. Box 20845, JUNEAU	99802		586-5365	Y	(N)	HB 700
GARY BADER	DOF	301 W. 10th JUNEAU	99802		465-8650	(Y)	N	HB 2
						Y	N	
						Y	N	
						Y	N	
						Y	N	
						Y	N	
						Y	N	
						Y	N	

\*\*\*\* ORDER SUMMARY \*\*\*\*

SPONSOR: HHES HOUSE HEALTH, EDUCATION AND SOCIAL SERVI CHAIRS: TOOHEY  
PURPOSE: PUB PUBLIC HEARING BUNDE  
CONTACT: LYNN SMITH TEL#: (907)465-6025  
CHAIRING SITE: JUNEAU CAPITOL CAP106  
TOLL FREE: DIAL-UP: LIO:(800)478-9908

SPONSOR REMARKS(PUB): TESTIMONY:Y ALLOWED 5 MINUTE LIMIT

SPONSOR REMARKS(LIO): BACKUP MATERIAL:N MEETING IN PROGRESS:N MAX. SITES: 5  
FOR HB 97, DIANE OLSEN, DEPT. OF LAW WILL BE IN ANCHORAGE TO TESTIFY BY INVITE  
TCN REQUESTED ON 02/08/93 AND HAS 4 UPDATES

\*\*\*\* AGENDA \*\*\*\*

- 1 HB 114 DRUG DISPENSING:ADV. NURSE PRACTITIONERS
- 2 HB 97 PARENTAL CARE FOR CHILD IN STATE CUSTODY
- 3 (BY INVITATION ONLY)

\*\*\*\* PARTICIPATING LIDS \*\*\*\*

ANC ANCHORAGE	3111 C STREET	LOCATION STAFF
BAR BARROW	COURTHOUSE #305	LOCATION STAFF
* JNU JUNEAU	CAPITOL CAP106	LOCATION STAFF
NAT MATSU	165 E PARKS HWY.	LOCATION STAFF

PARTICIPANTS IN: ANCHORAGE

ANC

1	PATRICIA HONG	AK NURSE ASSOC	TSFY. HB 114
	237 E THIRD, NO 3	ANCHORAGE	AK 99501 (907)274-0827
2	DARYL YOUNG	UAA	TSFY. HB 114
	3211 PROVIDENCE DRIVE	ANCHORAGE	AK 99508 (907)786-4040
3	SUE ANNE JENKENSEN	AK NURSE PRACTIT	TSFY. HB 114
	237 E THIRD	ANCHORAGE	AK 99501 (907)274-0827
4	GAIL MCGUILL		TSFY. HB 114
	3601 C STREET	ANCHORAGE	AK 99503 (907)561-2878
5	DIANNE OLSEN		TSFY. HB 97
	1031 W 4TH AVE	ANCHORAGE	AK 99501 (907)269-5139
6	STAN THOMPSON		OBSV. HB 114
	1018 W 73RD	ANCHORAGE	AK 99518 (907)344-5149
7	KAY LAHDENPERA	MOA/DHHS	TSFY. HB 114
	P.O. BOX 196650	ANCHORAGE	AK 99519 (907)343-4624

PARTICIPANTS IN: JUNEAU

JNU

1	REP TOOHEY		TSFY. HB 114
		AK	(907)000-0000
2	REP BUNDE		TSFY. HB 114
		AK	(907)000-0000
3	REP G. DAVIS		TSFY. HB 114
		AK	(907)000-0000
4	REP VEZEY		TSFY. HB 114
		AK	(907)000-0000
5	REP KOTT		TSFY. HB 114
		AK	(907)000-0000
6	REP OLBERG		TSFY. HB 114
		AK	(907)000-0000
7	REP B._DAVIS		TSFY. HB 114



# HOUSE COMMITTEE REPORT

(7)

Date Referred: February 10, 1993

FURTHER REFERRALS:

Finance

Date of Committee Action: 3-1-93

The JUDICIARY Committee considered:

HB 97

HOUSE BILL NO. 97

PARENTAL CARE FOR CHILD IN STATE CUSTODY

"An Act clarifying the responsibilities of the Department of Health and Social Services and parents for children who are committed to the custody of the department and are placed by the department with the parents; and providing for an effective date."

**RECOMMENDATIONS:**

be replaced with \_\_\_\_\_  the same title  
 a new title

have attached amendments(s)

do pass

do not pass

no recommendations

individual recommendations

additional referral to the \_\_\_\_\_ Committee

ADOPTS: \_\_\_\_\_ letter of Intent

ATTACHES NEW FISCAL NOTE(S): \_\_\_\_\_ (Dept)

APPROVES PREVIOUS: \_\_\_\_\_ (Dept/Date)

fiscal impact \_\_\_\_\_

fiscal note(s) \_\_\_\_\_

zero fiscal note \_\_\_\_\_

zero fiscal note(s) DHSS 2/10/93

SIGNING DO PASS	DP	OTHER RECOMMENDATIONS	DNP	NR	AM
<i>Brian S. Porter</i>	✓				
<i>Jeannette James</i>	✓				
<i>Pat King</i>	✓				
<i>Bob Green</i>	✓				
<i>Frank Phillips</i>	✓				

*Brian S. Porter*  
 CHAIRMAN'S SIGNATURE

# HEALTH, EDUCATION AND SOCIAL SERVICES COMMITTEE

ALASKA STATE LEGISLATURE  
HOUSE OF REPRESENTATIVES



STATE CAPITOL, JUNEAU 99801  
(907) 465-3759

TO: Representative Brian Porter  
Judiciary Committee Chairman

FR: Representative Cynthia D. Toohey  
Representative Con Bunde  
HESS Committee Co-Chairs

DA: February 10, 1993

RE: Request for Scheduling HB 97 (An Act clarifying the responsibilities for the Department of Health and Social Services and parents for children who are committed to the custody of the Department and are placed by the Department with the parents; and providing for an effective date)

*OT*  
*OBunde*

---

This is to respectfully request that you schedule HB 97 before the House Judiciary Committee at your earliest convenience.

HB 97 clarifies the responsibilities of the Department of Health and Social Services and parents for children who are committed to the custody of the Department and are placed by the Department with the parents.

In the August 1991 decision in the case of In re E.A.O., the Alaska Supreme Court ruled that the Department must pay for the medical costs of children in state custody even though the children live with their parents.

The consequences of this decision are enormous. The state will be responsible for substantial expenses in medical care, and may be held liable for other costs such as food, shelter, and education.

HB 97 requires the parent to provide and pay for food, shelter, education and medical care for the child.

HB 97 passed the House HESS Committee with 7 "do pass" votes.

If you have any additional questions regarding this legislation, please contact our committee staff, Lynne Smith at 465-6825. Thank you for your consideration.

*Request for Scheduling*

# HEALTH, EDUCATION AND SOCIAL SERVICES COMMITTEE

ALASKA STATE LEGISLATURE  
HOUSE OF REPRESENTATIVES

P.O. BOX V, JUNEAU 99811  
(907) 465-3759



HB 97

## CLARIFYING PARENTAL RESPONSIBILITIES FOR A CHILD IN STATE CUSTODY

HB 97 clarifies the responsibilities of the Department of Health and Social Services and parents for children who are committed to the custody of the department and are placed by the department with the parents.

The bill responds to an Alaska Supreme Court decision that will incur new and substantial costs to the state.

In the August 1991 decision in the case of In re E.A.O., the court reversed a lower court decision and ruled that the state must pay for the medical costs of a child in state custody even though the child lives with his or her parents.

Prior to this decision, the state interpreted the law to pay for medical care costs of children in physical custody of the state. Holding the state responsible for medical costs of children in its custody who are placed at home would result in less protection for these children and other children in need of aid.

The ramifications of this decision may also lead to the state's being held liable for other costs of child rearing such as food, shelter, and education.

HB 97 will free the state from the fiscal complications arising the August 1991 court decision.

Sponsor Statement

## HOUSE BILL 97

For An Act Entitled: "An Act clarifying the responsibilities for the Department of Health and Social Services and parents for children who are committed to the custody of the Department and are placed by the Department with the parents; and providing for an effective date"

Analysis/Program Impact

The Department of Health and Social Services strongly supports HB 97, which clarifies the responsibilities of the Department for children committed to its legal custody who continue to reside with the parent or parents. The Bill amends AS 47.10.084 (a) to expressly require a parent or parents to provide for the day to day care of their children if the children are residing with them when the state has legal custody as a result of child protection services purposes.

This bill was made necessary as a result of the Alaska Supreme Court ruling in the case of In re E.A.O., 816 P.2d 1352 (Alaska 1991), in which the court ruled that the current AS 47.10.084 requires the Department to pay for medical costs associated with the care of children, even though they live with their parents. The Department has never interpreted the statute in this manner in the past. Therefore, absent an amendment, the Department will incur substantial additional financial expenses for these medical costs and may also be exposed to legal suits to resolve the responsibility for other costs of child rearing, including food, shelter, and education, while a child is placed at home by the Department. The Department has not budgeted for these types of costs, and these cost would significantly impact our budget, as well as the Medicaid budget. Although the court did acknowledge a possible right of reimbursement from the parents, the collection would not be practical nor cost effective.

The bill provides for a retroactive effective date to August 30, 1991, the date that the court issued its ruling. A retroactive effective date is necessary to avoid the additional unbudgeted expenses and to resolve a legal question as to the Department's responsibilities for other expenses, such as shelter, which the court did not directly address in its decision.

# POSITION PAPER

STATE OF ALASKA ★ DEPARTMENT OF HEALTH & SOCIAL SERVICES

Position Paper  
page 2  
HB 97

Department's Position The Department of Health and Social Services urges the passage of this bill.

Recommended: Deborah R. Wing Date: 2/5/93  
Deborah R. Wing, Director  
Division of Family and Youth Services

Approved: Theodore A. Mala Date: 2/5/93  
Theodore A. Mala MD, MPH  
Commissioner  
Department of Health and Social Services

§ 47.10.084 WELFARE, SOCIAL SERVICES & INSTITUTIONS § 47.10.120

predisposition report will be available to them not less than 10 days before the disposition hearing.

(d) For purposes of this section "parents" means the natural or adoptive parents, and any legal guardian, relative, or other adult person with whom the child has resided and who has acted as a parent in providing for the child for a continuous period of time before this action. (§ 26 ch 63 SLA 1977; am § 17 ch 57 SLA 1991)

**Effect of amendments.** — The 1991 amendment, effective September 15, 1991, in subsection (a), inserted "a victim im- pact statement reporting the information set out in AS 12.55.022" and added the second sentence.

**Sec. 47.10.084. Legal custody, guardianship, and residual parental rights and responsibilities.**

NOTES TO DECISIONS

**Department's responsibility for medical costs.** — The department is responsible for the medical costs of children in its custody, whether the children are placed at home or in a foster home. L.O. v. State, 816 P.2d 1352 (Alaska Ct. App. 1991).

**Sec. 47.10.097. Fingerprinting of minors.** (a) A peace officer may fingerprint a minor under the same circumstances as an adult may be fingerprinted.

(b) Fingerprint records taken under this section are not subject to AS 47.10.090. (§ 3 ch 121 SLA 1988; am § 1 ch 32 SLA 1991)

**Effect of amendments.** — The 1991 amendment, effective September 9, 1991, rewrote the section.

**Sec. 47.10.120. Support of minor.** (a) When a child in need of aid or a delinquent minor is committed under this chapter, the court shall, after giving the parent or legal guardian a reasonable opportunity to be heard, adjudge that the parent or guardian pay to the department in a manner that the court directs a sum that is based on the fee schedule adopted under AS 44.29.022 to cover in full or in part the maintenance and care of the child or minor.

(b) If a parent wilfully fails or refuses to pay the sum fixed, the parent may be proceeded against as provided by law in cases of family desertion and nonsupport.

(c) The sum collected from a parent under this section shall be directly credited to the general fund of the state.

(d) [*Repealed, § 28 ch 90 SLA 1991.*] (§ 13 art I ch 145 SLA 1957; am § 1 ch 31 SLA 1959; am § 1 ch 141 SLA 1959; am § 23 ch 63 SLA 1977; am §§ 88, 89 ch 138 SLA 1986; am § 28 ch 90 SLA 1991)

**Sec. 47.10.034. Legal custody, guardianship, and residual parental rights and responsibilities.** (a) When a child is committed under AS 47.10.080(b)(1) or (c)(1) to the department or released under AS 47.10.080(b)(2) or (3) or (c)(2) to the child's parents, guardian, or other suitable person, a relationship of legal custody exists. This relationship imposes on the department and its authorized agents or the parents, guardian, or other suitable person the responsibility of physical care and control of the child, the determination of where and with whom the child shall live, the right and duty to protect, train and discipline the child, and the duty of providing the child with food, shelter, education, and medical care. These obligations are subject to any residual parental rights and responsibilities and rights and responsibilities of a guardian if one has been appointed. When parental rights have been terminated, or there are no living parents and no guardian has been appointed, the responsibilities of legal custody include those in (b) and (c) of this section. The department or person having legal custody of the child may delegate any of the responsibilities under this section, except authority to consent to marriage, adoption, and military enlistment may not be delegated. For purposes of this chapter a person in charge of a placement setting is an agent of the department.

(b) When a guardian is appointed for the child, the court shall specify in its order the rights and responsibilities of the guardian. The guardian may be removed only by court order. The rights and responsibilities may include, but are not limited to, having the right and responsibility of reasonable visitation, consenting to marriage, consenting to military enlistment, consenting to major medical treatment, obtaining representation for the child in legal actions, and making decisions of legal or financial significance concerning the child.

(c) When there has been transfer of legal custody or appointment of a guardian and parental rights have not been terminated by court decree, the parents shall have residual rights and responsibilities. These residual rights and responsibilities of the parent include, but are not limited to, the right and responsibility of reasonable visitation, consent to adoption, consent to marriage, consent to military enlistment, consent to major medical treatment except in cases of emergency or cases falling under AS 09.65.100, and the responsibility for support, except if by court order any residual right and responsibility has been delegated to a guardian under (b) of this section. (§ 26 ch 63 SLA 1977)

NOTES TO DECISIONS

The phrase "reasonable visitation" in subsection (c) does not imply an absolute right to visitation; this section should be read in conjunction with the

rest of the chapter to allow parental visits to be barred when the visits are not in the best interests of the child. *K.T.E. v. State*, 689 P.2d 472 (Alaska 1984).

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FISCAL NOTE

STATE OF ALASKA  
1993 LEGISLATIVE SESSION

BILL NO. HB 97

Revision Date: \_\_\_\_\_ Dept. Affected: Health and Social Services  
 Title: "An act clarifying responsibilities for children in custody of department" BRU: Purchased Services  
 Sponsor: House HESS for DHSS Component: Foster Care  
 Requestor: \_\_\_\_\_ COMPONENT SERIAL NO. 0252

Expenditures/Revenues:

(Thousands of Dollars)

OPERATING	FY94	FY95	FY96	FY97	FY98	FY99
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
<b>TOTAL OPERATING</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

CAPITAL						
REVENUE FUND SOURCE						

FUNDING:

(Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1006 GF/MHTIA						
Other						
<b>TOTAL</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

Estimate of current year (FY93) impact: 0.0

ANALYSIS: (Attach a separate page if necessary)

This bill is critical to the Division of Family and Youth Services. There will be no increased costs incurred if this bill passes, but there is a serious potential for a sizeable increase in foster care costs if it does not pass.

Prepared by: Deborah R. Wing, Director  
 Division: Department of Health & Social Services  
 Approved by Commissioner: Theodore A. Mala, MD, MPH  
 Agency: Department of Health & Social Services

Phone: 465-3191  
 Date: 02/02/93  
 Date: 2/5/93

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Fiscal Note - H+SS

## MEMORANDUM

State of Alaska

Department of Law

TO: Elmer Lindstrom  
Department of Health and  
Social Services  
Juneau, Alaska

DATE: January 5, 1993

FILE NO:

TEL NO: 269-5100

SUBJECT: Legislation

FROM:

*Dianne Olsen*  
Dianne Olsen  
Assistant Attorney General  
Human Services Section

Last year, the department introduced legislation to modify AS 47.10.084, which outlines the responsibilities of the department to children in its legal custody. The statute states that when the department has legal custody of a child, it has

the responsibility of physical care and control of the child, the determination of where and with whom the child shall live, the right and duty to protect, train and discipline the child and the duty of providing the child with food, shelter, education, and medical care.

In the case of In the Matter of E.A.O., 816 P.2d 1352 (Alaska 1991), the department had argued that when children in state custody are placed by the department in the home of their parents, it is the parents who are responsible for such things as food, shelter, education, and medical care. The Alaska Supreme Court, on the basis of strict statutory construction, disagreed. Therefore, the legislation was introduced to modify the statute. Although the legislation did not pass last year, we urge the department to work toward getting it introduced and passed this year.

Since the E.A.O. decision, defense attorneys have been relying upon the decision to make requests for the Department of Health and Social Services to pay for various expenses of children and their families when those children are in the legal custody of the state. In Anchorage, defense attorneys have filed motions in at least two cases to require the department to pay for housing costs of children and their parents. The department has resolved those cases prior to a judicial ruling. In Kenai, a defense attorney used the decision to support a request that the department pay for unapproved counseling costs for a child. The department was willing to arrange for counseling at an agency with which it had a contract, but the parents arranged for the child to be in counseling with someone with whom it did not have a contract and for whom federal funds would have been unavailable.

Elmer Lindstrom

January 5, 1993

Page 2

Although there have not been a large number of cases where such requests have been made, it is clear that defense attorneys will continue to make the argument that the department is required to pay for food, shelter, housing, and medical care no matter where the child resides. For instance, if a child in the custody of the state lives at home and that child suffers an injury, the department is responsible for payment for the medical expenses. Because the child is not in foster care, the child is not likely to be eligible for medicaid funds. Therefore, the expenses will come from the department's limited budget.

Please let me know if there is any further information that would be helpful to you.

DO/jlb

B

H

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# HOUSE COMMITTEE REPORT

(7)

Date Referred: February 15, 1993

FURTHER REFERRALS:

Date of Committee Action: 3-1-93

The JUDICIARY Committee considered:

HB 99

HOUSE BILL NO. 99

REPEAL 65-DAY DEADLINE: OIL SPILL PLANS

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

- RECOMMENDATIONS:  the same title  
 be replaced with \_\_\_\_\_  a new title  
 have attached amendments(s)  
 do pass  
 do not pass  
 no recommendations  
 individual recommendations  
 additional referral to the \_\_\_\_\_ Committee

ADOPTS: \_\_\_\_\_ letter of Intent

ATTACHES NEW FISCAL NOTE(s): (Dept) \_\_\_\_\_

APPROVES PREVIOUS: (Dept/Date) \_\_\_\_\_

fiscal impact \_\_\_\_\_

fiscal note(s) \_\_\_\_\_

zero fiscal note \_\_\_\_\_

zero fiscal note(s) DEC 2/5/93

SIGNING <u>DO</u> PASS	DP	OTHER RECOMMENDATIONS	DNP	NR	AM
<i>Brian D. Porter</i>	✓				
<i>Saint Phillips</i>	✓				
<i>Jeanette James</i>	✓				
<i>[Signature]</i>	✓				
<i>[Signature]</i>	✓				

*Brian D. Porter*  
CHAIRMAN'S SIGNATURE

Rep. Brian Porter, Chairman

# House Judiciary Committee

Date: March 1, 1993

Place: Capitol Room 120

Subject of Meeting: HB 99 Repeal 65-day Deadline/  
Oil Spill Plans; HB 97 Parental Care for Child in  
State Custody; HB 2 Drug Testing for School Bus

Drivers

Please Print Name	Representing	Business/Personal Mailing Address	Zip	(H) Phone	(W) Phone	Do you Want to Testify?	Which Subject/ Which Bill?
Sonya Brandman	DFYS	403 Rm 407	99811	465-3219		Y <input checked="" type="radio"/> N	HB 97
Patricia Kertula	DOLAW	Cap.			465-6713	Y <input type="radio"/> N	IF needed. HB 99 ←
Ed Colazzi	ADEC	410 Willoughby Suite 105	99801	465-5220 →		Y <input type="radio"/> N	IF needed HB 99
Russell EARTH	ALASKA ENVIRONMENTAL LORRY	P.O. Box 27151 Juneau	99802		463-3366	<input checked="" type="radio"/> Y <input type="radio"/> N	
						Y <input type="radio"/> N	
						Y <input type="radio"/> N	
						Y <input type="radio"/> N	
						Y <input type="radio"/> N	
						Y <input type="radio"/> N	
						Y <input type="radio"/> N	
						Y <input type="radio"/> N	
						Y <input type="radio"/> N	

Rep. Brian Porter, Chairman

# House Judiciary Committee

Date: March 1, 1993

Place: Capitol Room 120

Subject of Meeting: HB 99 Repeal 65-day Deadline/  
Oil Spill Plans; HB 97 Parental Care for Child in  
State Custody; HB 2 Drug Testing for School Bus

Drivers

Please Print Name	Representing	Business/Personal Mailing Address	Zip	(H) Phone	(W) Phone	Do you Want to Testify?	Which Subject/ Which Bill?
✓ Elmer A Lindstrom	DHSS				465-3030	<input checked="" type="radio"/> Y <input type="radio"/> N	HB 97
✓ Steven B. Porter	ARCO				265-6269	<input checked="" type="radio"/> Y <input type="radio"/> N	HB 99
FREDAK J. DILLON	AK Trucking Assoc	3443 Monmouth Dr	99503		276-1149	<input checked="" type="radio"/> Y <input type="radio"/> N	HB 2
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Alaska State Legislature

WHILE IN SESSION:  
CAPITOL BUILDING  
JUNEAU, ALASKA 99801-1182  
(907) 465-4931  
(907) 465-4318 FAX

CHAIR, OIL & GAS COMMITTEE

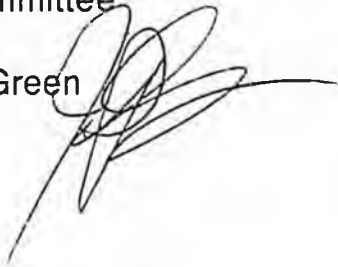


INTERIM ADDRESS:  
3111 C STREET, SUITE 150  
ANCHORAGE, ALASKA 99503  
(907) 581-7007

DISTRICT 10

Representative Joe Green

TO: Representative Brian Porter, Chairman  
House Judiciary Committee

FR: Representative Joe Green 

RE: HB 99

DATE: February 22, 1993

=====

I would appreciate a Judiciary Committee hearing on HB 99 at your earliest convenience. I know that your calendar is nearly full for the next several days, but I can assure you that this piece of legislation will take very little of the committee's time.

HB 99 passed out of both the Oil & Gas and Resources committees after less than 30 minutes of discussion. This bill is supported by both development and environmental interests. So far there is literally no opposition.

As soon as you set the hearing date I will direct my staff to brief all committee members and arrange to have supporters ready to testify. Together, we can get this legislation to the floor and show Alaskans the positive contribution we are making as a conservative majority.

REQUEST FOR SCHEDULING

## Sponsor Summary

HB 99

### House Special Committee on Oil & Gas

House Bill 99 is an attempt to clarify the time-line requirements for approving oil discharge prevention and contingency plans.

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

While DEC is limited to 65-days to make a decision on a plan, DGC follows a 55-day time-line. In order to meet their current statutory requirement, the DEC time-line does not begin until well into the DGC process. The conflicts between the two time-lines make the process cumbersome for both the applicant and members of the public wishing to participate in the review process.

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

## DIVISION OF LEGAL SERVICES

LEGISLATIVE AFFAIRS AGENCY  
STATE OF ALASKA

(907) 465 3867 or 465-2450  
FAX (907) 465-2029  
Mail Stop 3101


130 Seward Street, Suite 409  
Juneau, Alaska 99801-2105

### MEMORANDUM

February 1, 1993

**SUBJECT:** Oil Discharge Contingency Plans (HB 99)

**TO:** Representative Joe Green  
ATTN: Jeff

**FROM:** Terri Lauterbach   
Legislative Counsel

You have asked two questions about HB 99, an Act that would repeal a statute that currently sets a 65-day deadline on DEC's consideration of a complete application for approval of an oil discharge contingency plan:

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

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

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

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

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

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

\* \* \*

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

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

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

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

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

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

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

Representative Joe Green  
February 1, 1993  
Page 3

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

\* \* \*

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

\* \* \*

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

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

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

TML:pl:mi  
93-054.plm

(h) A charge, contract term, or financial responsibility requirement imposed by the holders and lessees of the right-of-way agreement for the Trans Alaska Pipeline System, the holders and lessees' common operating agent, or the agent or representative of either the holders and lessees, or their common operating agent, on or for a vessel traveling from a marine terminal and related to containing and cleaning up a discharge or threatened discharge of oil or the obligations imposed under (g) of this section

(1) must be fair, reasonable, and nondiscriminatory; and

(2) with respect to a financial responsibility requirement in excess of \$10,000,000, must

(A) not exceed the potential cost of containment and cleanup as provided in the applicable contingency plan under AS 46.04.030 that the agent may reasonably be expected to incur from a discharge or threatened discharge of oil from that vessel before the transfer of cleanup and containment management and control to the responsible party; in establishing the financial responsibility requirement, the common operating agent shall assume that transfer of management and control will occur at the earliest practicable time following the discharge or threat of discharge; and

(B) vary among each vessel in proportion to the volume of oil carried by each vessel per voyage from a marine terminal; for purposes of this subparagraph, the volume of oil carried by the vessel must be reduced by the percentage of spill reduction credits granted that vessel under regulations adopted by the department.

(i) The superior court and, with respect to intrastate voyages, the Alaska Public Utilities Commission, under AS 42.05.361 — 42.05.431, have concurrent jurisdiction to review and enjoin a charge, contract term, or financial responsibility requirement described under (h) of this section at the request of a vessel owner, operator, or charterer. Except as provided in this subsection, nothing in this section affects the jurisdiction of the Alaska Public Utilities Commission. (§ 2 ch 116 SLA 1980; am § 8 ch 191 SLA 1990; am § 12 ch 83 SLA 1991; am § 10 ch 83 SLA 1992)

**Cross references.** — For legislative purpose in connection with the 1992 amendments to this section, see § 1, ch. 83, SLA 1992 in the Temporary and Special Acts.

**Effect of amendments.** — The 1992 amendment, effective June 18, 1992, added subsections (g)-(i).

**Sec. 46.04.030. Oil discharge prevention and contingency plans.** (a) A person may not cause or permit the operation of an oil terminal facility in the state unless an oil discharge prevention and contingency plan for the facility has been approved by the department and the person is in compliance with the plan.

(b) A person may not cause or permit the operation of an oil terminal facility in the state unless an oil discharge prevention and contingency plan for the facility has been approved by the department and the person is in compliance with the plan.

(c) Except as provided in this section, a person may not cause or permit the operation of an oil terminal facility in the state unless an oil discharge prevention and contingency plan for the facility has been approved by the department and the person is in compliance with the plan.

(d) Upon approval of an oil discharge prevention and contingency plan for an oil terminal facility in the state, the person who causes or permits the operation of the facility shall be liable for the cost of cleanup of an oil discharge from the facility, including the cost of cleanup of an oil discharge from the facility that is caused or permitted by the person.

(e) [Effective] Reasonable contingency plan that the person has resources to clean up, vessel as a significant component to spill prevention and response technology that is committed or holder of demonstrable

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(b) A person may not cause or permit the operation of a pipeline or an exploration or production facility in the state unless an oil discharge prevention and contingency plan for the pipeline or facility has been approved by the department and the person is in compliance with the plan.

(c) Except as provided in (n) of this section, 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 an oil barge, unless an oil discharge prevention and contingency plan for the tank vessel or oil barge has been approved by the department and the person is in compliance with the plan.

(d) Upon approval of a contingency plan, the department shall issue to the plan holder a certificate stating that the contingency plan has been approved by the department. The certificate must include the name of the facility, pipeline, tank vessel, or oil barge for which it is issued, the effective date of the contingency plan, and the date by which the contingency plan must be submitted for renewal. A contingency plan must be submitted for renewal every three years.

(e) [Effective January 1, 1994] The department may attach reasonable terms and conditions to its approval or modification of a contingency plan that the department determines are necessary to ensure that the applicant for a contingency plan has access to sufficient resources to protect environmentally sensitive areas and to contain, clean up, and mitigate potential oil discharges from the facility or vessel as provided in (k) of this section, and to ensure that the applicant complies with the contingency plan. If a contingency plan submitted to the department for approval relies on the services of an oil spill primary response action contractor, the department may not approve the contingency plan unless the primary response action contractor is registered and approved under AS 46.04.035. The contingency plan must provide for the use by the applicant of the best technology that was available at the time the contingency plan was submitted or renewed. The department may require an applicant or holder of an approved contingency plan to take steps necessary to demonstrate its ability to carry out the contingency plan, including

- (1) periodic training;
- (2) response team exercises; and
- (3) verifying access to inventories of equipment, supplies, and personnel identified as available in the approved contingency plan.

(f) Upon request of a plan holder or on the department's own initiative, the department, after notice and opportunity for hearing, may modify its approval of a contingency plan if the department determines that a change has occurred in the operation of a facility or vessel necessitating an amended or supplemented plan, or the operator's discharge experience demonstrates a necessity for modification.

The department, after notice and opportunity for hearing, may revoke its approval of a contingency plan if the department determines that

- (1) approval was obtained by fraud or misrepresentation;
- (2) the operator does not have access to the quality or quantity of resources identified in the plan;
- (3) a term or condition of approval or modification has been violated; or
- (4) the person is not in compliance with the contingency plan and the deficiency materially affects the plan holder's response capability.

(g) Failure of a holder of an approved or modified contingency plan to comply with the plan, or to have access to the quality or quantity of resources identified in the plan or to respond with those resources within the shortest possible time in the event of a spill is a violation of this chapter for purposes of AS 46.03.760(a), 46.03.765, 46.03.790, and any other applicable law. If the holder of an approved or modified contingency plan fails to respond to and conduct cleanup operations of an unpermitted discharge of crude oil with the quality and quantity of resources identified in the plan and in a manner required under the plan, the holder is strictly liable, jointly and severally, for the civil penalty assessed under AS 46.03.758, 46.03.759, or 46.03.760 against any other person for that discharge.

(h) The department is the only state agency that has the power to approve, modify, or revoke a contingency plan for the purposes of this section. The department shall exercise its power under this section in a timely manner. Except as provided in (i) of this section, it is not a defense to an action brought for a violation of (a) — (c) of this section that the person charged believed that a current contingency plan had been approved by the department.

(i) It is a defense to an action brought for a violation of (a) — (c) of this section that the person charged relied on a certificate of approval issued by the department under (d) of this section unless the person knew or had reason to know at the time of the alleged violation that approval of the plan had been revoked or that the holder of the plan was not capable of carrying out the plan.

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

(k) Except as provided in (m) and (o) of this section, the holder of an approved contingency plan required under this section shall maintain, or have available under contract, in its region of operation or in another region of operation approved by the department, singly or in conjunction with other operators, sufficient oil discharge containment,

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storage, transfer, and cleanup equipment, personnel, and resources to meet the following response planning standards:

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

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

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

(A) for tank vessels and oil barges having a cargo volume of less than 500,000 barrels, the plan holder shall maintain at a minimum in the region of operation, equipment, personnel, and other resources sufficient to contain or control, and clean up a 50,000 barrel discharge within 72 hours;

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

(C) in addition to the minimum equipment, personnel, and other resources required to be maintained within the region of operation by (A) or (B) of this paragraph, a plan holder shall maintain, either within or outside of the plan holder's region of operation, additional equipment, personnel, and other resources sufficient to contain or control, and clean up a realistic maximum discharge within the shortest possible time; the plan holder must demonstrate that the equipment, personnel, and other resources maintained outside the plan holder's region of operation are accessible to the plan holder and will be deployed and operating at the discharge site within 72 hours;

(4) for a discharge from a tank vessel or oil barge carrying noncrude oil in bulk as cargo, the plan holder shall plan to be able to contain or control 15 percent of the maximum capacity of the vessel or barge or the realistic maximum oil discharge, whichever is greater, within 48 hours and clean up the discharge within the shortest possible time consistent with minimizing damage to the environment;

(5) for a discharge subject to the provisions of (1) — (3) of this subsection that enters a receiving environment other than open

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

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

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

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

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

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

(q) In this section,

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

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

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

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

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

(D) comply with terms and conditions attached to the plan by the department under the authority of (e) of this section; and

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

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

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

(r) Except as provided in (n) of this section and in order to receive approval from the department for an oil discharge prevention and contingency plan submitted under this section, the owner, operator, or charterer of a vessel that intends to carry oil that has been transported by the Trans Alaska Pipeline System shall obtain by contract the services required in a response action from the common operating agent for the holders and lessees of the right-of-way agreement for the Trans Alaska Pipeline System. The contract must contain the following provisions: (1) the common operating agent, as a primary response action contractor shall, unless services required in a response action are transferred as provided in (3) of this subsection, provide services required in a response action for a discharge or a threatened discharge of oil to the owner, operator, or charterer of the vessel while the vessel is berthed at, en route to, or transiting from the Trans Alaska Pipeline System marine terminal or traveling on waters within Prince William Sound; (2) that its coverage for any particular vessel may not be terminated by the common operating agent while that vessel is within Prince William Sound; this provision may not be interpreted to limit the department's authority to revoke approval under this section for an oil discharge prevention and contingency plan submitted by the owner, operator, or charterer of a vessel; and (3) the owner, operator, or charterer of the vessel shall accept a transfer of the services re-

quired in a response action to a discharge or threatened discharge, after receiving not less than 72 hours of advance notice and after the transfer has been approved by the federal and state on-scene coordinators. In addition to the requirements of this subsection, the department may require individual vessels to submit additional contingency plans to cover specific vessel response, prevention equipment, and procedures. Nothing in this subsection is intended to preclude the federal or state government from assuming management and control of an oil spill response to a discharge or threatened discharge from a vessel under appropriate circumstances. In this subsection, "Prince William Sound" means all marine waters within the boundary line established at Cape Puget, southeasterly to Cape Cleare, along Montigue Island to Zaikof Point, easterly to Cape Hinchinbrook, along Hinchinbrook Island to Point Bintinck, and easterly to Point Whitshed. (§ 2 ch 116 SLA 1980; am §§ 1, 2 ch 140 SLA 1988; am § 6 ch 41 SLA 1989; am §§ 9, 10 ch 191 SLA 1990; am § 59 ch 21 SLA 1991; am §§ 11, 12 ch 83 SLA 1992)

**Cross references.** — For legislative purpose in connection with the 1992 amendments to this section, see § 1, ch. 83, SLA 1992 in the Temporary and Special Acts.

**Effect of amendments.** — The 1992 amendment, effective January 1, 1994, added the second sentence in subsection (e) and, effective June 18, 1992, added subsection (r).

**Sec. 46.04.035. Registration of oil spill response action contractors.** (a) A person may apply to the department for registration as an oil spill primary response action contractor. The department shall adopt regulations governing the registration and approval of oil spill primary response action contractors. Regulations adopted by the department under this section must include

- (1) minimum training standards for personnel;
- (2) verification requirements that ensure the existence of resources, including personnel, equipment, services, and an adequate deployment plan necessary to a response action or as required by a contingency plan in which the contractor has agreed in writing to be listed and is listed;
- (3) minimum professional response action standards and practices; and
- (4) minimum planning standards for oil spill primary response action contractors listed in an oil spill contingency plan approved under AS 46.04.030.

(b) Notwithstanding (a) of this section, the department may substitute a primary response action contractor approval program, and a subsequent process to approve primary response action contractors who agree to be listed in a contingency plan approved under AS 46.04.030, for regulations required under (a)(1) — (3) of this section if

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cept that confidential information or fees must be handled as provided in 6 AAC 50.080. The coordinating agency may require the applicant to provide additional copies of maps or other documents which may not be conveniently duplicated.

(d) For a project requiring only the permits of a single state agency, the applicant shall submit a packet including all necessary applications and the project questionnaire to the agency.

(e) Immediately upon receipt, the coordinating agency shall review the packet and shall inform the applicant if it appears to be incomplete. If the packet appears to be complete, and the project does not include a disposal of interest in state land, the coordinating agency shall immediately assign a project number, and note the date as Day 1 of the consistency review process. For a project which includes a disposal of interest in state land, the consistency review will begin at a date which DGC and DNR agree will most effectively allow for both the consistency review and DNR's own statutory responsibilities. Acceptance of the packet does not preclude an agency from requesting additional information or applications from the applicant as necessary for its consistency review or its own statutory responsibilities. On or before Day 2, the coordinating agency will distribute copies of the packet to all resource agencies, other state agencies on request, all affected coastal resource districts, and other interested parties. For a 30-day review, the distribution may be limited in the discretion of the coordinating agency but must, if requested in writing, include any affected coastal district with an approved program. Along with the packet, the coordinating agency will distribute a notice establishing a comment deadline at Day 34, or at Day 17 in a 30-day review period, or later if the review period is extended as provided in 6 AAC 50.100. The notice will also state the applicable time limit, if any, imposed by the federal law or regulation.

(f) If the coordinating agency determines that the public notice, if any, provided by the resource agencies as part of their review of a permit is not adequate to inform the public about the project and the consistency review process, the coordinating agency shall, as soon as possible, publish a public notice in a newspaper or on radio or television in the affected areas, describing the project and the consistency review process. In evaluating the need for public notice of a project, the coordinating agency shall consider the magnitude of likely impacts, including cumulative impacts on the affected area, but may not unreasonably require public notice for a project for which notice is not statutorily required. DGC will encourage the joint public notice of project reviews when a permit from more than one agency is required.

(g) The coordinating agency, on its own initiative or at the request of a resource agency or of an affected coastal district with an approved program, may request from the applicant by Day 25, or Day 15 of a 30-day review period, additional information relevant to the proposed project, which is necessary for its consistency review or its own statutory responsibilities.

(h) Comments must be received by the coordinating agency on or before the comment deadline established by the coordinating agency. Each commenter shall also send copies of its comments to the resource agencies. Verbal comments must be confirmed by written comments postmarked within five working days after the verbal comments. If the commenter recommends stipulations on the consistency determination, a brief written justification must be provided by the commenter for each stipulation. Upon request, the coordinating agency shall send copies of comments to other interested parties.

(i) The coordinating agency shall encourage and facilitate consideration of comments received and discussion among the resource agencies. The coordinating agency shall determine whether there is a consensus among the resource agencies regarding a proposed consistency determination. The coordinating agency shall notify the affected coastal resource district with an approved program and the applicant on or before Day 44, or Day 24 in a 30-day review period, of the proposed determination or the issues to be resolved.

(j) If a resource agency, an affected coastal resource district with an approved program, or the applicant does not concur with the proposed consistency determination, it may request elevation of the review by submitting a written statement which describes its concerns and includes a proposed alternative consistency determination which would meet its concerns. That party shall distribute this statement so that all resource agencies, affected coastal resource districts, the applicant, and DGC will receive a copy on or before Day 49, or Day 29 in a 30-day review period, or within five days after receiving notice of the proposed determination, whichever is later. This requirement may be satisfied by transmitting the substance of the statement to the coordinating agency by telephone or other telecommunication device and sending written confirmation to all parties by mail or courier on or before the deadline under this subsection.

(k) The coordinating agency shall issue a conclusive consistency determination on or before Day 50, or Day 30 in a 30-day review period, if it has not received a request to elevate the review. If the coordinating agency receives a request, the agency shall elevate the review as necessary to the division directors, and then commissioners of the resource agencies, and may extend the decision deadline in accordance with 6 AAC 50.110(b)(7). If the review is elevated, the coordinating agency, or DGC on request, shall arrange meetings



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

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

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

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

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

Authority: AS 46.03.020

AS 46.04.030

AS 46.04.070

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Authority: AS 46.03.020

AS 46.04.030

AS 46.04.070

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

Authority: AS 46.03.020

AS 46.04.030

AS 46.04.070

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

## Alaska Oil and Gas Association

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

January 22, 1993

To the Members of the Alaska State Legislature:

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

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

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

Sincerely,

WILLIAM W. HOPKINS  
Executive Director

Attachment



## Alaska Environmental Lobby, Inc.

P.O. Box 22151 Juneau, Alaska 99802

907-463-3366

January 25, 1993

To the Members of the Alaska State Legislature:

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

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

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

Sincerely,

Russell Heath

Executive Director

# ALEUTIANS EAST BOROUGH

SERVING THE COMMUNITIES OF

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

January 21, 1993

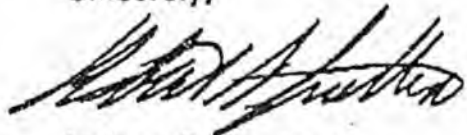
Representative Carl Moses  
P.O. Box V  
Juneau, AK 99803

Dear Representative Moses:

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

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

Sincerely,



Robert S. Juettner  
Borough Administrator

RSJ:amn

# A LEUTIANS WEST T

COASTAL RESOURCE SERVICE AREA

January 21, 1993

Dear Member of the 1993 Legislature:

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

Sincerely,



Darcy Richards  
Program Director

cc: AWCERSA Board of Directors

January 22, 1993

Dear Member of the Legislature:

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

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

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

Thank you for consideration of our letter.

Sincerely,

*Glen Vernon (SP)*

\_\_\_\_\_  
Glen Vernon, Borough Manager  
Lake and Peninsula Borough

*Alice J. Ruby*

\_\_\_\_\_  
Alice J. Ruby, Chair  
Bristol Bay CRSA Board



# Cenaliulriit

Coastal  
Management  
District

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

January 21, 1993

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

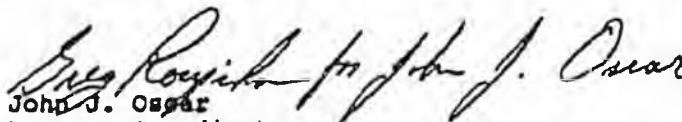
Dear Member of the Legislature:

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

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

Sincerely,

MOSES PAUKAI/CHAIRMAN, CENALIULRIIT COASTAL ZONE MANAGEMENT DISTRICT

  
John J. Osgar  
Program Coordinator

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CIRI PRODUCTION COMPANY

January 22, 1993

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

Dear Mr. Porter:

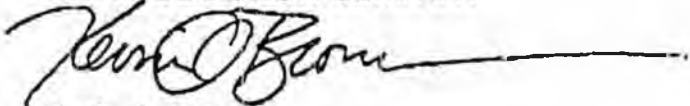
CIRI Production Company (CPC) is aware of the effort being made by a number of organizations to repeal AS 46.04.030(p). Such legislation, if adopted, would delete the requirement for the Alaska Department of Environmental Conservation to approve or disapprove proposed oil discharge prevention and contingency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

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

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

Sincerely,

CIRI PRODUCTION COMPANY



Kevin A. Brown  
Vice President

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



Office of Community Development

January 20, 1993

Dear Member of the Legislature:

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

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

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

Thank you for your consideration of this matter.

Sincerely,

David Dengel

Director of Community Development

**Doyon, Limited**

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Doyon Building  
201 First Avenue  
Fairbanks, Alaska 99701  
Tel: (907) 452-4755 Fax: (907) 456-6785  
Toll Free in Alaska: 1-800-478-4755

January 28, 1993

To Members of the Alaska State Legislature:

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

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

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

We appreciate your consideration of Doyon's position.

Sincerely,

Morris Thompson,  
President & CEO



## KENAI PENINSULA BOROUGH

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

DON GILMAN  
MAYOR

January 19, 1993

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

Subject: Repeal of AS 46.04-030(p)

Dear Mr. Porter:

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

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

Sincerely,

Richard P. Troeger  
Planning Director

RPT/nj

c: Don Gilman, Mayor  
Mary Pearsall, KPB Planner



# Kodiak Island Borough

710 MILL BAY ROAD  
KODIAK, ALASKA 99615-6340  
PHONE (907) 486-5736

January 26, 1993

VIA FAX 265-1502

Steven B. Porter  
ARCO Alaska Inc.  
P.O. Box 100360  
Anchorage, Alaska 99510-0360

Dear Mr. Porter:

The Kodiak Island Borough is aware of your efforts to obtain repeal of AS46.04.030(p).

We support legislation that would repeal the statute section referenced above, which mandates that the Alaska Department of Environmental Conservation approve or disapprove a submitted, complete oil discharge prevention and contingency plan within sixty-five (65) days.

The Kodiak Island Borough believes that repeal of AS46.04.030(p) will result in improved efficiency of the review process contained in 18AAC75. The Kodiak Island Borough supports this review process.

We further support speedy passage of legislation to effect the repeal of AS46.04.030(p). Please call me if I can provide additional information.

Sincerely,

Linda L. Freed, Director  
Community Development Department

c.c. Senator Fred Zharoff  
Representative Cliff Davidson  
Prince William Sound Regional Citizen's Advisory Council  
Cook Inlet Citizen's Advisory Council

# NORTH SLOPE BOROUGH

OFFICE OF THE MAYOR

P.O. Box 88  
Barrow, Alaska 99723

Phone: 907-852-2811

Jeslie Kaleak, Sr., Mayor



January 20, 1993

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

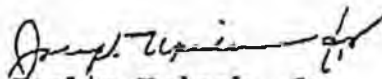
Re: Proposed Legislation on Oil Spill Contingency Plan Review

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

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

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

Sincerely,

  
Jeslie Kaleak, Sr.  
Mayor

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