

ALASKA LEGISLATURE COMMITTEE FILES 1993-1994 8672

8000 HOUSE RESOURCES

265

mms Present.

Oil Pollution

Act 1990 &

Regs, 2-15-94



Alaska State Legislature

HOUSE RESOURCES COMMITTEE

P.O. Box V
State Capitol
Juneau, Alaska 99811
(907) 465-3715

M E M O R A N D U M

TO: Members of the House Resources Committee

FROM: Representative Bill Williams, Chairman
House Resources Committee

DATE: February 14, 1994

Attached are draft comments from the Division of Governmental Coordination regarding proposed rulemaking by the Minerals Management Service concerning proof of financial responsibility.

This document should be helpful to you in preparing for the committee meeting with the MMS officials on February 15, 3:00 p.m. in the House Resources Committee room. Hopefully, this document will generate a lot of discussion and questions.

Draft State of Alaska Response
to Proposed Rulemaking by
the Minerals Management Service
Concerning Proof of Financial Responsibility

DRAFT

February 11, 1994

U.S. Department of the Interior
Minerals Management Service
Mail Stop 4700
381 Elden Street
Herndon, VA 22070-4817

Attention: Chief, Engineering and Standards Branch

The State of Alaska appreciates the opportunity to comment on the *Advance Notice of Proposed Rulemaking for OPA 90 Oil Spill Financial Responsibility Requirements for Offshore Facilities (Advance Notice)* published in the *Federal Register* on August 25, 1993. The efforts of Minerals Management Service (MMS) personnel who traveled to Alaska to discuss this issue last fall are also appreciated. We look forward to the February 1994 meeting which MMS will hold in Anchorage on this topic.

This response includes the concerns of State agencies as well as local coastal management districts in Alaska. Individual agencies and the coastal districts may also submit their comments on the *Advance Notice* directly to MMS.

The State of Alaska believes the proposed rulemaking far surpasses Congressional intent as expressed by OPA 90. By taking the broadest interpretation of legislative intent, the MMS intends to require any facility which uses oil or oil products in a wetland to provide proof of financial responsibility of \$150 million. Enforcement of the proposed rulemaking would have a profound negative effect on the economy of Alaska and other states. Almost half of Alaska is considered wetlands by virtue of previous administrative rulemaking by the Army Corps of Engineers and other federal agencies. As a consequence of the broad expansion of federal regulation of these wetlands, the financial requirements of the proposed rulemaking would force private businesses and local and State government agencies to cease certain essential operations. Adoption of the proposed regulations would result in a chain-reaction of fiscal impacts which would upset the entire Alaska economy as well as the national economy.

In addition to economic impacts, the proposed rulemaking would inflict significant social impacts upon the people of Alaska. It would diminish the standard of living currently enjoyed by residents of rural areas, Native villages and urban areas. The availability of oil and refined products would decrease, thereby limiting transportation, electrical generation, and heating opportunities.

DRAFT

While this response focuses on Alaska's concerns, the proposed rulemaking would have serious and far-reaching national ramifications as well. Considering the relative abundance of real and regulatory-created wetlands in Alaska, the proposed rulemaking would disproportionately affect Alaska's rural and urban communities both social and economically. The effect of implementation of the proposed rulemaking would be devastating in every community, causing havoc in such basic benefits as residential heating, electric power, and all forms of transportation including delivery of U.S. mail, food and health care.

The remainder of this letter provides specific comments on the proposed regulations. These comments address recommendations for further action by MMS and discuss Alaska's view on Congressional intent in the passage of OPA 90. The comments also address an alternative risk-based approach, discuss the likely inability to obtain coverage, summarize potential economic effects, suggest the use of Alaska's financial responsibility requirements, and address uncertainty about the scope of the proposed regulations.

RECOMMENDED ACTION ON PROPOSED RULEMAKING

The proposed rulemaking would require proof of financial responsibility which would be impossible to obtain in most instances. Unless an entity is large enough to self insure, it would have to use another means to prove financial responsibility. Most small businesses would be treated equally with the largest corporations and could not afford to provide \$150 million proof of financial responsibility. Organizations and companies which provide insurance, reinsurance, and other forms of coverage simply do not have the capacity to cover the number of entities which would be required to have coverage under the proposed rulemaking.

The State of Alaska seriously doubts that it was the intent of Congress to place such a burden on both government agencies and small businesses. Because of the wide-ranging negative ramifications of the proposed rulemaking, the State of Alaska respectfully requests that MMS narrowly construe its authorities in implementing OPA 90 until the issues outlined in this letter are resolved.

We urge MMS to reevaluate its interpretation of OPA 90 definitions as those definitions pertain to both MMS's authority and the scope of operations and facilities to be covered by its rulemaking. The State recommends MMS reconsider its overly broad interpretation of the terms "navigable waters" and "offshore facilities". In addition, since the OPA 90 financial responsibility section (Section 1016) applies only to responsible parties, the definition of "responsible party" should be carefully considered. This definition clearly limits the scope of facilities affected by Section 1016. The State believes Congress intended to require only deepwater ports and facilities located offshore to provide proof of financial responsibility on the scale contemplated by MMS's rulemaking. It is unlikely Congress intended expansion of MMS authority and responsibility to fresh water wetlands. Absent clear and convincing evidence that Congress intended a broader approach, MMS should construe its authority narrowly so as to minimize economic dislocation and hardship to the public. If MMS determines that legislative amendments are necessary to clarify its responsibilities, the State recommends the following changes be considered when seeking any legislative solution.

DRAFT

Minerals Management Service

February 11, 1994

- **Limit Coverage to Offshore Facilities:** The \$150 million proof of financial responsibility requirement should be limited to those offshore oil exploration and production facilities traditionally regulated by MMS.
- **Use State Financial Responsibility Requirements:** The language in Section 1019 of OPA 90 should be changed to allow substitution of State financial responsibility requirements for federal requirements in State waters. The State of Alaska's financial responsibility requirements are some of the most comprehensive in the world.
- **Exempt Small Operations:** The proposed financial responsibility requirements do not discriminate among operations which pose different levels of spill risks. A provision should be made for *de minimis* exceptions. A logical threshold should be established to exempt responsible parties who pose minimal risk. In other words, the liability should be commensurate with the risk.
- **Develop a Risk-Based Approach:** The words "up to" should be inserted before "\$150 million" in all appropriate sections of the legislation. Congress should establish a tiered system, like that in Alaska law, that prescribes lower financial responsibility amounts for smaller and lower risk operations. If State law is not relied on to govern operations in State waters, Congress must still recognize that not all operations represent the same risk that offshore crude oil exploration and production facilities do. The fixed amount of \$150 million is especially inappropriate for small facilities and vessels carrying refined oil products. Spills from these operations evaporate and disperse much faster than crude spills, resulting in simpler response operations, and in most cases, far less damage. Further, some offshore wells can be expected to produce much smaller quantities of oil, and present less risk, than larger "finds". Therefore, a fixed amount of \$150 million may not be appropriate for all offshore operations.

In the event OPA 90 is to be amended, the State of Alaska would appreciate the opportunity to comment further on specific language and section changes.

CONGRESSIONAL INTENT

Breadth of Coverage

It is inconceivable that Congress intended to expand MMS's jurisdiction to the extent

DRAFT

Minerals Management Service

February 11, 1994

proposed by the *Advance Notice*. Regarding OPA 90 proof of financial responsibility provisions, a common-sense interpretation of Congressional intent would better serve the country than the very broad interpretation advanced by MMS.

Like similar legislation in Alaska, OPA 90 was enacted in the aftermath of the *Exxon Valdez* oil spill. The State believes Congress intended the new financial responsibility requirements to apply to facilities traditionally considered offshore facilities and deepwater ports. Because the OPA 90 definition of "offshore facilities" specifically mentions territorial waters, it appears Congress did not intend to include onshore areas. If Congress had intended to include onshore areas in the definition of offshore facilities, it would not have created a separate definition for "onshore facilities". Instead, Congress would have chosen a term other than "offshore facilities" if it meant to include "onshore facilities" in the definition.

Notwithstanding the issue of Congressional intent in defining "onshore facilities" or "navigable waters", the definition of "responsible party" narrows the type of facilities covered by the financial responsibility requirements. The definition of "responsible party" differentiates between vessels, onshore facilities and offshore facilities. The part of the definition which addresses offshore facilities limits responsible parties to the

lessee and permittee of the area in which the facility is located or the holder of a right of use and easement granted under applicable State law or the Outer Continental Shelf Lands Act (43 U.S.C. 1301-1356) . . . (emphasis added)

This definition appears to exclude motor vehicles, aircraft, and facilities which do not require leases or permits. In addition, the State believes Congress intended "applicable State law" to include only laws which address offshore oil and gas lease sales, exploration and production. A thorough discussion of the limits imposed by the term "responsible party" is not included in the *Advance Notice*.

If Congress had intended to require small businesses, State agencies and local governments to provide proof of financial responsibility, it seems logical that it would have required a sliding scale of financial responsibility commensurate with the risk associated with a potential oil spill. Did Congress knowingly intend to require a small fuel distributor or local governments in rural Alaska to provide proof of financial responsibility for \$150 million when the financial risk of a potential spill would be far less?

We simply cannot believe Congress intended to place such a heavy burden on coastal communities and State agencies. Coastal communities often have multiple fuel storage sites, each of which would potentially trigger the \$150 million proof of financial responsibility requirement proposed in MMS's rulemaking. It is difficult to believe that Congress intended such absurd results. At \$150 million per site, communities, the small businesses within

DRAFT

Minerals Management Service

February 11, 1994

them, and regional school districts would be subject to obligations which they simply could not meet. Moreover, because of their limited risk, these types of facilities should never be categorized the same as offshore production platforms.

ENVIRONMENTAL PROTECTION

Assuming one of the basic purposes of OPA 90 is to protect the environment from oil spills, the limitations of financial responsibility requirements to meet this end should be recognized. While a Certificate of Financial Responsibility (COFR) may show that an operation has the capital to respond to an oil spill, it does not prevent an oil spill from occurring. The State of Alaska has placed priority on oil spill prevention. For example, the Alaska Department of Community and Regional Affairs and the Alaska Department of Environmental Conservation are working to assure that rural tank farms will not leak oil. Rather than focussing on financial responsibility requirements, the environment might be better protected if more federal funds were available to assure that oil spills will not occur.

RISK-BASED APPROACH

The \$150 million OPA 90 requirement for proof of financial responsibility does not differentiate between serious and negligible risks. Considering only oil and gas exploration and development activities, specific kinds of oil-related activities pose significantly different risks. For example, vessels transporting oil contribute to almost half the oil discharged into marine waters. Excluding atmospheric, natural, municipal and runoff sources of oil, transportation-related spills account for 97 percent of oil entering marine waters. On the other hand, facilities associated with offshore production cause less than three percent of the oil input into marine waters¹.

A reasonable financial responsibility assessment should base its requirements on risks related to a possible oil spill. It should reflect the location of the facility, the amount of oil or refined product, and the type of product associated with the facility.

INABILITY TO OBTAIN COVERAGE

Two questions should be answered before implementing the proposed financial responsibility requirements. First, will those affected be able to obtain coverage? Second, for those who

¹Michael J. Kennish, Ph.D., *Ecology of Estuaries: Anthropogenic Effects*, Boca Raton: CRC Press, 1992, pp. 66-67.

DRAFT

Minerals Management Service

February 11, 1994

could conceivably obtain coverage, would it be affordable? The State of Alaska believes that the answer to these questions is no for anyone other than a Fortune 500 company.

Obtaining \$150 million in financial responsibility will be costly to even those companies in the upper Fortune 500 category. Because of their financial strength, such companies would be able to purchase what is known as excess layers of coverage once they have provided approximately \$100 million in self insurance. It is likely that these companies would have to obtain the additional \$50 million of coverage from several different sources. Companies would pass these costs to the public.

Companies outside of the Fortune 500 category would not likely be able to meet the proposed proof of financial responsibility requirements. The availability of coverage is directly linked to the health and solvency of insurers and their capacity to provide coverage. Capacity, in this sense, means the legal and financial ability to provide coverage. Market availability of coverage is also dependent on the willingness of the insurance industry to accept certain risks. Most insurers are disinclined to write this form of pollution liability coverage.

Alaska, like all states, limits the amount of risk an insurer can undertake (AS 21.12.010). This risk limitation is based on the amount of a company's capital and surplus. An insurer who is licensed to sell insurance for risks in Alaska can only issue a policy with less risk exposure than ten percent of its capital and surplus. As used here, capital and surplus refers to the amount of money available for the payment of claims and other obligations. In other words, before a company can cover one policy for \$150 million, it must have at least \$1.5 billion in capital and surplus. There are few property and casualty insurers licensed in the United States which have the necessary surplus to legally write the required coverage proposed by the MMS.

When one considers the State-imposed risk limitation along with the willingness of insurers to provide pollution coverage, the options to obtain coverage decrease significantly. The State of Alaska knows of only three insurance conglomerates that are willing to write this form of pollution liability coverage. Two of these groups do not have the required surplus to issue even one single policy for the full liability limits of \$150 million as required by the proposed rulemaking.

In some circumstances where it is difficult to obtain insurance, states allow unlicensed companies to provide insurance. It is possible companies could obtain pieces of coverage through these unlicensed companies which would combine to provide the required \$150 million proof. These sources are not subject to State regulatory oversight, and as such, are not subject to the same financial oversight as licensed companies.

DRAFT

Minerals Management Service

February 11, 1994

The reinsurance market is another alternative to provide the proposed financial responsibility coverage. Financial difficulties currently experienced by London-based reinsurance enterprises, however, make them unable to absorb additional risks of this magnitude.

Some oil-related companies which operate vessels obtain liability coverage from Protection and Indemnity Clubs (P&I Clubs) for their marine-related risks. These organizations provide coverage through a complex system. Usually, members must cover some of the costs of an oil spill, the group as a whole covers some of the costs, and reinsurance covers the remaining costs. It is unlikely, however, that P&I Clubs would have the ability or desire to cover onshore facilities affected by the proposed rulemaking.

Again, for even those companies which could obtain the proposed level of financial responsibility, there will be additional problems. Costs of providing this proof would likely be passed on to the consumer possibly placing commodities and services out of reach to most Alaskans and small businesses.

It should be noted that other means exist to assure adequate funding for oil spill clean up. For instance, the Oil Liability Trust Fund (26 U.S.C. 9509) is available for oil spill expenses authorized by Section 1012 of CWA 90. As well, many states have similar funds. Alaska's fund is known as the Oil and Hazardous Substance Release Response Fund (AS 46.08.010).

POTENTIAL ECONOMIC EFFECT

The potential economic consequences of the proposed rulemaking are overwhelming. Taken to an extreme, which appears to be the case in the *Advance Notice*, the proposed regulations would have wide-ranging effects. Activities in Alaska's wetlands, which comprise virtually half of the State, would require coverage of \$150 million of financial responsibility. The result would be a decline in general commerce, a decrease in essential government services, increased hardships in rural areas including Native villages, and a swift blow to Alaska's vital oil and gas industry. Each of these topics is discussed in more detail below.

General Effect on Commerce

The proposed rulemaking would likely have a crippling effect on Alaska's economy sending it into a tailspin which could result in a severe depression. Because of its unique abundance and geographic distribution of its populated communities, most of Alaska's commerce occurs in wetlands. While physically some of these areas may not appear to be wetlands at first glance, they have been defined by regulation to be so. Consequently, the proposed regulations potentially affect distribution of home heating oil, bulk storage of fuel, gas stations, outfitter-guide operations, eco-tourism operators, floatplane companies, and the trucking industry.

DRAFT

Minerals Management Service

February 11, 1994

If only applied to fuel distributors, the proposed regulations would have a mind-boggling effect. Most rural Alaska communities use diesel fuel to generate electric power. Even assuming it would be possible to obtain a \$150 million proof of financial responsibility for distributions serving those communities, fuel prices would rise to an unreasonable level. Businesses which could afford to provide the required proof of financial responsibility would have to pass the costs to the consumer. Such a requirement would likely force rural fuel distributors and owners of storage facilities to cease operations.

The effect on the fishing industry would also be devastating. Vessels could no longer be legally fueled at refueling docks because the small companies operating these facilities would not be able to meet the financial responsibility requirements. As a result, the Alaska fishing industry would be forced to violate these regulations in order to remain in business.

Tourism, another important industry in Alaska, would decline because tourism-related companies which handle fuel would no longer be in business. It should be noted that most wilderness adventure businesses transport fuel for use in vehicles, boats, lanterns and camp stoves. Bush pilots also transport tourists and hunters along with fuel provisions to remote locations. Tour operators which store fuel for busses could also be forced out of business.

Also, the mining and timber industries would be adversely affected. Resource development companies must use fuel to carry out activities in wetland areas. Few of these companies could obtain proof of financial responsibility for \$150 million.

Effect on Government Operations

Many local and State government agencies would be affected by the proposed rulemaking. The State Department of Transportation stores fuel in locations across the State for highway maintenance operations. Rural village governments store diesel fuel to generate power and provide heat. In addition, field personnel must carry fuel with them during extended trips to field locations. Virtually every one of these operations would be covered by the proposed rulemaking.

Effect on Rural Villages

The proposed rulemaking could close rural schools, compel rural communities to abandon electric power generation facilities, and force rural residents into further poverty. There are no practical alternatives to diesel-powered electrical generation to most Alaska villages due to the limited extent of electrical interties. Besides the economic effect, social implications would be significant. Reduced availability of fuel would substantially curtail subsistence activities.

DRAFT

Minerals Management Service

February 11, 1994

Consider just the effect the rulemaking would have on the operators of the 325 tank farms located in rural Alaska. The total capacity of all of these tank farms is approximately 1.5 times the amount of oil spilled by *Exxon Valdez*, yet rural Alaska would be burdened with the task of providing nearly \$48 billion of financial responsibility.

As an example of the effects the proposed rulemaking would have on rural Alaska, consider the Native village of Chevak, located in the Yukon-Kuskokwim delta. The population base of approximately 600 people is not enough to support the costs of obtaining proof of financial responsibility for facilities which handle or store oil or oil products. Consequently, the village's eight tank farms would have to close. Individual tank farms are operated by the village school, the local government, the electric utility, a Native corporation, and a private entity. The proposed rulemaking would limit or shut down operations at the school. The electric utility would no longer be able to generate power from diesel fuel. The airport would have to close, thereby limiting residents' contact with the rest of Alaska. Fuel would not be available to power vehicles. Residents would have to scavenge a limited supply of driftwood to fuel wood stoves. Subsistence activities would be curtailed because the villagers would no longer be able to obtain fuel to power outboard motors or snow machines.

The description of the effects of the proposed rulemaking on the residents of Chevak appears to be absurd, however, this scenario is a plausible outcome of implementing the rulemaking as MMS currently proposes. Effectively, the residents of this and other rural Alaska communities would be forced to accept a much reduced standard of living because of a senseless government standard. Implementing the proposed rulemaking would increase rural poverty, encourage depopulation of villages, and decrease health conditions and life expectancy of Alaska's rural population.

Effect on the Oil Industry

Requiring proof of financial responsibility of \$150 million for responsible parties in the oil industry also will have negative effects, not only on Alaska but on the nation as well. While large oil companies may be able to meet this requirement, the smaller companies can not. The proposed regulations would force smaller companies to abandon operations in Alaska and throughout the lower 48 states. This result is entirely inconsistent with the Administration's stated goals of reducing imports, stimulating domestic production, reducing our balance of trade and generally stimulating the domestic economy.

For example, none of the companies providing drilling services on the North Slope are likely to be able to obtain \$150 million of proof of financial responsibility. Similarly, geophysical survey companies which must store and transport fuel would be adversely affected. These companies transport fuel for use in completing remote seismic surveys. Likewise, the proposed rulemaking could lead to the shutdown of other oil field support contractors who work on the North Slope and in Alaska's Cook Inlet region. Without the support provided

by these small companies, lessees would have to provide these services, the cost of which would affect decisions regarding abandonment and production of marginal oil fields.

The proposed rulemaking would provide yet another disincentive for offshore oil and gas exploration in an area already characterized by high costs and low returns. Alaska is experiencing a decline in offshore exploration activities. Generally, implementation of this rulemaking would simply hasten the exodus of domestic explorationists. A reduction in domestic oil exploration and production would result in a tremendous loss of employment, add a greater burden on government to provide social services to unemployed workers, lead to greater dependence on foreign oil, and compromise national security.

Implementation of the proposed rulemaking would result in a further loss of federal and State oil and gas revenues. A decrease in production would result in a corresponding decrease in royalty revenues. Considering remaining oil production, wellhead prices could rise due to increased costs to producers to provide the necessary proof of financial responsibility which would also reduce State and federal revenues.

USE OF ALASKA FINANCIAL RESPONSIBILITY REQUIREMENTS

Section 1019 of CPA 90 provides for state enforcement of financial responsibility requirements in State navigable waters. We encourage the substitution of current State of Alaska financial responsibility requirements for those operations located in or under State navigable waters.

The financial responsibility requirements in Alaska are some of the most comprehensive in the world. They take into account varying levels of risk associated with each category of operator and differentiate between crude and noncrude oil. In addition, operators storing less than 5,000 barrels of crude oil, or less than 10,000 barrels of noncrude oil are exempt from financial responsibility requirements. Only tankships would be required by State law to provide \$150 million or greater proof of financial responsibility. Alaska law requires crude oil pipelines and offshore exploration and production facilities to provide proof of financial responsibility of \$50 million.

It may also be appropriate to consider implementation of approved methods of providing proof of financial responsibility in Alaska waters as outlined in statute (AS 46.04.040) and in the Alaska Administrative Code (18 AAC 75.205 et. seq.). When developing its approved means of providing proof of financial responsibility, the State of Alaska worked with the oil and insurance industries and other interested parties to assure these provisions were reasonable, practical and effective.

DRAFT

Minerals Management Service

February 11, 1994

UNCERTAINTY RELATING TO THE PROPOSED RULEMAKING

Uncertainty regarding who is covered by the proposed regulations is exemplified in MMS documents concerning the proposed rulemaking. For example, the undated news release from the Alaska OCS Region which accompanied the August 25, 1993 MMS news release states that the financial responsibility requirements could affect facilities which handle oil or oil products including federal, state, municipal and private facilities. During our meeting with MMS personnel from Washington D.C., we were informed that federal facilities would not be affected by the proposed rulemaking. When addressing who will be affected, both the *Advanced Notice* and comments made by MMS personnel suggest certain groups "may" be affected. It is difficult to provide meaningful comments on proposed regulations when it is uncertain who these regulations are intended to affect.

It appears that MMS is also uncertain regarding Congressional intent. When addressing intent, MMS personnel referenced the OPA 90 Conference Report, but it is unclear what other sources have been investigated to determine Congressional intent. It also appears that limitations imposed by the definition of "responsible party" have not been carefully considered. Because this proposed rulemaking could potentially cripple commerce within Alaska and other states, we urge MMS to adopt a more practical approach and reevaluate its preliminary determination on the jurisdictional requirements of OPA 90.

CONCLUSION

In summary, MMS's interpretation of OPA 90 financial responsibility requirements would profoundly affect Alaska and other states. The proposed rulemaking would be an unwarranted impediment to commerce and government operations. Additionally, implementation of the proposed rulemaking would not provide reasonable protection of the environment. Failure to provide exemptions, exclusions or modifications to the application of the proposed regulations would force many government agencies and private businesses into non-compliance.

Since a large part of Alaska is considered navigable waters (i.e., wetlands), under the proposed regulations small businesses and local governments would be required to provide \$150 million proof of financial responsibility. Most facility operators, however, would not be able to obtain this level of financial responsibility. Noncompliance would subject them to astronomical fines and possible civil and criminal charges. Since most of these entities could not afford to pay the fines, the proposed financial responsibility requirements would force facility owners and government agencies to cease many vital services.

The State of Alaska respectfully requests MMS to restrict its rulemaking for the proof of financial responsibility portion of OPA 90 to those operations and activities traditionally

DRAFT

Minerals Management Service

February 11, 1994

within MMS's jurisdiction. We appreciate the opportunity afforded by MMS to comment and we look forward to the upcoming workshop in Anchorage.

Sincerely,

Paul C. Rusanowski, Ph.D.
Director

cc:

Commissioner Edgar Blatchford, DCRA
Mike Conway, DEC, Spill Prevention and Response, Director
Glenn Daily, Tanana Chiefs
Jim Eason, DNR, Division of Oil and Gas, Director
Raga Elim, Office of the Governor
Bob Foote
Linda Freed, Kodiak Borough
Sue Flensburg, Bristol Bay CRSA
Commissioner Paul Fuhs, DCED
Chris Gates, DCED, Economic Development, Director
Ray Gillespie, Gillespie and Associates
Glenn Gray, DGC
Jim Haselberger, Office of the Governor
Representative Joe Green
John Katz, Office of the Governor
Beth Kerttula, Law
Gabrielle LaRoche, DCED
Ted Lehrbach, DCED, Division of Insurance
Senator Loren Leman
Mike Mansker, DEC
Commissioner Harry Noah, DNR
Senator Drue Pearce
Carl Portman, RDC
Cindy Roberts, DCED
Malcom Roberts, Office of the Governor
Carl Rosier, DFG, Commissioner
John Sandor, DEC, Commissioner
Jules Tileston, DNR
Mead Treadwell, DEC
David Walsh, DCED, Insurance, Director
Nancy Wainwright
John Walsh, DCRA

Federal Minerals Management Service - Advance Notice of
Proposed Rulemaking

Billing Code 4310-MR

DEPARTMENT OF THE INTERIOR

Minerals Management Service

30 CFR Part 253

RIN 1010-AB78

Oil Spill Financial Responsibility for Offshore Facilities
Including State Submerged Lands and Pipelines

AGENCY: Minerals Management Service, Interior.

ACTION: Advance notice of proposed rulemaking.

SUMMARY: The Minerals Management Service (MMS) is announcing its intention to publish regulations governing the establishment of financial responsibility for offshore oil and gas facilities and requests comments from interested parties. This action is necessary to ensure that parties responsible for offshore oil and gas facilities are able to meet the financial responsibility requirements of the Oil Pollution Act of 1990 (OPA 90). These regulations will establish a level of financial responsibility at \$150 million for all offshore facilities in, on, or under the navigable waters of the United States.

DATES: Comments should be received or postmarked by [Insert date 60 days after the date of publication in the Federal Register] to receive full consideration.

ADDRESSES: Comments should be mailed or hand delivered to the Department of the Interior; Minerals Management Service, Mail

Stop 4700; 381 Elden Street; Herndon, Virginia 22070-4817;
Attention: Chief, Engineering and Standards Branch.

FOR FURTHER INFORMATION CONTACT: William S. Cook, Chief,
Inspection and Enforcement Branch, telephone (703) 787-1610 or
FAX (703) 787-1575.

SUPPLEMENTARY INFORMATION: The Minerals Management Service
(MMS) is developing new regulations to implement Title I and
section 4303 of OPA 90 (33 USC 2701) for offshore facilities in
navigable waters of the United States. These regulations will:

- Establish the amount of oil spill financial responsibility that must be evidenced by responsible parties at \$150 million;
- Extend MMS jurisdiction for financial responsibility to the territorial sea, inland navigable waters, and the navigable waters of U.S. territories, in addition to the Outer Continental Shelf (OCS).
- Define acceptable methods available to demonstrate evidence of oil spill financial responsibility;
- Define procedures to be used to submit evidence of oil spill financial responsibility;
- Define responsibilities, liabilities, and defenses of guarantors;
- Establish the maximum civil penalties to which responsible parties are subject as \$25,000 per day of violation; and
- Establish civil penalties procedures.

The MMS solicits information and comments on OPA 90 issues, and MMS' preliminary interpretation of the OPA 90 requirements. Commentors should propose solutions to any problems they anticipate in complying with the OPA 90 requirements. The MMS is also seeking information on the effect of the new OPA 90 requirements on the oil, financial, and insurance industries; how MMS can best utilize the administrative expertise and experience of State regulatory agencies; and the concerns of environmental groups and other interested parties.

In August 1990, Congress passed OPA 90 which contains various provisions aimed at:

- Strengthening oil spill prevention, response capability, and cleanup efforts.
- Ensuring payment of damages resulting from oil spills.

Title III of the OCS Lands Act Amendments of 1978 (OCSLAA 78) was repealed and the Federal Water Pollution Control Act and the Deepwater Port Act of 1974 were amended by OPA 90. To implement the authority under OPA 90, Executive Order (E.O.) 12777 was signed by the President on October 18, 1991, and was published in the Federal Register on October 22, 1991 (56 FR 54757). The E.O. delegated certain responsibilities to the Secretary of the Interior, including responsibilities relative to ensuring evidence of financial responsibility for companies operating offshore facilities on United States navigable waters. The

Secretary subsequently redelegated these responsibilities to the Director, MMS.

This function was previously performed by the U.S. Coast Guard (USCG) on OCS waters under the authority of Title III of OCSLAA 78, and implemented by 33 CFR part 135. On October 1, 1992, a memorandum of agreement (MOA) was signed transferring the personnel, equipment, and files associated with the function to the MMS in furtherance of the delegations in E.O. 12777.

Affected Facilities

The definition of "facility" in OPA 90 [section 1001(9)] includes all structures, equipment, or devices, other than vessels and deep water ports, used for the purposes of exploring for, drilling for, producing, storing, handling, transferring, processing, or transporting oil. This term specifically includes pipelines. For the purposes of administering Section 1016 of OPA 90, the MMS will apply financial responsibility requirements, in the case of offshore facilities other than pipelines, to the lessee or permittee of the area in which the facility is located or the holders of a right of use and easement granted under applicable State law or the OCS Lands Act for the area in which the facility is located. In the case of pipelines, the MMS will apply financial responsibility requirements to any person owning or operating pipelines located in, on, or under the navigable

waters of the United States. Under E.O. 12777, the responsibility for Deepwater Ports has been assigned to the USCG.

Geographic Jurisdiction

The financial responsibility requirements for offshore facilities apply to all U.S. navigable waters. The law (OPA 90) defines U.S. navigable waters as the waters of the United States including the territorial sea. This includes all of the States of the United States, the District of Columbia, the Commonwealth of Puerto Rico, Guam, American Samoa, the United States Virgin Islands, the Commonwealth of the Northern Marianas, and any other territory or possession of the United States. Also, these new authorities and responsibilities apply to offshore facilities that the MMS currently regulates for oil and gas operations in the OCS.

The MMS interpretation of the term "navigable waters of the United States," as used in the definition for "offshore facility" in section 1001(22) of OPA 90, extends the OPA 90 provisions concerning offshore facilities to facilities in, on, or under the inland waters of the United States. For example, under this interpretation, a company operating a petroleum pipeline that crosses the Ohio River below Pittsburgh, Pennsylvania, would be subject to the \$150 million financial responsibility provisions of this rule, as would the operator of an oil well in the Great Lakes.

Implementation Procedures

In developing regulations to implement the oil spill financial responsibility requirements of OPA 90, the MMS will need to determine whether the following concepts in the existing regulations at 33 CFR part 135 can be used to address the responsibilities delegated under E.O. 12777:

- Evidence of financial responsibility may be provided by one or more Guarantors for one or more offshore facilities of a particular responsible party.
- Where multiple responsible parties own an offshore facility, evidence of financial responsibility may be established and maintained on behalf of all of the parties by that party designated as the lead responsible party.
- When evidence of financial responsibility is established in a consolidated form, the proportional share of each Guarantor must be shown.
- Each responsible party of an offshore facility is subject to civil penalties and/or referral to the Department of Justice if the required evidence of financial responsibility is not established and maintained.
- Evidence of financial responsibility may be established and maintained by any one or any combination of acceptable methods.
- Individual insurance underwriters, indemnitors, and bonding companies are subject to direct action to the extent of their contracts, indemnity coverage, or bond.

Solicited Information

Responses to the following questions are requested to assist MMS in formulating the requirements to implement OPA 90. In addition, to help fulfill its responsibilities for determining the economic effects of regulations, MMS requests information that can be used to determine the potential economic effect of this rulemaking on the oil and gas, the pipeline, the insurance, the fishing, the tourism, and other industries.

1. The MMS solicits information on the types and locations of facilities that may be subject to the offshore financial responsibility requirements of OPA 90. The OPA 90 defines an offshore facility as any facility of any kind located in, on, or under any of the navigable waters of the United States, and any facility of any kind which is subject to the jurisdiction of the United States and is located in, on, or under any other waters, other than a vessel or a public vessel. In addition, OPA 90 defines a facility as any structure, group of structures, equipment, or device (other than a vessel) which is used for one or more of the following purposes: exploring for, drilling for, producing, storing, handling, transferring, processing, or transporting oil. This term includes any motor vehicle, rolling stock, or pipeline used for one or more of these purposes. Comments are invited on whether or not, and if not why not, this definition includes:

- Pipelines crossing over bodies of water on bridges, piers, breakwaters, berms, or similar structures.

- Fuel storage tanks, piping, and hoses installed in, on, or above navigable waters, including those facilities in private marinas.
- Pipelines in, on, or under inland navigable waters but not crossing the inland navigable waters.
- Pipelines that cross in, on, or under both land masses and inland navigable waters.
- Pipelines that cross under inland navigable waters in tunnels or are surrounded by other impermeable barriers.
- Pipelines that cross the waters of the United States and the waters of another country.
- Drill strings, flow lines, or production casing extending under navigable waters but originating from land-based drilling and production facilities.
- Other structures to which the applicability of OPA 90 may be unclear.

2. Section 1016(e) of OPA, and 33 CFR part 135 enumerate the following potential ways of demonstrating financial responsibility:

- Insurance;
- Guaranty;
- Indemnity;
- Surety bond;
- Letters of credit;
- Qualification as self-insurer; or
- Any combination of the above methods.

What additional methods of demonstrating evidence of the \$150 million level of financial responsibility exist to enable responsible parties and guarantors to meet the requirement? Do all of these methods provide adequate assurance that claims will be paid in a timely manner?

3. Section 1019 of OPA 90 states, "A State may enforce, on the navigable waters of the State, the requirements for evidence of financial responsibility under section 1016." The MMS is seeking comments on:

- Existing State programs that can be demonstrated to be equivalent to OPA 90.

- Other State programs that address oil spill financial responsibility.

- How States expect to administer evidence of financial responsibility programs consistent with OPA 90.

- What relationships can exist between MMS and States that do and States that do not have their own evidence of financial responsibility programs.

- How MMS can verify that a State program satisfies the requirements of OPA 90.

- What contact and coordination mechanisms MMS can establish with States.

- To what extent MMS may be allowed to defer offshore facility financial responsibility under OPA 90 to a State program.

4. The oil and gas industry has expressed concerns regarding the availability of insurance for those responsible parties that cannot self-insure. Insurers attribute their problem to claimant direct action, duplicative liability under State law, and determinations of covered damages. The MMS is seeking comments regarding:

- Whether and how direct access, language limiting liability, uncertain scope of damage provisions, and lack of preemption provisions in OPA 90 affect the availability of insurance.

- What regulatory approaches are available under OPA 90 that may improve the availability of an insurance market.

5. Section 1016(e) of OPA 90 authorizes MMS, as the agent of the President, to specify policy or other contractual terms, conditions, or defenses which are necessary, or which are unacceptable, in establishing evidence of financial responsibility. The MMS is seeking comments regarding:

- What defenses should be available to a Guarantor to ensure the availability of affordable bonds, insurance, or other forms of guarantees.

- On what terms and conditions, if any, should bank letters of credit be acceptable as evidence of financial responsibility.

- On what terms and conditions, if any, should third party guaranties be acceptable as evidence of financial responsibility.

- On what terms and conditions should a lessee/operator be allowed to self-insure for financial responsibility obligations under OPA 90.

6. Self-insurance, as well as insurance, re-insurance, and other indemnity mechanisms have been identified as methods to achieve the \$150 million oil spill financial responsibility requirement of OPA 90. The MMS is seeking comments regarding:

- What organizational structures could be used for these indemnity mechanisms.

- What limitations are appropriate for these indemnity mechanisms to ensure that adequate financial responsibility coverage exists for all participating responsible parties.

- To what extent can a single indemnity mechanism be acceptable as evidence for a number of responsible parties or their offshore facilities.

- Should the utilization of a single indemnity mechanism be limited by a maximum number of offshore facilities or a maximum volume of oil handled by the offshore facilities. If not, why not.

- What financial tests or criteria should be used to judge applications for self-insurance.

7. For the purposes of administering section 1016 of OPA 90, the MMS interpretation of the definition for "oil" in section 1001(23) of OPA 90, excludes facilities that handle or produce

12

only dry natural gas. The MMS recognizes that some quantity of natural gas liquids may be produced with the gas. Facilities handling at any one time 1,000 barrels or less of these highly volatile, light end petroleum fractions were exempted from the USCG financial responsibility regulations (33 CFR part 135) because these liquids posed significantly less environmental risk than oil. The MMS is seeking comments and the basis for those comments regarding:

- Should offshore facilities that store or process only dry natural gas be exempt from the financial responsibility requirements of OPA 90.

- Should offshore facilities that store or process a de minimis quantity of natural gas condensate be exempt from the financial responsibility requirements of OPA 90.

- What are appropriate de minimis quantities.

8. The oil and gas industry has claimed that the requirement for \$150 million in financial responsibility may result in premature abandonment of wells and preclude their transfer to smaller companies. The MMS is seeking comments regarding:

- What information is available to substantiate this claim.

- How regulations can be structured to avoid premature abandonment of producing wells.

Persons choosing to respond to this notice should send comments to the address shown in the addresses section. Following the

analysis of comments received, proposed rules governing oil spill financial responsibility for offshore facilities will be developed and published in the Federal Register.

JUN 14 1993

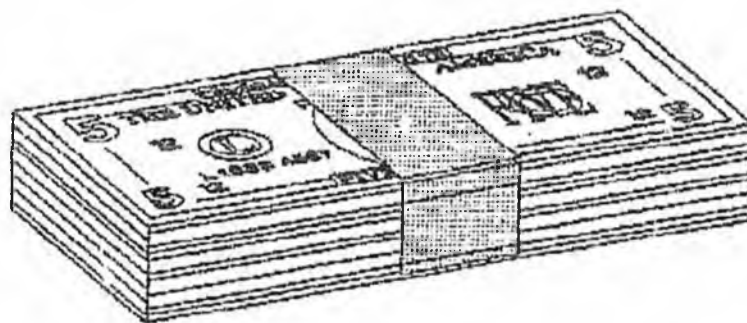
Date

Bob Armstrong

Assistant Secretary for
Land and Minerals Management

**Minerals Management Service
U.S. Department of the Interior**

**Oil Pollution Act of
1990**



***Certification of Financial
Responsibility***

MMS U.S. Department of the Interior
Oil Pollution Act of 1990--Financial Responsibility

Discussion on OPA 90
Financial Responsibility

- **New responsibility for MMS**
- **Working on implementation through ANPR**
- **Informing the affected public**
- **Seeking comments and recommendations**

MMS U.S. Department of the Interior
Oil Pollution Act of 1990--Financial Responsibility

Purpose of OPA 90:

- **Improve oil spill prevention and response**
- **Make sure someone pays to clean up spills**
- **Increase liability for oil spills**

MMS U.S. Department of the Interior
Oil Pollution Act of 1990--Financial Responsibility

Offshore Facilities Liability:

- **Unlimited clean-up costs**
- **\$75 million in damage costs**
- **Unlimited liability if spill resulted from negligence or a violation**

MMS U.S. Department of the Interior
Oil Pollution Act of 1990--Financial Responsibility

**Purpose of Financial
Responsibility:**

- **Make sure money is there
to pay**
- **Direct access to guarantors**
- **Fiscal deterrent to oil spills**

MMS U.S. Department of the Interior
Oil Pollution Act of 1990--Financial Responsibility

Key Dates for MMS:

- | | |
|---------------|---|
| Aug. 18, 1990 | Statute Enacted |
| Oct. 18, 1991 | EO 12777--Offshore
Facilities to DOI |
| Jan. 30, 1992 | DOI Re-delegates to MMS |
| Oct. 1, 1992 | COFR Transfers from
USCG to MMS |
| Apr. 16, 1993 | MMS Notice to Lessees |
| Aug. 25, 1993 | MMS Publishes ANPR |
| Feb. 28, 1994 | Close of ANPR comment
period |

MMS U.S. Department of the Interior
Oil Pollution Act of 1990--Financial Responsibility

Definitions

Facility

"Facility" means any structure, group of structures, equipment, or device (other than a vessel) which is used for one or more of the following purposes: exploring for, drilling for, producing, storing, handling, transferring, processing, or transporting oil. This term includes any motor vehicle, rolling stock, or pipeline used for one or more of these purposes.

MMS U.S. Department of the Interior
Oil Pollution Act of 1990--Financial Responsibility

Definitions

Offshore Facility

"Offshore facility" means any facility of any kind located in, on, or under any of the navigable waters of the United States, and any facility of any kind which is subject to the jurisdiction of the United States and is located in, on, or under any other waters, other than a vessel or public vessel.

MMS U.S. Department of the Interior
Oil Pollution Act of 1990--Financial Responsibility

Definitions

Onshore Facility

"Onshore Facility" means any facility (including, but not limited to, motor vehicles and rolling stock) of any kind located in, on, or under, any land within the United States other than submerged land.

MMS U.S. Department of the Interior
Oil Pollution Act of 1990--Financial Responsibility

**Financial Responsibility
Requirements under OCSLA:**

- **Applies only to the OCS**
- **Evidence requirement is \$35 million**
- **Civil penalty is \$10,000 per incident**

MMS U.S. Department of the Interior
Oil Pollution Act of 1990--Financial Responsibility

Major Changes for Financial Responsibility under OPA 90:

- **Increases financial responsibility to \$150 million**
- **New types/classes of facilities**
- **Expands jurisdiction to territorial sea, inland waters, and wetlands**
- **Civil penalty is \$25,000 per day**

MMS U.S. Department of the Interior
Oil Pollution Act of 1990--Financial Responsibility

**Proof of Financial
Responsibility under OCSLA:**

- **Self insurance**
- **Insurance**
- **Surety Bonds**

MMS U.S. Department of the Interior
Oil Pollution Act of 1990--Financial Responsibility

**Potential Innovative Ways to
Show Financial Responsibility
and Possible Problems:**

- **Liquid Asset Pools--P&I
Clubs; Tax implications**
- **Insurance as an asset; may
contravene direct access**
- **Surety Bonds and Letters
of Credit; lack of capacity
and restrictive State
banking rules**

MMS U.S. Department of the Interior
Oil Pollution Act of 1990--Financial Responsibility

Major Issues in the ANPR:

- **Types and locations of "offshore facilities"**
- **Methods available to evidence financial responsibility**
- **Protections/defenses for responsible parties and guarantors**
- **Economic impact on people, companies, local economies**
- **Interaction with States and Territories**

MMS U.S. Department of the Interior
Oil Pollution Act of 1990--Financial Responsibility

MMS Activities

- **Issuing COFRs at \$35 million**
- **ANPR versus NPR**
- **Meetings with potentially affected communities**
- **Public workshops--NO, Houston, SF; Cleveland, Alaska.**
- **Compile and make available the public record**
- **Congressional Hearings**

MMS U.S. Department of the Interior
Oil Pollution Act of 1990--Financial Responsibility

Issues Identified to MMS

- **Offshore facility definition**
- **Geographic jurisdiction**
- **Insurers won't accept direct access**
- **Limited insurance capacity**
- **No consideration of risk**
- **Economic impacts**

Organizational

Meeting

1-14-93

HOUSE RESOURCES COMMITTEE
18th Alaska State Legislature

Room 124
Capitol Building

COMMITTEE MEMBER LIST

Member	Office	Phone	Staff Contact re: Resources	Phone
Chairman:				
Rep. Bill Williams	Rm 128	x6842	Mary McDowell Rm 126	x3715 X6844
			Marie Murray Rm 128	x2338
Vice Chairman:				
Rep. Bill Hudson	Rm 108	x3744	Royce Weller	
Members:				
Rep. Con Bunde	Rm 112	x4843	Jenny Murray/Patty Swenson	
Rep. Pat Carney	Rm 607 (Court)	x6578	Caroline Lombard	
Rep. John Davies	Rm 604 (Court)	x4457	Curt Parkan	
Rep. David Finkelstein	Rm 612 (Court)	x6576	Tom Atkinson/ Meg Simonian	
Rep. Joe Green	Rm 114	x4931	Jeff Logan	
Rep. Jeannette James	Rm 501	x3743	Walt Wilcox	
Rep. Eldon Mulder	Rm 116	x3731	Paula Conru	

DESCRIPTIONS OF THE THREE STATE RESOURCE DEPARTMENTS WHICH ARE
UNDER THE JURISDICTION OF THE HOUSE AND SENATE RESOURCES
COMMITTEES:

FISH AND GAME (ADF & G)

NATURAL RESOURCES (DNR)

ENVIRONMENTAL CONSERVATION (DEC)

(FROM THE 1991-92 ALASKA BLUE BOOK)

Department of Fish and Game

Carl Fosier, Commissioner
P.O. Box 3-2000, Juneau, AK 99802-2000

The Department of Fish and Game is charged with maintenance, development, and enhancement of the fish and wildlife resources of Alaska to provide for the sustained optimum use of these resources consistent with the social, cultural, aesthetic, environmental, and economic needs of the people. In accordance with regulations adopted by the Boards of Fisheries and Game, the department conserves and provides opportunities to use these important resources.

The department has its headquarters in Juneau and regional offices in Anchorage, Fairbanks, Juneau, Kodiak, and Nome. It also has 42 field offices throughout the state.

Commissioner	465-4100
Public Communications	465-4112
Boards of Fisheries & Game	465-4110
Commercial Fisheries Entry Commission	789-6160
Division of Administration	465-4120
Division of Commercial Fisheries	465-4210
Vessels Section	465-4144
Division of Fisheries Rehabilitation, Enhancement, and Development	465-4160
Division of Habitat	465-4105
Division of Oil Spill Impact Assessment and Restoration	465-4125
Division of Sport Fish	465-4180
Division of Subsistence	465-4147
Division of Wildlife Conservation (Juneau)	465-4190

Regional Offices—Anchorage, Fairbanks, Juneau, Kodiak, and Nome. Check local directory for specific division phone numbers.

Office of the Commissioner

The commissioner has final departmental responsibility for the protection, management, conservation, and restoration of the fish and game resources of the state. The commissioner's office develops and organizes the technical, human, and fiscal assets of the department to manage effectively and efficiently the fish and wildlife resources of Alaska consistent with public interests and maximum benefit of the people.

The public communications staff, a section of the commissioner's office, produces a bimonthly magazine and a monthly news bulletin, responds to media inquiries, and annually answers over 10,000 inquiries for information about Alaska's fish and wildlife, and hunting and fishing opportunities.

Boards of Fisheries and Game

The Board of Fisheries and the Board of Game promulgate regulations for the purpose of conservation and development of Alaska's fisheries and game resources. (For more information see Boards and Commissions.)

Alaska Board of Fisheries

Irving "Irv" Carlisle	P.O. Box 2349, Soldotna 99669
John Hanson	P.O. Box 1, Alakanuk 99554
Deborah Lyons	P.O. Box 296, Petersburg 99833
Michael Martin, Chair	13300 Venus Way, Anchorage 99515
	Summer: P.O. Box 889, Kodiak 99615
H "Robin" Samuelson, Vice Chair	P.O. Box 412, Dillingham 99576
	(2 seats vacant as of 6/14/91)

Alaska Board of Game

Richard "Dick" Burley	1165 Coppet Street, Fairbanks 99709
Sidney Huntington	P.O. Box 27, Galena 99741
Jack Lenifer	P.O. Box 2617, Homer 99603
Rosemarie Maher	P.O. Box 474, Northway 97764
Ben Nageak, Vice-Chair	c/o North Slope Borough P.O. Box 69, Barrow 99723
Doug Pope, Chair	912 W. 6th Avenue, Anchorage 99501
R.T. "Skip" Wallen	P.O. Box 21063, Juneau 99802

Fish board and game board members may also be contacted at: Alaska Department of Fish and Game, Division of Boards, P.O. Box 3-2000, Juneau, AK 99802-2000, phone (907) 465-4110.

Commercial Fisheries Entry Commission

The commission is a quasi-judicial agency responsible for promoting the conservation and sustained yield management of Alaska's fisheries resources and the economic stability of commercial fishing. (See Boards and Commissions.)

Division of Administration

Responsible for budgeting, accounting, contracting, leasing, reimbursable services agreements, supply, purchasing, personnel management, payroll, data processing, and labor contract administration. The division is also responsible for the data collection and management of the fish and game licensing function.

Division of Commercial Fisheries

Manages commercial, subsistence, and personal use fisheries in Alaska on a sustained yield basis. The division's first priority is the protection and maintenance of fish stocks. The second priority is full utilization of the surplus fish available for harvest under a sustained yield policy. The division also seeks to encourage the development of new commercial fisheries. Activities of the division are aimed at ensuring a sustained yield from the resource and include research on fish population dynamics, forecasting, stock abundance assessments, tagging, and habitat protection work. In-season management activities include harvest monitoring, test fishing, setting fishing times and areas, and controlling escapements.

Division of Fisheries Rehabilitation, Enhancement, and Development

The division has statutory authority to do "all things necessary to insure perpetual and increasing use of the food resources of Alaska waters." Given the status of the salmon fisheries in the mid-70s, the major emphasis has been on salmon fishery enhancement, development and rehabilitation. Due in part to the success achieved by the statewide salmon enhancement program, the division is turning over commercial production of salmon to private non-profit operators. It is facing new challenges in salmon enhancement in the north and northwest regions of Alaska and with

enhancement of other economically important species, specifically king crab. The division not only produces salmon and will produce other species, but also works to preserve the natural populations of aquatic organisms across the state through its pathology, genetic and limnological expertise. It also plays a major role in the planning, permitting and technical support of private salmon production across the state. The division utilizes many tools in its work, including hatcheries, lake and stream rehabilitation, lake fertilization, fishways, technical laboratories, and other innovative means of enhancing fish populations.

Division of Habitat

Assists the commissioner in protecting the state's fish and wildlife habitat from unnecessary disturbance or destruction, and in doing so considers many user groups in formulating its decisions and recommendations. These include commercial, subsistence, and recreational fish and wildlife users as well as those developing other natural resources.

Under Alaska statutes, Title 16, the department has the discretion to approve, deny, or modify activities that affect freshwater anadromous fish habitat, obstruct fish passage in any fresh fish-bearing water bodies, or occur in legislatively designated State Game Refuges, Critical Habitat Areas, or Game Sanctuaries.

The division also reviews projects and provides information and recommendations to other governmental agencies with regulatory or permitting responsibilities such as the Department of Natural Resources, the Department of Environmental Conservation, and the U.S. Army Corps of Engineers.

The Habitat Division is an active participant on interdisciplinary planning teams engaged in the classification and land-use planning of state, federal and coastal district lands.

Division of Oil Spill Impact Assessment and Restoration

The division was established by the legislature in June 1989, three months after the *Exxon Valdez* oil spill. It has five primary responsibilities: to oversee the state's scientific natural resource damage assessment studies, to plan for restoration of oil-damaged natural resources, to coordinate oil spill activity within the department, to provide support to the commissioner in his role as natural resource trustee, and to participate in the state/federal management team that has day-to-day responsibility for the overall conduct of the oil spill case.

Division of Sport Fish

The goals of the Division of Sport Fish are to manage, improve and extend the state's recreational fishery resources and to conserve stocks of fish in order to provide a diversity of sport fishing opportunities to the public on a sustained yield basis. Major objectives of the division's program are to: (1) provide data that describe variations in fishery resources, effort, harvest, factors affecting the fishery, and economic impacts; (2) manage the fishery in accordance with sound management principles and, together with the Division of Commercial Fisheries, carry out directives of the Board of Fisheries; (3) provide the public with information and opportunity to become involved in the sport fish program; (4) enhance selected high-use fisheries by providing management and guidance of stocking of fish; (5) improve access to desirable waters; and (6) protect fishery habitat by providing assistance to the Habitat Division and other agencies.

Division of Subsistence

The Division of Subsistence has two primary goals: to reduce conflicts over the allocation of wild renewable resources by providing the information necessary for

rational, satisfactory allocation decisions; and to compile existing data and conduct studies on all aspects of subsistence hunting and fishing in Alaska.

The division's staff is located in communities throughout the state and conducts field-based research on a variety of fisheries, game, and habitat-related problems. The division undertakes projects which provide information used in developing or improving management plans and regulatory actions. These research products and other technical services are used directly by other divisions, local fish and game advisory committees, regional councils, and the Boards of Fisheries and Game.

Division of Wildlife Conservation

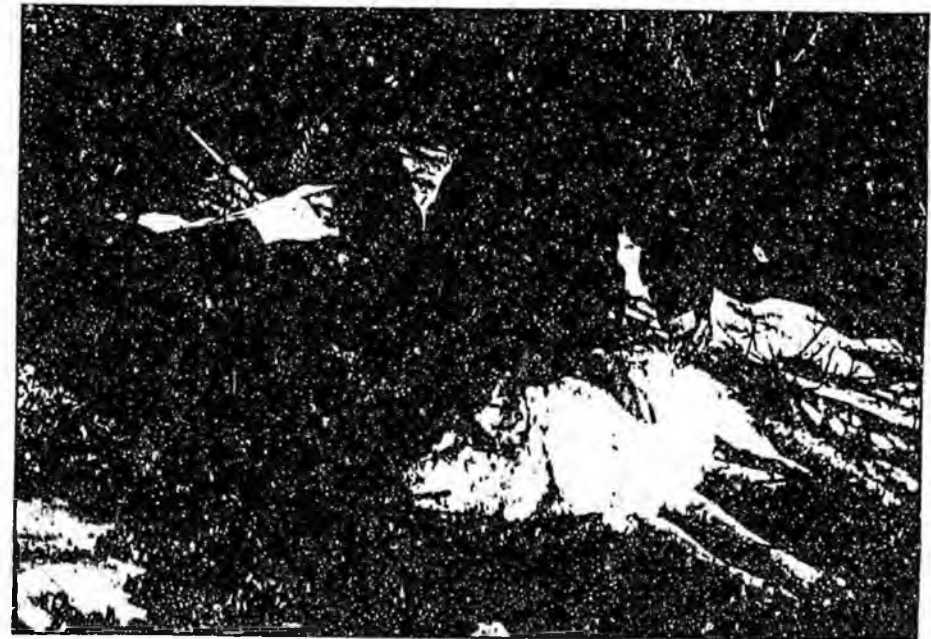
333 Raspberry Rd., Anchorage, AK 99502

Responsible for the conservation and management of Alaska's wildlife resources, including game and nongame species. Its goal is to protect, maintain, and enhance the state's wild mammal and bird populations, to be used on a sustained yield basis for the maximum benefit of the people.

The division monitors the status and trends of big game populations by collecting and analyzing biological and harvest data on an annual basis. This information is used primarily in developing management plans and regulatory recommendations for the Board of Game. The division then carries out the regulations of the board related to hunting, trapping, nonconsumptive, and scientific/educational uses of wildlife.

Wildlife research projects are conducted to learn more about specific animal requirements or population dynamics and to develop improved investigative techniques that will assist management.

A nongame wildlife program provides information on species not hunted or trapped, and addresses nonconsumptive uses of all wildlife species. The division administers a hunter education and safety program and provides wildlife education materials and information to the public and to school systems across the state.



Fish & Game biologists measure a radio collared wolf. (Photo by ADFG.)

Department of Natural Resources

Harold C. Heinze, Commissioner
400 Willoughby Ave., 5th Floor, Juneau, AK 99801

The Department of Natural Resources is responsible for the inventory and management of all the state's surface and subsurface resources except fish and game. This includes approximately 85 million acres of uplands and 69 million acres of tidelands and submerged lands.

The department's goal is to contribute to Alaska's economic health and quality of life by protecting, maintaining, and encouraging wise development of the state's resources and making them available for public use.

Commissioner	465-2400
Anchorage Office	762-2483
Public Affairs Office (Anchorage)	762-2452
Division of Agriculture (Palmer)	745-7200
Division of Forestry (Anchorage)	762-2501
Division of Geological & Geophysical Surveys (Fairbanks)	474-7147
Division of Land and Water (Anchorage)	762-2692
Division of Management	465-2406
Division of Mining (Anchorage)	762-2165
Division of Oil and Gas (Anchorage)	762-2547
Division of Parks and Outdoor Recreation (Anchorage)	762-2600
State Pipeline Coordinator's Office (Anchorage)	278-8594
Other Offices, Agencies, and Commissions:	
Alaska Historical Commission	762-2626
Citizens' Advisory Commission on Federal Areas (Fairbanks)	456-2012

Office of the Commissioner

The Commissioner, as the chief executive officer, sets direction for the department and has final decision-making authority on all matters. As a member of the governor's cabinet, he reports to the governor, legislature and the judiciary on issues affecting the department.

The **Public Affairs Office** informs the public about policies, actions and activities of the department and how to participate in its programs and decision-making process.

The **Alaska Coastal Management Program Coordinator** coordinates the department's participation in the Alaska Coastal Management Program.

The **State Pipeline Coordinator's Office** is a joint state/federal office that coordinates the administration and oversight of pipeline construction, operation and maintenance in Alaska.

Division of Agriculture

P.O. Box 949, Palmer, AK 99645-0949

Promotes and supports the agricultural industry in Alaska. The division plans agricultural sales and leases, gives marketing assistance, provides financing for farmers and processors, educates and assists farmers in conservation methods, and inspects and certifies farm products to control disease and ensure that products are of high quality.

The **Plant Materials Center** develops and tests plants for Alaska's climate and for use in erosion control, land reclamation and habitat improvement.

Division of Forestry

P.O. Box 107005, Anchorage, AK 99510-7005

Manages forest land and protects the forest's natural values while supporting Alaska's economy through development of timber and wood products. The division ensures the public resources, such as water, fish, wildlife, and timber are protected on state, municipal and private land; manages renewable resources on state-owned forest land in a balanced manner to serve the needs of Alaskans now and in the future; protects the public, private property and natural resources from fire, insects and disease.

Division of Geological and Geophysical Surveys

794 University Ave., Suite 200, Fairbanks, AK 99709-3645

Maps and inventories mineral resources on Alaska's lands, including oil, gas, coal, metallic and industrial minerals, water, geothermal resources, and sand and gravel. This information is used by state and federal resource-management and policy-making agencies and by the public and private sector in the exploration, development and economic assessment of mineral resources. This division also assesses and monitors the quality and quantity of surface and ground water and conducts a geologic hazards program that promotes public safety through slope-stability studies, engineering analysis of foundations materials, and volcano and earthquake hazard studies.

Division of Land and Water

P.O. Box 107005, Anchorage, AK 99510-7005

Responsible for the surface management of the over 154 million acres of state-owned uplands, tidelands, shorelands and waters, excluding state park lands. Activities include land selections to fulfill the state's entitlement from the federal government; classifying land and preparing land-use plans; holding land offerings and construction material sales; leasing state land for recreational, commercial and industrial use; leasing shorelines for setnet sites, mariculture, ports, logging and mining activities; administering a dam safety program, issuing water rights, and completing appraisals and surveys.

Division of Management

400 Willoughby Ave., 3rd Floor, Juneau, AK 99801

Provides financial, personnel and administrative services to the department. It prepares and monitors the annual capital and operating budgets; collects and processes revenue from the sale, lease and use of the state's natural resources; and operates the **State Recorder's Offices** and the **Uniform Commercial Code Office**. Management maintains all personnel records, and provides classification, recruitment and payroll services for DNR employees. The division is also responsible for the department's data processing, computerized land records, and production of the state's land status maps.

Division of Mining

P.O. Box 107016, Anchorage, AK 99510-7016

Oversees state mineral exploration, development and leasing programs (excluding oil, gas and geothermal energy) on state land and maintains records of known mineral locations. It administers the state's **Surface Coal Mining Control and Reclamation Program**, provides mineral information to the public and technical assistance to the mining industry.

Division of Oil and Gas

P.O. Box 107034, Anchorage, AK 99510-7034

Develops and manages the state's five-year oil and gas leasing program. It identifies prospective lease areas; performs geologic, economic, environmental and social analyses; and coordinates public review of proposed sales. The division conducts competitive oil, gas and geothermal lease sales and monitors collection of all lease and sale payments. It also performs technical reviews of federal lease actions, land trades and land classifications.

Division of Parks and Outdoor Recreation

P.O. Box 107001, Anchorage, AK 99510-7001

Plans, develops and manages the **Alaska State Park System**, which includes state campgrounds, trails, visitor centers, recreation areas, historic sites and a wildlife preserve. The division provides information and educational programs for park visitors; administers federal and state grant programs for outdoor recreation and historic preservation; manages the **Volunteers in Parks** and youth employment programs; and coordinates search and rescue efforts. The division also includes the **Alaska Office of History and Archaeology**, which administers a program for the identification, evaluation and protection of Alaska's prehistoric and historic resources, reviews development projects, and provides technical assistance. This office also administers the **National Register of Historic Places** program, the tax certification program for historic buildings, and the **Certified Local Government Program** for historic preservation activities on a local level. In addition, the section serves as **Alaska's State Historic Preservation Office**.

OTHER OFFICES, AGENCIES, AND COMMISSIONS

Citizens' Advisory Commission on Federal Areas

250 Cushman Street, Suite 4H, Fairbanks, AK 99701

The Citizens' Advisory Commission on Federal Areas, created by the Alaska Legislature in 1981 as an advisory agency of the executive branch of the state, is charged with the responsibility of researching issues related to federal lands in Alaska and determining the impacts of federal statutes, regulations, policies, programs, and management decisions on the citizens of the state. In addition, the commission functions as an ombudsman to investigate complaints or problems individuals are having with federal land management agencies.

Department of Environmental Conservation

John A. Sandor, Commissioner
P.O. Box 0, Juneau, AK 99811-1800

The Department of Environmental Conservation is a technical assistance, regulatory and grant-in-aid agency that protects the environment and public health. The agency prevents or responds to air, land, and water pollution; assures wholesome meat, fish, and dairy products for consumers; enforces basic standards of sanitation in public facilities; and provides financial and technical assistance to municipalities and local communities for water, sewer, and solid waste projects.

Three regional offices, 16 district and field offices, and two laboratories are responsible for providing services directly to the public. These include responding to complaints; inspecting public water supplies, landfills, and wastewater treatment facilities; responding to pollution incidents such as oil and hazardous waste spills; processing permit applications; providing technical assistance; monitoring environmental conditions; and enforcing regulations.

The department also has two laboratories that provide support to all programs. The Palmer Laboratory, a biological lab, provides analysis in the testing of dairy and other food products, testing of stock animals for tuberculosis and brucellosis, and sampling commercial shellfish for paralytic shellfish poisoning toxin. The Douglas Laboratory provides chemical analysis and testing for samples of drinking and surface waters, soils, oil and hazardous materials from spills, and substances found in drums, transformers, and tanks. In addition, the lab monitors local air quality, certifies other labs in Alaska for drinking water analysis, and provides quality assurance for environmental measures.

Commissioner	465-2600
Division of Administrative Services	465-2621
Public Information Office	465-2606
Division of Environmental Health	465-2609
Division of Environmental Quality	465-2640
Division of Facility Construction and Operation	465-2610
Southcentral Regional Office (Anchorage)	563-6529
Northern Regional Office (Fairbanks)	451-2360
Southeast Regional Office (Juneau)	789-3151
Pipeline Corridor Office (Anchorage)	278-8594

Office of the Commissioner

The commissioner sets department policy and priorities, provides information to the legislature, and is responsible for overall administration and management of the department.

In 1991, the Office of the Commissioner initiated formal agreements with several Alaskan local governments to meet their environmental management objectives. Under these one-year, renewable agreements the department provides a single community contact person who is accountable to local government. The community contact person represents the community's needs and concerns to the department, coordinates the department permit application process, offers regulation assistance workshops, and directs community needs and concerns to the proper department staff or coordinates with other agencies as required.

Division of Administrative Services

Provides administrative and managerial support to the department including finance, budgeting, grant accounting, supply and property control, human resource services and payroll, safety program, contracting and leasing, data processing, and internal auditing.

The **Public Information Office** serves as the department's primary contact for the news media. The office also provides information to local residents affected by pollution events such as contamination of water supplies or emergencies resulting from accidental release of hazardous substances.

Division of Environmental Health

Protects public health as related to environmental matters. This includes responsibilities in the areas of wholesome seafood, red meat, poultry, and dairy products; animal health; pesticide and herbicide applications; and sanitation in public facilities. The staff members are organized into four programs: Environmental Sanitation, Seafood Industry, Animal Industries, and Pesticides.

The **Environmental Sanitation Program** issues food service permits and provides technical assistance and inspection of restaurants, bars, food processing plants, schools, day-care centers, institutions, tourist accommodations, grocery stores, compressed air sellers, and barber and beauty shops. The control and elimination of unsanitary conditions in public facilities are achieved through education, consultation, and enforcement of state statutes and regulations. This program

is also responsible for the state's "Smoking in Public Places" law. Environmental health officers provide technical assistance, monitor the required posting of no-smoking signs, and enforce the law. Epidemiological investigations, complaint response, and plan reviews are additional responsibilities.

The **Seafood Inspection Program** inspects all phases of Alaska fisheries, including fish product processing, shellfish processing, cold storage, and ice plants, and operates a permit system to review and approve both shore-based and floating processors. In addition, this program monitors the state's participation in the National Shellfish Sanitation Program, which sets standards for paralytic shellfish toxin levels and bacteriological water standards before certifying benches for commercial shellfish production. The program also includes the Seafood Task Force, which acts as an advisory group to the department.



Fishermen and fish buyers have worked closely with the Seafood Inspection Program to deliver a top quality, fresh product to the market. (Photo by Peter Metcalfe.)



The **Animal Health** section monitors the import and export of domestic animals and controls animal-to-animal and animal-to-human diseases, and provides for quarantines and compliance with disposal of diseased livestock.

The **Dairy Sanitation** section oversees Alaska producers and processors of milk and frozen dairy desserts, which allows Alaska dairy products to participate in federally regulated markets.

The **Meat and Poultry Inspection** section ensures that facilities meet federal standards as required by the Wholesome Meat Act of 1967.

The **Pesticide Program** has been delegated authority by the U.S. Environmental Protection Agency for the regulation of pesticides and herbicides in the state, and trains users of restricted use pesticides and issues permits for public pesticide projects, area applications, and applications to state waters.

The Palmer Laboratory conducts paralytic shellfish poisoning and wholesomeness analysis and a variety of microbiological, chemical, and animal health tests to support the division's programs. The laboratory also certifies private drinking water labs throughout the state.

Division of Environmental Quality

This division has seven major programs: Solid and Hazardous Waste Management, Air Quality Management, Water Quality Management, Water and Wastewater Treatment, Contaminated Site Management, Spill Prevention, Planning and Management, and Spill Response Office. Staff are located in Juneau, Anchorage, Fairbanks, Ketchikan, Sitka, Tok, Nome, Soldotna, Wasilla, Valdez, Cordova, Bethel, Kodiak and Dutch Harbor. Under the supervision of the commissioner's office, it is the Division of Environmental Quality's responsibility to develop policy and standards for pollution prevention and control, implement and enforce statutes and regulations, issue permits, perform inspections, and help industry and communities maintain environmental quality and public health. The division also provides technical assistance to ensure that new industrial and community development takes place correctly.

The **Solid and Hazardous Waste Management Program** ensures the safe and sanitary disposal of Alaska's solid waste through permitting of industrial and municipal land disposal sites, enforcing management regulations, and performing inspections. The program assists communities with the location of appropriate sites and management of solid wastes. The department is in the process of assuming responsibilities of the federal hazardous waste program. This includes inspection, enforcement, and permitting for hazardous waste management in Alaska. In addition to managing hazardous waste disposal, the program staff investigates potential hazards of older waste disposal sites, conducts the department's annual "Spring Cleanup" for households and small businesses, develops educational and public participation activities, and manages solid wastes statewide.

Since 1972, the department has managed an **Air Quality Program** which monitors Alaska's air quality by evaluating the effectiveness of new pollution control technology, establishing air quality standards and regulations, and permitting industrial facilities. This program monitors the impacts from increasing industrial activity, the number of motor vehicles in urban areas, the use of woodstoves, and slash burning from agricultural land clearing. Air pollution control programs have been successful in maintaining healthful air quality in Alaska's urban centers by implementing annual motor vehicle emission inspections in Anchorage and Fairbanks, and limiting the use of woodstoves in Juneau's Mendenhall Valley. The federal air quality permit program has been fully delegated to the state, which allows the department to assist industry in working through complex federal requirements.

The **Water Quality Management and Waste Water Treatment Programs** administer water quality regulations, issue state permits for facilities not covered

under the federal permit program, inspect industrial and domestic treatment facilities, and enforce water quality standards. The programs staff review federal permits for industrial development that impacts Alaska's water quality, such as placer mining, pulp mill activities, petroleum development, log transfer facilities, agriculture, and seafood processing. The programs staff are also responsible for approving plans for water and sewer systems for subdivisions. Program objectives are to ensure that Alaska's waters are not polluted and that sewage disposal is proper.

The **Safe Drinking Water Program's** goal is to ensure that the approximately 1,600 public drinking water systems in Alaska supply uncontaminated drinking water. The federal Safe Drinking Water Act of 1974 established minimum standards for the protection and monitoring of public drinking water supplies. The U.S. Environmental Protection Agency delegated the Public Drinking Water Program to the state in 1978 to ensure the monitoring of water system compliance rates, maintenance of drinking water regulations, and a more timely response to water supply problems; and to alleviate the risk of transmitting waterborne diseases which could threaten public health.

Spill Prevention, Planning and Management was initiated in 1976 when legislation was passed to assign oil spill responsibility and cleanup. The program staff reviews oil spill contingency plans for oil exploration, production, storage and transfer facilities, and ensures that operators have the necessary financial resources to clean up any oil spills they cause. In addition, the agency staff responds to more than 800 spills a year, often with extensive investigations of the source and extent. Legal action is taken when appropriate to recover costs incurred for investigation and cleanup. With the passage of House Bill 470 in 1986 the department's authorities were expanded to include the investigation, cleanup, and cost recovery for hazardous substance spills as well.

The **Spill Response Office** provides specially-trained staff in programs and technologies related to the containment and cleanup of releases or potential releases



Eleanor Island, Prince William Sound, March 25, 1991. The legacy of the Exxon Valdez will remain with Alaska for many years. (Photo by Patrick Endres.)



of oil and hazardous substances. Major activities include maintaining a volunteer state spill response corps and equipment depots, maintaining department spill response plans, managing contracts with spill cleanup contractors, serving as an information source on available spill technology, and providing technical assistance on spill response to local governments and other response organizations.

The goal of **Contaminated Site Management** is to identify, assess, and clean up threats to human health and the environment posed by sites contaminated by past improper disposal or discharge of hazardous substances.

In 1986, the department initiated a new program to inventory underground storage tanks, respond to underground spills, and educate tank installers on new federal requirements. This program's primary objective is to ensure new tank installations will prevent leakage of gasoline and other hazardous substances into Alaska's environment.

Division of Facility Construction and Operation

This division is responsible for administering the Municipal Matching Program, the Alaska Clean Water Loan Fund, the Village Safe Water Program, and the Operator Training and Certification Program. The division's overall goals are to prevent diseases associated with contaminated drinking water and improperly disposed wastes, and to assist communities in planning, designing, constructing, operating, and maintaining adequate sanitation facilities.

The **Municipal Matching Grants Program** assists the department in meeting the objectives of reducing health hazards by providing grants to communities for producing and distributing potable water, for treating and disposing of sewage, and for properly managing solid wastes. The program provides grants which cover 50 percent of eligible project costs in constructing needed facilities. It also administers the U.S. Environmental Protection Agency's Wastewater Construction Grants Program in Alaska.

The **Alaska Clean Water Fund** provides low-interest loans to communities for the planning, design, and construction of water, wastewater, and solid waste projects. Loans may be made for up to 100 percent of eligible project costs. Loan repayment must begin one year after the facility initiates operation. The maximum amortization period for all loans is 20 years.

The **Village Safe Water Program** provides funding and engineering assistance to small communities (second class and unincorporated) for sanitation projects. Program staff assist communities with hands-on technical support, while each community maintains project control and responsibility. Grants are awarded for up to 100 percent of eligible project costs.

The **Operator Training and Certification Program** provides certification and essential training to ensure the competence of water and wastewater system operators statewide. Training culminating in certification is required in order to protect public health and the continued efficiency of sanitation systems. The program consists of hands-on training, workshops in central locations, a lending library of audio-visual materials, books, and manuals, and correspondence courses. The Water and Wastewater Works Advisory Board assists the division in administering the program.

Pipeline Regional Office

On February 1, 1991, a new office was established to improve efficiency and consistency of environmental protection tasks along the corridor of the Trans-Alaska Pipeline System (TAPS). Organized within the State Pipeline Coordinator's Office in Anchorage, this new office issues permits, reviews engineering plans, assesses potential health and environmental problems, and provides technical assistance to industry and the public.

Overview

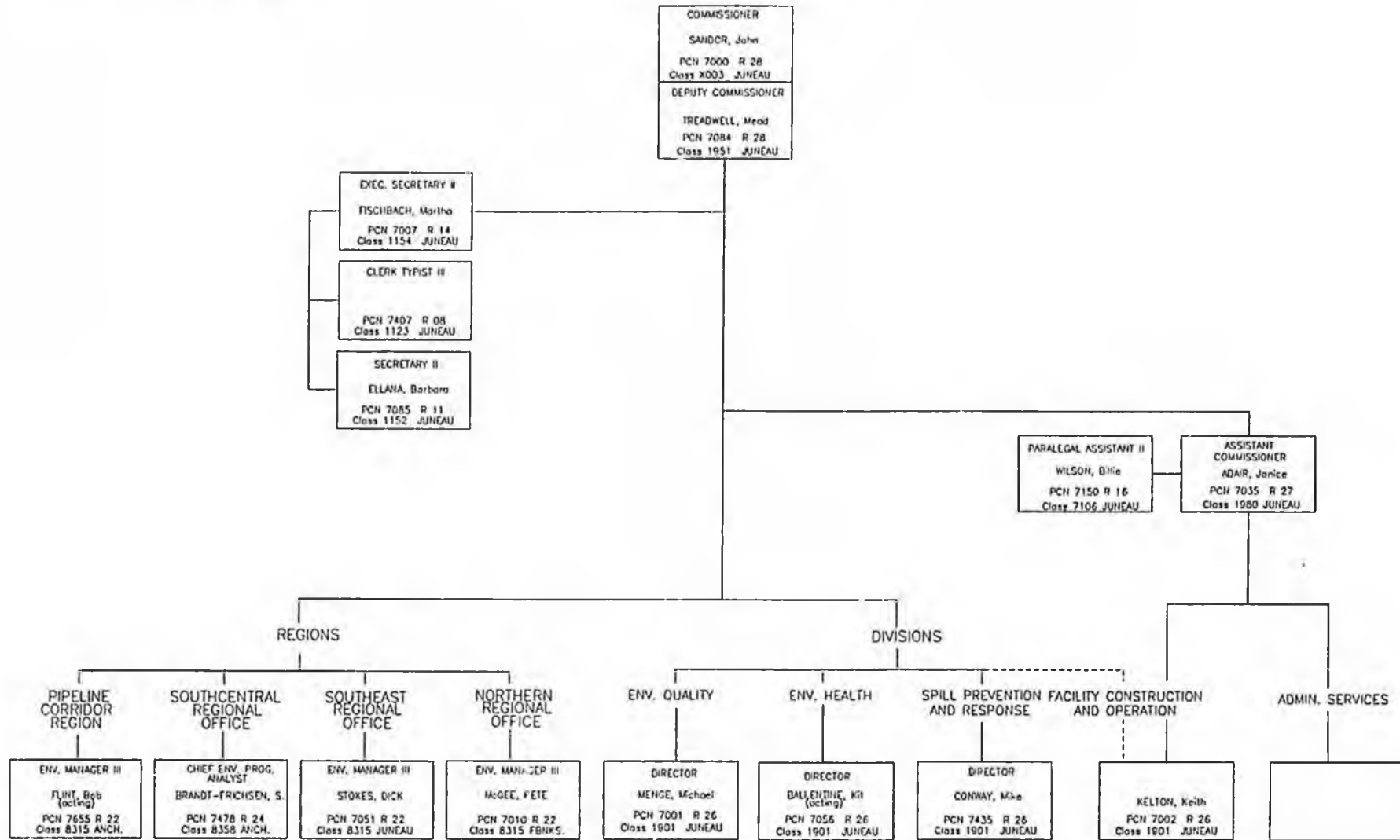
Dept. of Env.

Conservation

1-20-93

STATE OF ALASKA
DEPARTMENT OF ENVIRONMENTAL CONSERVATION
COMMISSIONER'S OFFICE

OFFICE OF THE COMMISSIONER



WALTER J. HICKEL, GOVERNOR

OFFICE OF THE COMMISSIONER
410 WILLOUGHBY AVE., #105, JUNEAU, AK 99801-1795

Phone: (907) 465-5050
Fax: (907) 465-5070

DEPT. OF ENVIRONMENTAL CONSERVATION

January 25, 1993

JAN 27 1993

The Honorable Bill Williams
Alaska State House
State Capitol, Room 128
Juneau, AK 99801-1182

Dear Representative Williams:

During the House Resource Committee's overview of the programs administered by the Alaska Department of Environmental Conservation, there were two questions asked for which we wanted to provide further information.

Representative Mulder asked about the funding available to support water quality enhancement projects within the Municipality of Anchorage. As shown on the enclosed table, the Department has administered \$12,300,000 in 50% matching grants to the Municipality in the last four years. Of this total, Anchorage has chosen to allocate \$276,400 toward projects that directly benefit the water quality of local streams. Since the Municipality also contributes an equal share of project costs, actual expenditures exceed \$550,000. Projects administered by the Anchorage Water/Wastewater Utility, which recovered the largest portion of the funding, also contribute to improved water quality every time new areas are sewered and septic tanks are eliminated.

Representative Davies asked how much of the Department's annual operating budget is funded by the federal government. For fiscal year 94, the federal government will contribute \$8,694,900 while the State will contribute in general fund and general fund match \$21,169,100. In fiscal year 93, the federal portion was \$10,264,600 and the State's was \$20,697,100. These figures do not include the Oil and Hazardous Substance Response Fund.

Representative Bunde expressed an interest in a briefing on the Project Chariot radiation cleanup at Point Hope. We will be sure to let you know when that information is available.

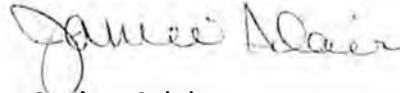
Representative Bill Williams

-2-

January 25, 1993

We are looking forward to working with you and the other members of the Resources Committee on a productive legislative session. Please don't hesitate to contact me if I can provide you with any information, or be of assistance.

Sincerely,



Janice Adair
Assistant Commissioner

JA/KK/vr (fco\clerical\legislat\williams)

Enclosure

cc: Kris W. Lethin, Legislative Liaison, Office of the Governor
House Resources Committee:
Representative Con Bunde
Representative Pat Carney
Representative John Davies
Representative David Finkelstein
Representative Joe Green
Representative Bill Hudson
Representative Jearnette James
Representative Eldon Mulder

Anchorage Capital Project Breakdown
(through ADEC) 1/20/93

	<i><u>SB 483</u></i> <i><u>Ch 5 SLA 92</u></i>	<i><u>HB 15</u></i> <i><u>Ch 96 SLA 91</u></i>	<i><u>HB 463*</u></i> <i><u>Ch 208 SLA 90</u></i>	<i><u>HB 163</u></i> <i><u>Ch 117 SLA 89</u></i>	<i><u>TOTALS</u></i>
Total Appropriation	\$4,500,000	\$2,900,000	\$3,900,000	\$1,000,000	\$12,300,000
Anchorage Water/ Wastewater Utility	\$2,668,000	\$1,939,500	\$3,900,000	\$750,000	\$9,257,500
Health/Human Svcs (Water Quality)	\$171,400	\$65,000	\$0	\$40,000	\$276,400
Solid Waste Svcs	\$1,660,600	\$895,500	\$0	\$210,000	\$2,766,100

*This was a direct line item appropriation entitled "Girdwood WID"

December, 1992



*the Alaska Department of
Environmental Conservation*

DEPARTMENTAL GOALS AND SUMMARY OF PROGRAMS

December, 1992



*the Alaska Department of
Environmental Conservation*

DEPARTMENTAL GOALS AND SUMMARY OF PROGRAMS

Alaska Department of Environmental Conservation



410 Willoughby Ave, Suite 105
Juneau, AK 99801-1795
(907) 465-5050

Mission: To protect public health from environmental threats, and to conserve, protect and improve Alaska's environment for present and future generations.

Environmental Quality Division

465-5260

Ensures compliance with air, land and water pollution laws to protect public health and the environment.

- pollution prevention office
- public drinking water
- industrial wastewater control
- domestic wastewater control
- air quality management
- solid waste management
- hazardous waste management
- environmental analysis laboratory
- water quality management

Spill Prevention and Response Division

465-5250

Improves the state's capability to prevent, respond to, and clean up pollution incidents involving oil and hazardous substances.

- government preparedness and response
- industry preparedness
- contaminated sites remediation
- underground storage tanks

Facilities Construction and Operation Division

465-5180

Provides financial and technical assistance to local communities for construction and operation of water, sewer, and solid waste projects.

- Village Safe Water program
- 50% matching grants for facility construction
- Alaska Clean Water Fund administration
- operator training and certification
- remote maintenance worker assistance

Environmental Health Division

465-5280

Through education and regulation assures wholesome fish, meat, and dairy products for consumers and enforces basic standards of sanitation in public facilities.

- seafood inspection
- pesticide program
- laboratory monitoring operations, lab certification
- meat/poultry/animal health & dairy program
- environmental sanitation

Information & Administrative Services Division

465-5010

Provides overall financial, employee and informational services within the department and to the public.

- financial services
- personnel
- media/publications/library
- information systems and data management
- supply and procurement

Alaska Department of Environmental Conservation



Local offices

SOUTHCENTRAL REGION

3601 'C' Street, Suite 1334
Anchorage, AK 99503
phone 563-6529
FAX 562-4026

Anchorage District	349-7755
Kenai District	262-5210
Matanuska Susitna District	376-5038
Valdez Field Office	835-4698
Cordova Field Office	424-4385
Western District	349-7755
Bethel Field Office	349-7755
Kodiak Field Office	486-6760
Unalaska Field Office	581-1822

SOUTHEAST REGION — ENVIRON. HEALTH

410 Willoughby Ave., Suite 105
Juneau, AK 99801
phone 465-5280
FAX 465-5292

Juneau District	465-5280
Sitka District	747-8614
Ketchikan District	225-6200

SOUTHEAST REGION

410 Willoughby Ave., Suite 105
Juneau, AK 99801
phone 465-5350
FAX 465-5362

Juneau District	465-5340
Ketchikan District	225-6200
Sitka District	747-8614

ANCHORAGE REGION — ENVIRON. HEALTH

800 East Dimond Blvd., Suite 3-455
Anchorage, AK 99515
phone 349-7343
Fax 349-4715

Kenai District	262-5210
Cordova District	424-5585
Palmer District	745-3236
Kodiak District	486-3350
Bristol Bay District	246-6636
Dutch Harbor District	581-1822

NORTHERN REGION

1001 Noble Street, Suite 350
Fairbanks, AK 99701
phone 451-2360
FAX 451-2187

Northern Alaska District	451-2172
Nome District	443-2600
Tok District	883-4381

FAIRBANKS REGION — ENVIRON. HEALTH

1001 Noble Street, Suite 350
Fairbanks, AK 99701
phone 451-2360
FAX 451-2187

City of Fairbanks	456-6450
Interior District Office	451-2360
Tok District Office	883-4382
Nome, through Norton Sound Health Corporation	443-5411

PIPELINE CORRIDOR REGION

411 W. 4th Ave., Suite #2-C
Anchorage, AK 99501
phone 258-5400
FAX 272-0690

Prince William Sound/ Valdez	835-4698
Fairbanks/North Slope	451-2155






Alaska Law requires the reporting of all

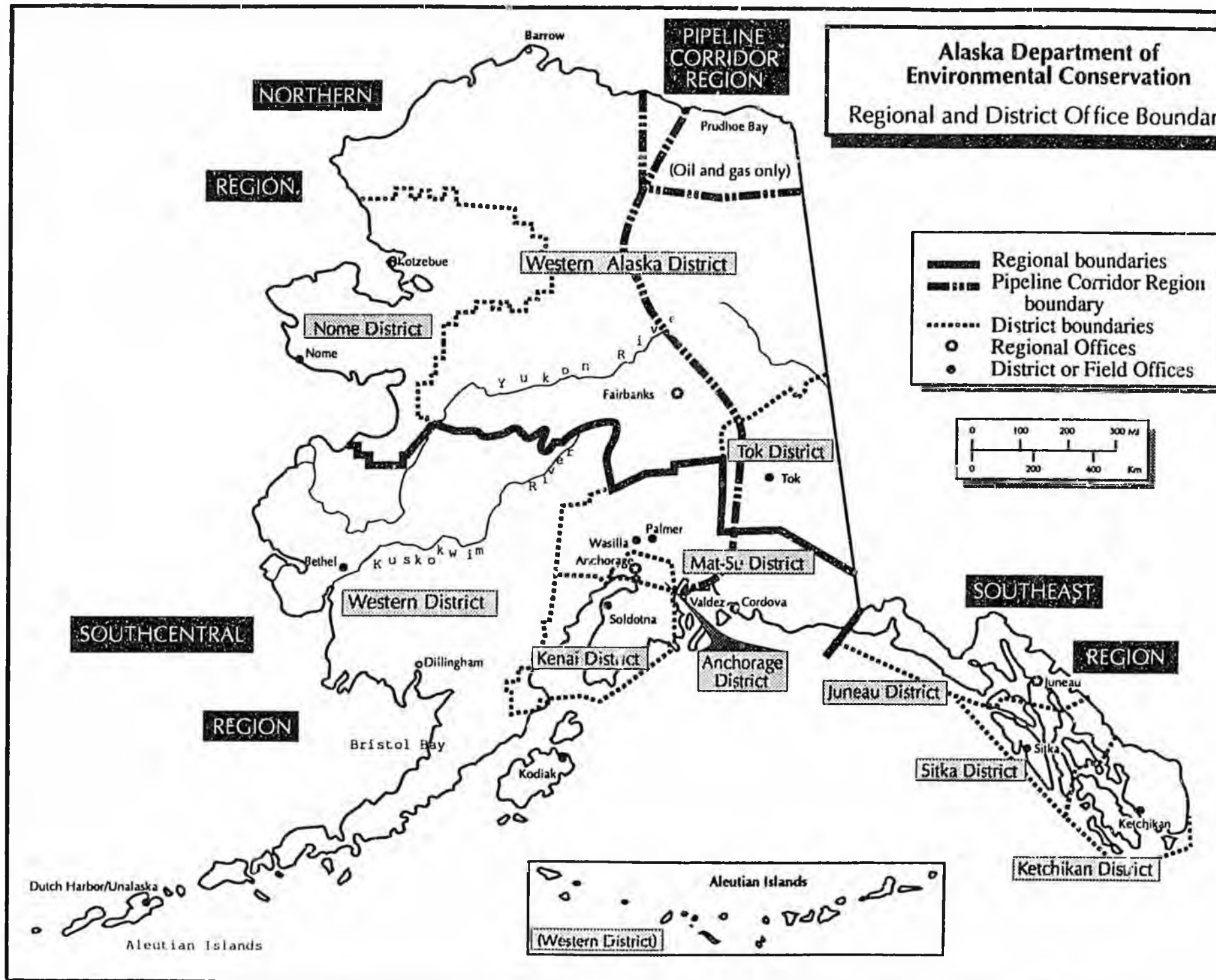
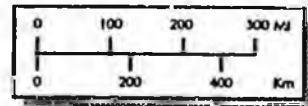
OIL AND HAZARDOUS SUBSTANCE SPILLS

Spills should be reported to the nearest district office of the department during normal working hours, or after hours for

1-800-478-9300

**Alaska Department of
Environmental Conservation**
Regional and District Office Boundaries

-  Regional boundaries
-  Pipeline Corridor Region boundary
-  District boundaries
-  Regional Offices
-  District or Field Offices



NORTHERN

REGION

**PIPELINE
CORRIDOR
REGION**

Prudhoe Bay
(Oil and gas only)

Western Alaska District

Nome District

Tok District

Mat-Su District

SOUTHCENTRAL

REGION

Western District

Kenai District

Anchorage District

SOUTHEAST

REGION

Juneau District

Sitka District

Ketchikan District

Aleutian Islands
(Western District)

MAJOR STATE & FEDERAL ENVIRONMENTAL LAWS

State

Water, Air, Energy and Environmental Conservation (Title 46)
Oil Pollution Control
Oil and Hazardous Substance Release Control
Wastewater Disposal
Drinking Water
Water Quality Standards
Hazardous Waste
Environmental Sanitation
Food Service
Fish Inspection
Alaska State Emergency Response Commission
Underground Petroleum Storage Tanks
Certification of Water and Wastewater Operators
The Alaska Coastal Management Program
Low-Level Radioactive Waste Management
Dairy, Meat and Poultry Inspections
Animal Health
Pesticide Control
Recycling and Reduction of Litter
Village Safe Water Act
Management and Use of Water in Mining
Smoking in Public Places

Federal

Clean Air Act
Clean Water Act
Coastal Zone Management Act
Resource Conservation and Recovery Act (RCRA)
Comprehensive Environmental Response, Compensation & Liability Act (CERCLA)
Safe Drinking Water Act
Toxic Substance Control
Endangered Species Act
Marine Mammal Protection
International Migratory Bird Treaty
Oil Pollution Control Act
Insecticide, Fungicide and Rodenticide
Emergency Planning and Community Right-to-Know Act
National Environmental Policy Act (NEPA)
Solid Waste Regional Act



**Alaska Department
of Environmental Conservation**



Mission: To protect public health from environmental threats, and to conserve, protect and improve Alaska's environment for present and future generations.

Top Eleven Goals:

STRATEGIC PLANNING UNIT

- ◆ Establish a strategic planning unit within DEC that will assist management in setting priorities within programs based on comparative risk analyses.
- ◆ Ensure that the work to be done drives the funding and is supportive of other agencies' goals.
- ◆ Help flesh out new ideas or initiatives from both within and without the Department.

RISK MANAGEMENT AND COST/BENEFIT-BASED PRIORITIES

- ◆ Expand comparative risk assessment capabilities and manage to reduce risk in a cost effective way.
- ◆ Emphasize those environmental goals that are achievable by the state and local governments.

CONSISTENT AND STREAMLINED PROCEDURES

- ◆ Provide clear administrative direction on the budget and insure efficient and value-added activities, appropriate delegations, and approvals within the Department.
- ◆ Ensure, to the greatest extent possible, consistency between regions.

QUALITY PARTNERSHIPS

- ◆ Establish workable methods for creation and operation of quality partnerships; that is, partnerships that identify and reach for achievable environmental objectives.
- ◆ Enter into a few comprehensive community agreements or enter into many with less detail — all with realistic expectations.
- ◆ Identify ways to cost-effectively utilize resources from other divisions, departments, agencies, and local governments to achieve environmental goals.

RURAL ENVIRONMENTAL INITIATIVES

- ◆ Place a high priority on improvement of water, wastewater, and solid waste facilities in rural communities.
- ◆ Establish an Affirmative Action Program specifically targeted to Alaska Natives as well as volunteer programs like Water Watch.

PUBLIC OUTREACH AND EDUCATION

- ◆ Establish a system of public education about ways to prevent pollution and how to address it in a cost-effective way.
- ◆ Educate Alaskans on risks, and seek out and listen to their views on priorities.
- ◆ Make more use of RATNET.

MODIFY AND REVIEW REGULATIONS AND PERMITS

- ◆ Modify and review all regulations and permit conditions to "de-hassle" the process while keeping the integrity of the permit.
- ◆ Be sure requirements are clearly stated and understandable.

COMMITMENT TO IMPROVED TECHNOLOGY

- ◆ Support the development of improved technology for preventing and solving environmental problems, such as geographical information systems.
- ◆ Explore ways to easily use and share the data collected in each region.

ENFORCEMENT AND TECHNICAL ASSISTANCE

- ◆ Clarify the roles and distinction between enforcement responsibilities and the need to offer technical assistance.
- ◆ Develop guidelines to provide cost-effective solutions to environmental problems which, if not addressed, may involve violations of regulations.

TEAM SPIRIT

- ◆ Improve morale and team spirit through success, training opportunities, career path development, and mutual trust and respect.

PRESERVE INTEGRITY AND MISSION IN FACE OF CONFLICTING RESOURCE DEMANDS

- ◆ Through a well-coordinated planning effort, preserve the integrity, mission, and core values of the Department while resources decline but demands for those resources increase.

Alaska Department of Environmental Conservation

Division of Environmental Quality



Pollution Prevention Office

410 Willoughby Avenue,
Suite 105
Juneau Alaska 99801
465-5050

John A. Sandor
Commissioner

Mead Treadwell
Deputy Commissioner

Janice Adair
Assistant Commissioner
Legislative Liason

Mike Menge
Director, Division of
Environmental Quality

David Wigglesworth
Chief, Pollution
Prevention Office
563-6529

Goal

To protect public health and environmental quality by eliminating or reducing pollutants at their source rather than controlling pollutants through response mitigation, treatment, and disposal.

Background

In 1989, the Department of Environmental Conservation was awarded a federal grant from the US EPA to develop a pollution prevention program. In 1990, the Alaska Legislature passed House Bill 478 which established a waste reduction and recycling technical assistance program (now called the Pollution Prevention Office) within the Department (AS 46.06.031). In 1992, DEC Commissioner Sandor reinforced department commitment and resolve for pollution prevention by creating a senior managers Pollution Prevention Policy Council to advance efforts to incorporate pollution prevention within department programs. Moreover, EPA and DEC recently signed an agreement to build a sustained pollution prevention program by directing federal resources to the Pollution Prevention Office.

Issues

Pollution prevention offers environmental quality with economic benefits. Managing pollution after it has been created is an enormous financial burden to the state. Millions of dollars are spent annually to clean up contaminated sites. About \$1.3 billion has been spent in an effort to resolve rural sanitation issues. Many pollution problems fall "outside" currently regulatory jurisdiction or cannot be solved by regulation alone. Public demand for information on methods to reduce waste and increase efficiency is growing. Innovative non-regulatory incentives are needed to augment traditional regulatory activities. New approaches are needed to address problems that fall outside regulatory program jurisdiction. Partnerships with the public, industry, communities, and other sectors must be fostered to meet the overall state objectives in the area of pollution prevention and to provide the resources necessary to meet these objectives. The Pollution Prevention Office is established to meet these new challenges.

Major Features

- Provide non-regulatory technical assistance to business, communities, government agencies, and the general public (AS 46.06.031).
- Issue pollution prevention incentive grants and recognition programs for small business, communities, and schools (AS 46.03.317, 46.11.070, 46.03.045).
- Conduct non-regulatory on-site pollution prevention opportunity assessments for business (AS 46.06.031).
- Coordinate department-wide pollution prevention activities and provide staff support to the DEC Pollution Prevention Policy Council (AS 46.06.031).
- Maintain a pollution prevention technical assistance information clearinghouse and conduct training (AS 46.06.031).

Program Benefits

Preventing pollution is good business. It offers environmental quality with economic benefits. Businesses can enjoy cost savings by reductions in raw materials, more efficient waste handling and disposal, improved worker safety, and reduced litigation and legal fees. Residents and visitors alike benefit from a cleaner, safer environment. The pollution prevention office of DEC seeks to protect public health and the environment by eliminating or reducing pollutants at their source rather than controlling pollution later on.



Public Drinking Water Project

Goal _____
To ensure that drinking water supplied for public consumption in Alaska is safe.

Program Background _____
The statewide Public Drinking Water Project is responsible for ensuring that water supplied for public consumption meets minimum health standards including those of the Federal Safe Drinking Water Act of 1974 (SDWA). The SDWA directed the U.S. Environmental Protection Agency (EPA) to develop and enforce regulations to ensure that drinking water supplies meet certain health standards. Congress also recognized that states could administer a drinking water program and provided that the program could be delegated to state government entities under certain conditions. Primacy (primary enforcement responsibility) can be delegated to a state providing the state: 1) adopts regulations that are no less stringent than federal requirements, 2) adopts and implements enforcement procedures, 3) performs adequate record keeping and reporting, 4) provides for variances and exceptions, 5) performs planning for provision of safe water in emergencies. Alaska applied for and was granted primacy in 1978.

Issues _____
The SDWA mandates a very ambitious program of additional regulations to improve the long-term safety of public water supplies. Congress has not, however, provided federal grant funding commensurate with the increased work load, and EPA consistently underestimates the cost of new federal regulations to public water suppliers. Alaska would like to retain primacy of the federal drinking water program because the state runs a more comprehensive program that EPA would run, including technical assistance, plan reviews, and sanitary surveys to locate and eliminate deficiencies in the water system. The state will continue to adopt new federal regulations and to negotiate the implementation of the regulation in the annual State/EPA agreement. Without additional state resources in the program, however, at some point EPA may have to withdraw primacy.

Major Features _____

- Maintain regulations that prescribe minimum health standards and procedures for construction and operation of Alaska's 1,680 public drinking water systems and a data base that contains information on each system.
- Adopt Phase II and V regulations, which include maximum contaminant levels for additional chemical and monitoring schedules tailored for each public water system.
- Annually inspect over 100 major public water systems, including collecting and analyzing water samples for contaminants.
- Annually assist designers and review plans for 450 new or modified public water systems to ensure designs meet minimum standards to protect health.
- Respond to approximately 185 complaints annually about drinking water from consumers, identify contaminants and specify corrective measures.
- Review results of water quality testing conducted by public water suppliers. specify

410 Willoughby Avenue,
Suite 105
Juneau Alaska 99801
465-5050

John A. Sandor
Commissioner

Mead Treauwell
Deputy Commissioner

Janice Adar
Assistant Commissioner
Legislative Liaison

Mike Menge
Director, Division of
Environmental Quality

Deena Henkins
Chief, Wastewater and
Water Treatment Section
465-5300

corrective measures where contamination is indicated, and ensure that suppliers conduct required testing.

- Work with the U.S. Environmental Protection Agency to negotiate reasonable and workable drinking water regulations that acknowledge conditions unique to Alaska, and secure federal grant funding.
- Develop and implement a rural drinking water strategy to assist rural Alaskan water systems in providing safer drinking water.
- Provide a broad range of assistance on water treatment processes to communities and other water system owners, operators, and designers.
- Annually or biannually certify 29 laboratories for bacteriological analyses of public water supplies.
- Certify approximately 24 laboratories every three years for chemical analyses of public water supplies.

Program Benefits _____

Alaska has some 2,500 public water systems. Chemical and biological contamination of drinking water supplies have occurred over the years. The public drinking water program helps ensure that public water systems are properly built and maintained, and that the water meets health standards.



Industrial Wastewater Control

Goal

To ensure that industrial wastewater is treated and disposed of in a manner that protects public health and the environment.

410 Willoughby Avenue,
Suite 105
Juneau Alaska 99801
465-5050

John A. Sandor
Commissioner

Mead Treadwell
Deputy Commissioner

Janice Adair
Assistant Commissioner
Legislative Liaison

Mike Menge
Director, Division of
Environmental Quality

Deena Henkins
Chief, Wastewater and
Water Treatment Section
465-5300

Program Background

The Federal Clean Water Act Amendments of 1972 set up the National Pollutant Discharge Elimination System (NPDES) to permit point source discharges of pollutants to the waters of the United States. The State of Alaska has not accepted delegation of the NPDES permit program, and in Alaska the U.S. Environmental Protection Agency issues NPDES permits. The Clean Water Act requires the state to certify that NPDES permits will not cause violations of the state water quality standards. Alaska statutes also provide that the state-certified NPDES permit becomes the state waste disposal permit. If the EPA declines to issue an NPDES permit, the department will issue a state permit. The department also reviews plans of industrial wastewater treatment systems as provided by state statute.

Issues

In Alaska industrial wastewater point source discharges are controlled principally by NPDES or state waste disposal permits, with effluent limits required to meet the water quality standards in the receiving water. There are industrial activities, however, particularly the emerging hard rock mining industry, that may result in waste rock and tailings disposal sites that can affect ground waters and which are not covered by NPDES permits. In fiscal year '93 the department's solid and hazardous waste section is studying the various kinds of waste issues associated with mining (acid rock formation, tailings ponds, cyanide leaching heaps and tailings, etc.) and will make recommendations on how, and by whom, the issues could be addressed most efficiently. This study could result in the drafting of regulations specific to the mining industry to prevent pollution of the lands and waters of the state.

Major Features

- Review plans for industrial wastewater treatment systems, including placer mining plans of operation.
- Annually conduct 300 inspections of industrial wastewater treatment and disposal systems.
- Provide technical assistance to individuals and companies in the design, installation and operation of industrial wastewater systems.
- Monitor wastewater system effluent and receiving water quality to ensure that public health and the environment are being protected.
- Annually certify 20 federal permits for major industrial wastewater discharges to ensure that water quality will be protected.
- Annually issue ten state waste disposal permits to minor industrial discharges.

Program Benefits _____

The program helps prevent the untreated release of wastewater, thus improving the environment and protecting the health of Alaskans who otherwise could be affected by water-borne disease.

Alaska Department of Environmental Conservation
Division of Environmental Quality



Domestic Wastewater Control

410 Willoughby Avenue,
Suite 105
Juneau Alaska 99801
465-5050

John A. Sandor
Commissioner

Mead Treadwell
Deputy Commissioner

Janice Adair
Assistant Commissioner
Legislative Liason

Mike Menge
Director, Division of
Environmental Quality

Deena Henkins
Chief, Wastewater and
Water Treatment Section
465-5300

Goal

To ensure that domestic wastewater is treated and disposed of in a manner that protects public health and the environment.

Program Background

In 1973 the Department of Environmental Conservation (DEC) adopted wastewater regulations, 18 AAC 72. These regulations set minimum standards for the design of sewage collection, treatment and disposal systems. The regulations also implement the department's statutory authority to review plans for wastewater collection, treatment and disposal systems and to review plans for sewage disposal for subdivisions.

Issues

In Alaska very few local governments (principally the Municipality of Anchorage and to a lesser extent the cities of Valdez and Wasilla) regulate sewage collection, treatment or disposal, and most of the burden state-wide falls on DEC. As budgets decline, the department has to streamline its programs, such as plan review, by clearly defining the scope of DEC review and what will be left to the consulting engineer preparing the plans. The department will also continue the effort to pass the certification of on-lot water and sewer systems for bank loans to private consulting engineers trained by DEC. The bank loan certifications are not required by state statutes or regulations.

Major Features

- Maintain and update the wastewater disposal regulations and guidance.
- Annually review plans for 800 domestic wastewater disposal systems.
- Annually review plans for 200 subdivisions to ensure adequate means are available to dispose of wastewater.
- Annually inspect 400 wastewater disposal systems.
- Respond to complaints on inadequate sewer systems—an estimated 800 annually.
- Provide technical assistance to individual companies and municipalities on the design, installation and operation of domestic wastewater systems.
- Monitor wastewater system effluent and receiving water quality to ensure that public health and the environment are being protected.
- Annually certify 10 federal permits for major sewage treatment systems to ensure that water quality standards will be met.
- Annually issue 25 state waste disposal permits to sewage dischargers.
- Certify single-family septic systems so that home buyers may secure financing—approximately 2,500 annually.
- Investigate and implement viable means of septic waste treatment and disposal in remote communities.
- Establish permit issuance guidelines and enforcement procedures, and update a permit data base for surveillance of permitted discharges statewide.

Program Benefits

The program helps prevent the untreated release of wastewater, thus improving the environment and protecting the health of Alaskans who otherwise could be affected by water-borne disease.

Alaska Department of Environmental Conservation
Division of Environmental Quality

Air Quality Management



410 Willoughby Avenue,
Suite 105
Juneau Alaska 99801
465-5050

John A. Sandor
Commissioner

Mead Treadwell
Deputy Commissioner

Janice Adair
Assistant Commissioner
Legislative Liason

Mike Menge
Director, Division of
Environmental Quality

Len Verrelli
Chief, Air Quality
Program
465-5100

Goal

Safeguard public health from air pollutants harmful effects, fostering the use of technology which enables economic development to have minimal reduction in air quality, and to preserve the high level of existing air quality for the enjoyment and well-being of all.

Program Background

The 1970 Clean Air Act established air quality programs nationwide. The act is designed to regulate Air emissions from stationary, mobile and other sources which pose a risk to human health and the environment. The State of Alaska established a program in the early 70's which went far beyond the federal mandate. This was done to protect the pristine environment unique to Alaska. The Air Quality Management project controls significant sources of air contaminants to protect and enhance air quality and abate impacts on public health and the environment. Major activities include permitting; inspections; assisting industry in preparing permit proposals; assisting local governments with air quality monitoring and transportation control issues and requirements; developing and supporting related air quality standards and emission management programs; and verifying and reporting improvements to the federal government.

Issues

There are four areas in Alaska that violate a National Ambient Air Quality Standard. Anchorage and Fairbanks exceed the standard for carbon monoxide, while Eagle River and the Mendenhall Valley of Juneau exceed the standard for airborne particulate matter. Through the 1990 Clean Air Act amendments, Congress requires Eagle River and the Mendenhall Valley to attain the standard by December 31, 1994, and Anchorage and Fairbanks to attain the standard by December 31, 1995. Failure to attain the standards would result in continued jeopardy of public health and may result in federal sanctions. Also, the air pollution permitting program must undergo major revisions to comply with the Clean Air Act amendments. However, new statutory authority is necessary before compliance can be achieved. Failure to develop an adequate program may result in forfeiture of the air quality program to EPA.

Major Features

Administration of Air Quality Management:

- Annual development of federal grant requests and the State/EPA Agreement (SEA).
- Develop and administer memoranda of understanding/agreements with local governments.

Stationary Sources:

- Issue, renew, and amend Air Quality Prevention of Significant Deterioration (PSD) permits to new and existing Alaska facilities in accordance with state regulations.
- Monitor compliance with existing regulations and air quality standards through annual inspections and uniform enforcement procedures.
- Streamline applications and review procedures for all affected facilities.

- Maintain and revise as necessary AQM regulations.
- Certify and train air inspectors.

Transportation Control:

● Mobile Sources

- ◆ Submit an approvable Carbon Monoxide State Implementation Plans (SIPs) for Anchorage and Fairbanks to EPA.
- ◆ Manage an effective and efficient oxygenated fuels program.
- ◆ Oversee and audit local-run inspection and maintenance programs.
- ◆ Develop contingency plans for assumption of Inspection/Maintenance or other locally-run transportation programs should any local government default to a state-run program.
- ◆ Maintain and revise as necessary all "Conformity" agreements to assure compliance with Federal Highways requirements.
- ◆ Submit approvable PM-10 (particulate matter) SIPs for the nonattainment problems in Eagle River and Mendenhall Valley.

● Ambient Monitoring

- ◆ Operate statewide monitoring program to assure state air quality standards are met.
- ◆ Provide quality assurance/quality control of statewide monitoring equipment.
- ◆ Perform investigative monitoring of suspected emission releases.

Air Toxics Program:

- Continue development and implementation of a state-wide air toxic program.
- As necessary develop air toxic regulations for pollutants suspected to be injurious to humans, plants and animals.
- Develop project plans for evaluating potentially harmful industrial by-products.

Small Business Assistance:

- Develop and implement a cost effective small business assistance program.
- Technically assist small businesses and municipalities through the new permit program.
- Provide for a Compliance Advisory Panel.
- Provide independent auditing of emission sources with small businesses.

Clean Air Act Amendments of 1990 (CAA90) Compliance Program:

- Develop regulations and statutes consistent with the intent of Congress and state needs.
- Manage an EPA-approvable fee program sufficient to maintain a reasonable work force to provide timely service to permit clients.
- Create a Draft Permit Format and General Permit structure to provide assistance to permit clients by streamlining and simplifying the permit process.

Train Regional permit liaisons.

- Develop an Inspector Certification Program.
- Establish a Quality Control/Quality Assurance Program.

Program Benefits

By controlling emissions that can be harmful to humans, animals and plant life, DEC's Air Quality Management Program is working to prevent any further degradation of the state's air quality and to clean up past air pollution problems.



Solid Waste Management

Goal

To protect public health and the environment from the potential dangers of improper solid waste disposal.

410 Willoughby Avenue,
Suite 105
Juneau Alaska 99801
465-5050

John A. Sandor
Commissioner

Mead Treadwell
Deputy Commissioner

Janice Adair
Assistant Commissioner
Legislative Liaison

Mike Menge
Director, Division of
Environmental Quality

Heather Stockard
Manager, Solid and
Hazardous Waste
Management
465-5150

Program Background

Solid waste management was one of the first functions undertaken by the Alaska Department of Environmental Conservation (DEC) in the early 1970's. Solid wastes regulated by DEC include both municipal and industrial wastes. In October 1991, the Environmental Protection Agency (EPA) issued new requirements for municipal solid waste landfills in response to the 1984 Hazardous and Solid Waste Amendments to the Resource Conservation and Recovery Act (RCRA). During the fall of 1992, DEC is revising state solid waste regulations to incorporate the new federal provisions.

Issues

The most significant issue facing the Solid Waste Program is the need to receive program approval from EPA. New federal requirements for municipal solid waste landfills take effect in October 1993, including provisions which will be difficult, if not impossible, for many Alaskan communities to meet. Additional flexibility to administer the federal requirements is granted states with approved programs. Areas of increased flexibility include siting of landfills in wetlands, fault areas and seismic impact zones. The director of an approved state may temporarily waive daily cover requirements, approve alternative landfill designs based on site-specific conditions, and approve alternate requirements for groundwater monitoring and post-closure care. To receive program approval DEC must adopt revised solid waste regulations, and show a commitment to the permitting, inspection and enforcement activities necessary to ensure compliance with these requirements.

Major Features

- Issue permits for solid waste disposal facilities, including municipal landfills, landspreading of sewage sludge, disposal of contaminated soils, and land disposal of industrial wastes such as oilfield drilling muds.
- Inspect landfills for compliance with permit conditions and regulations.
- Provide technical assistance to facility owner/operators to help them comply with state and federal laws.
- Review closure plans for inactive reserve pits which were previously used for the land disposal of drilling muds.
- Set standards for landfill location, operation, design, monitoring, closure and financial assurance.

Program Benefits

The solid waste management program is a preventative program: it requires proper management and disposal of solid waste in order to prevent health and environmental hazards and the need for costly environmental cleanup efforts of improperly disposed waste. It cuts total costs since waste management is 10 to 100 times cheaper than cleaning up contaminated sites.

Alaska Department of Environmental Conservation

Division of Environmental Quality



Hazardous Waste Management

Goal

To protect public health, property and the environment from the harmful effects of improper hazardous waste management and disposal.

410 Willoughby Avenue,
Suite 105
Juneau Alaska 99801
465-5050

John A. Sandor
Commissioner

Mead Treadwell
Deputy Commissioner

Janice Adair
Assistant Commissioner
Legislative Liaison

Mike Menge
Director, Division of
Environmental Quality

Heather Stockard
Acting Manager, Solid
and Hazardous Waste
Management
465-5150

Program Background

In 1976, Congress passed the federal Resource Conservation and Recovery Act (RCRA), which directed EPA to establish regulations for handling a range of dangerous substances when they become wastes. RCRA established a "cradle-to-grave" management and tracking of hazardous waste, from generator to transporter, treatment, storage and disposal. In 1981, DEC started to implement the RCRA requirements. In 1984 Congress strengthened the RCRA laws by passing the Hazardous and Solid Waste Amendments (HSWA). These amendments imposed new requirements, including the restriction of land disposal of hazardous waste, corrective action for releases of hazardous waste, and deadlines for the issuance of facility operating permits.

Issues

The Hazardous Waste Management Program faces significant issues and challenges. State law directs DEC to take all actions necessary to receive authorization from the U.S. Environmental Protection Agency (EPA) to administer the RCRA hazardous waste program in Alaska in lieu of the federal government. DEC is working toward achieving authorization, including development of an application package and a program that EPA will approve. The program will include a commitment to provide sufficient resources, a proficient permitting program, a qualified compliance monitoring and enforcement program, corrective action capability, legal and regulatory authorities equivalent to federal requirements, and a sound data management system. Other issues include promoting the siting of hazardous waste management facilities in-state, assisting communities to safely dispose of household hazardous waste, encouraging facilities to reduce their generation of hazardous waste, and integrating pollution prevention into all program activities.

Major Features

- Continue work toward development of a program that will be capable to assume administration of the RCRA program currently administered by EPA in Alaska.
- Ensure that operating waste storage facilities in Alaska not seeking final permits are properly closed.
- Inspect facilities that produce, or otherwise handle hazardous waste, to make sure they comply with hazardous waste regulations and permit conditions.
- Respond to citizen complaints about hazardous waste activities.
- Provide information and technical assistance to the public and the regulated community on hazardous waste management issues.
- Develop permits for hazardous waste management facilities.
- Assist communities in an annual collection and proper disposal of hazardous wastes from households and small businesses.

- Maintain and update regulations that prescribe standards for managing hazardous wastes, and for the siting of hazardous waste management facilities in-state.

Program Benefits _____

The hazardous waste management program is a preventative program. It requires producers to properly manage and dispose of hazardous wastes, preventing health hazards and the need for later costly environmental cleanup efforts of improperly disposed waste. Since waste management is 10 to 100 times cheaper than hazard cleanups, cleanup prevention is the only reasonable alternative.

Alaska Department of Environmental Conservation

Division of Environmental Quality



Environmental Analysis Laboratory

410 Willoughby Avenue,
Suite 105
Juneau Alaska 99801
465-5050

John A. Sandor
Commissioner

Mead Treadwell
Deputy Commissioner

Janice Adair
Assistant Commissioner
Legislative Liaison

Mike Menge
Director, Division of
Environmental Quality

Jim Powell
Deputy Director,
Acting Director,
Monitoring and
Laboratory Operations
790-2169

Goal

Laboratory: to provide error-free, high-quality analytical services for samples submitted in support of Department programs, and to manage the state's Drinking Water Certification Program for chemical laboratories.

Monitoring program: to protect Alaska's water quality through monitoring.

Quality assurance project: to ensure that all environmental data generated for the Department will be scientifically valid, defensible and of known quality.

Toxicology: to determine potential impact to humans and ecological systems from exposure to chemicals in the environment.

Program Background

Before DEC was created in 1971, most scientific work was handled by a laboratory run by the U.S. Department of Agriculture. That lab continued to support DEC programs for the Department's first 10 years. In 1981, however, the state assumed full control of the laboratories, with the Palmer facility specializing in microbiological tests and the Juneau laboratory concentrating on chemical analysis. Since then, the Juneau lab has set up a quality assurance project to check the performance of private contract labs in the state; a monitoring program to devise proper sampling strategies; and a toxicology program to determine adverse human health effects from exposure to wastes, toxic substances, and pesticides in the environment. DEC's Environmental Analysis Laboratory is now a shared facility with the University of Alaska.

Issues

The laboratory's major issue concerns maintaining proficiency and a high level of quality control in order to certify private laboratories in the state. The Environmental Analysis Laboratory establishes and improves high standards for private labs through assistance and certification. Keeping abreast of the potential impact of new pollutants to human health and the environment is another concern, as is anticipating monitoring needs and trends related to water quality.

Major Features

Laboratory Services:

- Provide analytical testing for heavy metals, volatiles (VOCs) and semi-volatile organic chemicals, pesticides, and petroleum in soil, water, and sludge. The lab also performs radiological tests for nitrates and fluorides.
- Manage certification of in-state and out-of-state laboratories for chemical analysis of drinking water.
- Maintain state-of-the-art equipment and capability to provide analytical lab support.
- Perform test samples for hazardous wastes, needed for enforcement of the Resource Conservation Recovery Act.
- Perform tests needed for enforcement of water quality permits, of soils and waters around sites and industrial facilities, and the sites of leaking underground storage tanks.