ALASKA LEGISLATURE COMMITTEE FILES 1997-1998 8672

9638 SENATE LABOR & COMMERCE

HB

117

SENATE COMMITTEE REPORT

DATE: 3/7/97

FURTHER:

DATE TURNED IN TO OFFICE: 4-22-97

Labor and Commerce Committee considered CS FOR HOUSE BILL NO. 117(L&C)

"An Act relating to boiler and pressure vessel inspection standards; relating to elevator safety and inspection standards; and providing for an effective date."

and recommends:

[ ] be **replaced** with _____ CS _____(_____)

[ ] adopt **previous** _____ CS _____(_____)

[ ] attached amendment(s)

[ ] adopt Letter of Intent by _____ Committee

[ ] further referral to the _____ Committee

Senate Bill:
[ ] same title
[ ] new title

House Bill:
[ ] same title
[ ] technical change
[ ] new: SCR#_____

SIGNING DO PASS	*DP*	*OTHER RECOMMENDATIONS*	*NR*	*DNP*	*AM*
	✓				
Tim Kelly	✓				
CHAIR: Loren A Leman	✓	*CHAIR:*			

NEW FISCAL NOTE(S):

Department	Date	Zero	Fiscal

PREVIOUS FISCAL NOTE(S):*

Department	Date	Zero	Fiscal
Labor	3/19/97	✓	

[ ] APPROPRIATION -- no fiscal note

***include fiscal notes accompanying Governor's bill**

No. 1

FISCAL NOTE

Bill Version: CSHB 117(L&C)
(H) Publish Date: 2/19/97

STATE OF ALASKA
1997 LEGISLATIVE SESSION

Revision Date:
Title: Elevator/Boiler/Pressure Vessel Standards
Sponsor: House Labor and Commerce
Requestor: House Labor and Commerce

Department Affected: Labor
BRU: Labor Standards & Safety
Component: Mechanical Inspection
COMPONENT SERIAL NO. 346

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 98	FY 99	FY 00	FY 01	FY 02	FY 03
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0
CAPITAL						
CHANGE IN REVENUE FUND SOURCE #						

FUNDING: (Thousands of Dollars)

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

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

Estimate of current year (FY97) impact: $ 0.0

ANALYSIS: (Attach a separate page if necessary)

This legislation will simplify the process of adopting new editions of the Boiler and Elevator Code. New editions of these codes are issued every three years, requiring legislative action to update the enforcement codes for the state. There has never been any opposition to the new codes and they have been adopted by the legislature. By transferring adoption authority to the Department, the process of updating codes will be streamlined and the matter will not have to take up legislative time and attention. There will be no fiscal impact.

Prepared by: Alan W. Dwyer, Director — Phone: 465-4855
Division: Labor Standards & Safety — Date: 2/11/97

Approved by Commissioner: Tom Cashen, Commissioner
Agency: Department of Labor — Date: 2/11/97

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STATE OF ALASKA

TONY KNOWLES, GOVERNOR

DEPARTMENT OF LABOR

OFFICE OF THE COMMISSIONER

P.O. BOX 21149
JUNEAU, ALASKA 99802-1149
PHONE: (907) 465-2700
FAX: (907) 465-2784

February 13, 1997

The Honorable Norman Rokeberg
Chair
House Labor and Commerce Committee
Alaska State Legislature
State Capitol, Room 24
Juneau, AK 99801-1182

Dear Representative Rokeberg:

This bill relates to safety and inspection standards for boilers and pressure vessels and elevators.

Currently, AS 18.60.315 establishes the 1992 edition of the National Board Inspection Code ("NBIC") manual for boilers and pressure vessels as the minimum inspection standards for the state. The 1992 edition is outdated because the National Board has implemented new standards in its 1995 edition. Rather than amend AS 18.60.315 to adopt that 1995 edition, the bill proposes that the statute would simply specify that the most current edition of the manual is the state inspection standard. This approach would avoid the need for a statute amendment each time the manual is updated, as well as avoid continued application of outdated standards until the statute could be amended. To allow the flexibility necessary to respond to unforeseen circumstances, the Department of Labor would be authorized to specify, by regulation, another edition of the manual.

Similarly, AS 18.60.800(a) currently establishes the 1990 edition of the American Society of Mechanical Engineers ("ASME") safety code as the minimum elevator safety standards in the state and AS 18.60.800(c) specifies a 1988 edition of ASME standards as the elevator inspection standards in the state. Since ASME revises its standards every three years, the statutory standards are significantly outdated. The bill proposes to specify in statute that the most current edition of the ASME standards is the state standard. For the safety code standards (AS 18.60.800(a)), the Department of Labor would be able to specify, by regulation, a different edition.

An additional amendment to AS 18.60.800(a) deletes the existing last sentence of that subsection, which specifically excludes certain portions of the ASME elevator safety code. The excluded portions relate to shipboard elevators. The effect of the

amendment would be assumption of responsibility by the Department of Labor for enforcement of elevator safety code standards on certain marine vessels. It had been the Department of Labor's understanding that the United States Coast Guard carried out such inspection and enforcement activities on marine vessels. The department recently became aware that that is not the case.

Sincerely,

Tom Cashen

Tom Cashen
Commissioner

cc: HL&C Committee Members
Dwight Perkins, Legislative Liaison
Al Dwyer, Director, LS&S

HB 118

SENATE COMMITTEE REPORT

DATE: 3/11/97

FURTHER:

DATE TURNED IN TO OFFICE: 4-22-97

Labor and Commerce Committee considered HOUSE BILL NO. 118 am

"An Act relating to reporting and other requirements of certain employment accidents; and providing for an effective date."

and recommends:

[ ] be **replaced** with _____ CS _____ (_____)

[ ] adopt **previous** _____ CS _____ (_____)

[ ] attached amendment(s)

[ ] adopt Letter of Intent by _____ Committee

[ ] further referral to the _____ Committee

Senate Bill:
[ ] same title
[ ] new title

House Bill:
[ ] same title
[ ] technical change
[ ] new: SCR#_____

SIGNING DO PASS	*DP*	*OTHER RECOMMENDATIONS*	*NR*	*DNP*	*AM*
[signature]	✓				
Ted Kelly	—				
CHAIR: Drew A. Scheman	✓	*CHAIR:*			

NEW FISCAL NOTE(S):

Department	Date	Zero	Fiscal

PREVIOUS FISCAL NOTE(S):*

Department	Date	Zero	Fiscal
Labor	2/19/97	✓	

[ ] APPROPRIATION -- no fiscal note

***include fiscal notes accompanying Governor's bill**

FEB 2 2 1997

STATE OF ALASKA

DEPARTMENT OF LABOR

LABOR STANDARDS AND SAFETY DIVISION

TONY KNOWLES, GOVERNOR

P.O. BOX 21149
JUNEAU, ALASKA 99802-1149
PHONE: (907) 465-4855
FAX: (907) 465-3584

February 19, 1997

The Honorable Norman Rokeberg
Chair, House Labor & Commerce
Alaska State Legislature
State Capitol, Room 24
Juneau, AK 99801-1182

Dear Representative Rokeberg:

This is in response to your questions concerning the Occupational Safety and Health Administration (OSHA) 800 number which is available for employers to report injuries and fatalities.

The federal number is 1-800-321-OSHA and is manned around the clock, 365 days/year by a live person at federal expense. Information received from Alaskan employers is immediately relayed to the Federal District Director in Anchorage who, in turn, contacts the AKOSH Chief or one of his Assistant Chiefs. They determine if an on-site inspection is necessary.

A slight change in the process is about to take place. The information received at the federal number will be passed on direct from Washington, D.C., to AKOSH rather than through the Federal District Director. This change is more efficient because most of the Alaska information received is within the state's jurisdiction.

Our AKOSH Chief will notify the Federal District Director of any accidents or fatalities within federal jurisdiction (maritime safety).

I hope this answers your concerns. Please feel free to contact me at 465-6008 if you have further questions.

Sincerely,

Alan W. Dwyer

Alan W. Dwyer, Director
Labor Standards & Safety

cc: Tom Cashen, Commissioner
Dwight Perkins, Legislative Liaison

STATE OF ALASKA

DEPARTMENT OF LABOR

OFFICE OF THE COMMISSIONER

TONY KNOWLES, GOVERNOR

P.O. BOX 21149
JUNEAU, ALASKA 99802-1149
PHONE: (907) 465-2700
FAX: (907) 465-2784

February 13, 1997

The Honorable Norman Rokeberg
Chair
House Labor and Commerce Committee
Alaska State Legislature
State Capitol, Room 24
Juneau, AK 99801-1182

Dear Representative Rokeberg:

This bill relates to an employer's obligation to report to the Department of Labor, division of labor standards and safety, an occupational accident that is fatal to an employee or that results in the in-patient hospitalization of an employee.

The State of Alaska is required by 29 CFR 1953 and AS 18.60.030(6) to adopt occupational safety and health standards at least as effective as federal standards within six months of the publication date of a final rule in the Federal Register. A change to the rule for reporting occupational injuries and illnesses was published in Federal Register, Volume 59, Number 63, April 1, 1994, which requires that incidents resulting in the in-patient hospitalization of three or more employees, or a fatality, be reported orally within eight hours. (The former federal rule required reporting of five or more hospitalizations, but many states, including Alaska, had adopted more stringent requirements.) The State of Alaska currently requires reporting within 24 hours of occurrence of one or more in-patient hospitalizations or a fatality. The changes for the State of Alaska include reduction of the reporting period, addition of a requirement that the report be made orally, and addition of a federal toll-free number. This bill only adds a requirement not [illegible] that's always possible.
The bill also adds a provision requiring reporting of accidents in which an employee in-patient hospitalization or fatality occurs some time after the employer first knows of the accident itself. The employer must report such accidents within eight hours after learning that a fatality or in-patient hospitalization occurred. The employer is not required to report such accidents if the employer first learned of the hospitalization or fatality more than 30 days after the accident.

Additionally, the bill proposes changes to conform the language of AS 18.60.058 with federal OSHA terminology.

OSHA believes that reducing the reporting period is critical for the agency to respond quickly, to inspect for hazardous conditions that may pose a risk to other workers at the work site, and to interview personnel while their recollections are more immediate and untainted by other events. The shorter reporting time also makes it more likely that the incident site will be undisturbed, affording the investigation compliance officer a better view of the work site as it appeared at the time of the incident. The eight hour criteria also coincides with a "standard work shift" for most employers and thus provides a logical cut-off point for fulfilling the reporting requirement.

In order to continue Alaska's federally approved OSHA program, it is important that the amendments proposed in this bill be enacted.

Sincerely,

Tom Cashen

Tom Cashen
Commissioner

cc: HL&C Committee Members
Dwight Perkins, Legislative Liaison
Al Dwyer, Director, LS&S

FISCAL NOTE

No. 1
Bill Version: HB 118
(H) Publish Date: 2/19/97

STATE OF ALASKA
1997 LEGISLATIVE SESSION

Revision Date:
Title: Reporting of Employment Accidents
Sponsor: House L&C
Requestor: House L&C

Department Affected: Labor
BRU: Labor Standards & Safety
Component: Occupational Safety & Health
COMPONENT SERIAL NO. 970

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 98	FY 99	FY 00	FY 01	FY 02	FY 03
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0
CAPITAL						
CHANGE IN REVENUE FUND SOURCE #						

FUNDING: (Thousands of Dollars)

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

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

Estimate of current year (FY97) impact: $ 0.0

ANALYSIS: (Attach a separate page if necessary)
This legislation would shorten the time frame for an employer's reporting of an accident that is fatal to an employee or that requires in-patient hospitalization. Changes would also be made regarding the manner in which the report is to be made and information that is to be included. To maintain our state OSH program our standards must be at least as effective as federal standards. These changes will bring us into compliance with federal law. There will be no fiscal impact associated with this bill.

Prepared by: Alan W. Dwyer, Director
Division: Labor Standards & Safety
Phone: 465-4855
Date: 2/12/97

Approved by Commissioner: Tom Cashen, Commissioner
Agency: Department of Labor
Date: 2/12/97

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Rev 10/94

HB

135

SENATE COMMITTEE REPORT

DATE: 4/21/97

FURTHER:

DATE TURNED IN TO OFFICE: 3-6-98

Labor and Commerce Committee considered HOUSE BILL NO. 135

"An Act relating to dental licensing; extending the termination date of the Board of Dental Examiners; and providing for an effective date."

and recommends:

[✓] be **replaced** with SEN CS HB135 (L&C)

[ ] adopt **previous** ___ CS _____ (_____)

[ ] attached amendment(s)

[ ] adopt Letter of Intent by _____ Committee

[ ] further referral to the _____ Committee

Senate Bill:
[✓] same title
[ ] new title

House Bill:
[ ] same title
[ ] technical change
[ ] new: SCR# _____

SIGNING DO PASS	*DP*	*OTHER RECOMMENDATIONS*	*NR*	*DNP*	*AM*
Tim Kelly	✓				
	✓				
CHAIR: Drew Donohue	✓	*CHAIR:*			

NEW FISCAL NOTE(S):

Department	Date	Zero	Fiscal
FN forthcoming (requested)			

PREVIOUS FISCAL NOTE(S):*

Department	Date	Zero	Fiscal
~~Commerce~~		✓	

[ ] **APPROPRIATION -- no fiscal note**

***Include fiscal notes accompanying Governor's bill**

Alaska State Legislature

Senate

Official Business

Senate Labor & Commerce Committee

State Capitol
Juneau, AK. 99801-1182

MEMO

TO: Legal Services
via fax: X 2029 this page only

FROM: Annette Kreitzer, Aide to
Senate Labor & Commerce Committee
PH: X 3844

DATE: February 23, 1998

RE: L&C Committee Substitute for HB 135

Please prepare a L&C Committee Substitute for HB 135 with the following changes:

1) Page 2, Lines 21-25
[DEMONSTRATES COMPLETION OF CONTINUING EDUCATION IN THE OMITTED SUBJECT AREAS,] holds a specialty certification in the omitted subject areas **[, OR PROVIDES PROOF SATISFACTORY TO THE BOARD OF A HISTORY OF SUCCESSFUL PRACTICE INVOLVING THE OMITTED SUBJECT AREAS]**;

2) Probably should be an immediate effective date, since it appears the Board of Dental Examiners is in its wind-down year.

If you have questions about this request, please call me. This bill is scheduled for the Senate Labor & Commerce Committee, Thursday, February 26 at 1:30 p.m.. The Committee prefers to see drafts the day before, so if it's possible to have this back by Wednesday, I would appreciate it. Thanks.

FISCAL NOTE

STATE OF ALASKA
1998 LEGISLATIVE SESSION

BILL NO. SCS CSHB 135(L&C)

Revision Date:
Title: An Act extending the termination date of tha
Board of Dental Examiners;....
Sponsor: House Rules by Request
Requestor: Senate Labor and Commerce

Department: Commerce and Economic Development
BRU: Occupational Licensing
Component: Operations

COMPONENT SERIAL NO. 1844

Expenditures/Revenues (Thousands of Dollars)

OPERATING EXPENDITURES	FY 99	FY 00	FY 01	FY 02	FY 03	FY 04
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0
CAPITAL EXPENDITURES						
CHANGE IN REVENUES	0.0	0.0	0.0	0.0	0.0	0.0

FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 General Fund						
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other (Specify Type)						
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

Estimate of any current year (FY 98) cost: $ 158.8

POSITIONS

FULL-TIME						
PART-TIME						
TEMPORARY						

ANALYSIS: (Attach a separate page if necessary)

SCS CSHB 135(L&C) extends the Board of Dental Examiners to June 30, 2001 and makes other amendments to AS 08.36. Funding for continuation of the board in the amount of $158.8 is included in the department's FY 99 operating budget request; therefore, new funds are not needed. The program is required to cover its costs with licensing fees under AS 08.01.065, and revenue generated by board fees are anticipated to cover its full operating costs.

Prepared by: Jennifer Strickler, Administrative Manager — Phone: 465-2144
Division: Occupational Licensing — Date: 3/6/98
Approved by Commissioner: Deborah B. Sedwick — Date: 3.6.98
Agency: Commerce and Economic Development

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cc:Mail for: Annette Kreitzer

Subject: Re: HB135
From: Senator Loren Leman at LAA_SLEM 3/5/98 10:09 PM
To: CROOKS.KEN@IHS.GOV at CC2MHS1
cc: Annette Kreitzer at LAA_CAP

Ken,

We heard this bill today in Labor & Commerce, and reported it from committee recommended "Do Pass." Thanks for your input.

Loren Leman

_____ Reply Separator _____

Subject: HB135
Author: CROOKS.KEN@IHS.GOV at CC2MHS1
Date: 3/5/98 12:31 PM

Senator Loren Leman, Chair
Senator Jerry Mackie, Vice Chair
Senator Tim Kelly
Senator Mike Miller
Senator Lyman Hoffman

RE: CS HB 135

Dear members of the Labor and Commerce Committee:

I wish to urge your support for CS HB 135 in its present form. The Board of Dental Examiners selected "...extension of the termination date of the Board ..." as its first priority in its Goals and Objectives for FY 98.
In addition, the board, at its Feb. 26-27 meeting, endorsed the changes in language to HB 135, Section 3, which eliminate consideration of continuing education and successful practice in subject areas but retains recognition of specialty certification. The board believes that the modification of Regulation 12 AAC 28.951 Licensure By Credentials which went into effect Feb. 22,

1998 are sufficient to enable the board to apply a standard for determination of "generally equivalent" examinations that will allow the licensure by credentials of all qualified candidates.

Sincerely;
Kenneth Crooks, DDS
Chair, Board of Dental Examiners
Dillingham, AK

cc: Catherine Readon, Director

COMMITTEE:
SENATE LABOR & COMMERCE

DATE: March 5

Subject of meeting:
HB 135 - DENTISTS: LICENSING & EXTEND EXAMINING BD

SIGN-IN

PLEASE PRINT! NAME	ADDRESS (MAILING) & (ZIP)	PHONE	REPRESENTING	DO YOU WANT TO TESTIFY ?
Catherine Reardon	Division of Occupational Licensing	465-2538	DCED	Yes

Dr. Randall Wolf 561-7110
6740 O'Malley Rd

file

Anchorage	AK	99516	Distribution	Affiliation	Reg Voter
			60		Y

Date POM Sent	Constituency	Bill Number	Response	Subject
04/17/97	N	HB 135	Supports	

PLEASE VOTE THIS UP WITHOUT ANY CHANGES.

Ms. Diane Aulabaugh 345-7722
4032 North Star St

file

Anchorage	AK	99503	Distribution	Affiliation	Reg Voter
			60		Y

Date POM Sent	Constituency	Bill Number	Response	Subject
04/17/97	N	HB 135	Supports	

YOU SHOULD VOTE THIS OUT WITHOUT ANY CHANGES. THE CHANGES THAT ARE BEING RECOMMENDED WOU BE DETRIMENTAL TO DENTAL PATIENTS IN GENERAL.

Ms. Cathy A Brown 345-7722
2633 Seclusion Dr

2. file

Anchorage	AK	99504	Distribution	Affiliation	Reg Voter
			60		Y

Date POM Sent	Constituency	Bill Number	Response	Subject
04/17/97	N	HB 135	Supports	

I THINK IT IS A VERY DANGEROUS PRACTICE THAT THEY WOULD ALLOW HEALTH CARE PROVIDERS NOT TO BI RESPONSIBLE FOR THE WORK THAT THEY DO. I WORK FOR A DENTIST AND I EXPECT HIM TO BE RESPONSIBL AND DO RESPONSIBLE WORK.

Ms. Donna S Duke 345-7722
12900 Hillside Dr

			Distribution	Affiliation	Reg Voter
Anchorage	AK	99516	60	Register	Y

Date POM Sent	Constituency	Bill Number	Response	Subject
04/17/97	N	HB 135	Amend	

IT NEEDS TO BE VOTED IN WITH NO CHANGES. I FEEL THAT IT IS VERY IMPORTANT THAT DENTISTS BE ABLE T DIAGNOSE ACCORDING TO THEIR OWN EDUCATION AND EXPERIENCE AND SHOULD NOT BE ILLEGAL TO GIVE PERSON A PROFESSION OPINION.

Mr. Tony Paden 745-6818
PO Box 1969

			Distribution	Affiliation	Reg Voter
Palmer	AK	99645	60		Y

Date POM Sent	Constituency	Bill Number	Response	Subject
04/17/97	N	HB 135	Supports	

PLEASE VOTE YES WITH OUT CHANGES.

Dr. Eric C. Simpson 000-0000
1220 Fritz Cove Rd

			Distribution	Affiliation	Reg Voter
Juneau	AK	99801	60		Y

Date POM Sent	Constituency	Bill Number	Response	Subject
04/17/97	N	HB 135	Supports	

PLEASE VOTE UP CSHB135 WITHOUT CHANGES.

ALASKA STATE BOARD OF DENTAL EXAMINERS

NARRATIVE STATEMENT - FY 97

Election of Board Officers for FY 97

- Dr. James Clark declined nomination for reelection to the Chair position, stating that he felt that a rotation of the position would be beneficial to the program.
- Dr. Kenneth Crooks was elected Chair.
- Dr. Carol Ross was reelected Vice Chair.
- Ms. Connie Stewart, RDH, was reelected Secretary.

Progress on Goals and Objectives

The board's highest objective for the year was to "investigate further methods to ensure adequacy in our **licensing procedures** and maintain adequate procedures for background investigations of all licensure applicants." Toward that end, two regulatory proposals dealing with the licensure by credentials process were developed and ultimately adopted by the board. The proposed amendment to **12 AAC 28.951** is intended to overcome problems with access to licensure by qualified dentists due to existing regulation language which imposes rigid restrictions on the board's ability to accept the examinations of other states. The proposed amendment to **12 AAC 28.915** is intended to improve the adequacy of the process of verifying a licensure applicant's professional performance background by allowing sufficient time for investigation.

In pursuit of the goal of having a **licensure by examination** process which meets the statistically high standard of being "valid" and "reliable," board members as individuals joined other Alaska-licensed dental professionals in participation in the Western Regional Examining Board (WREB). The examination administered by WREB is the test which is accepted by Alaska for application for licensure by examination.

The third and fourth objectives for the year were dedicated to **obtaining increased funding for board member travel out of state.** Each represent the board's belief that the competency of an individual board member in performance of her or his functions is directly related to exposure and involvement with the resources of the regional and national organizations that are developing and implementing the standards of dental professional licensure - the WREB organization and examination process and the American Academy of Dental Examiners. Exploration of the potentials for utilizing licensure generated funding to accomplish these objectives revealed that these objectives could not be accomplished because they are contrary to Administrative policy.

The board objective of **maintaining and improving the working relationship with the Office of the Attorney General** was continued this year. One of the primary benefits of holding one meeting a year in Juneau has proven to be the

opportunity to meet directly with Assistant Attorney General Ken Truitt. Written questions were again submitted in advance and those as well as other problems and board concerns were addressed. Direct exchange with administrators of the Division of Occupational licensing has been recognized as an additional benefit of meeting in the Capitol city. The success of these meetings has prompted one of the new FY 98 objectives aimed at similarly accessing the Legislature. The board believes that the potential value of improved communication with House and Senate membership justifies an additional day of meeting, if necessary. There is interest in exploring the possibility of meeting with HSS and/or L&C committees, for example.

The objective of **supporting the structures for professional education** and continued competency assurance is an ongoing process. Review and acceptance or rejection of individual continuing clinical education courses is a recurring agenda item. Preliminary review of materials after hours between meeting days was successful in reducing meeting time in the June meeting. It is a significant event that another of the board's objectives may directly benefit the University of Alaska's Dental Hygiene program. The objective of investigating the need for a regulation **enabling the delegation of administration of nitrous oxide to dental hygienists** has led to the proposal of **12 AAC 28.720** to establish the requirements for this function. UAA has desired adding training for this function to their curriculum for years, but has been unable to do so because the function has not been legal in Alaska. The board and UAA have a common interest in finalizing the language of this proposal for board adoption.

The board's **newsletter** containing pertinent information to licensees throughout the state was distributed in March. The Division of Occupational Licensing received several favorable comments from the practicing dentists in the state who appreciate this activity. Dr. James Clark will continue to act as editor for this project. It remains an objective for the newsletter to be published annually in spring.

Objectives of **establishment of fines commensurate with costs** incurred and **supporting the use of limited licensing criteria for specialists** did not receive significant action from the board this year. They remain on the list of desirable goals.

Licensing Activities

Licensure By Examination - All dentist and dental hygienist applicants who successfully completed the WREB examination were granted licenses. The process continues whereby each application is mailed to board members for evaluation and voting by mail in order that licenses may be obtained on a continuous basis, rather than being available only at quarterly meetings of the board.

Licensure By Credentials - No candidates who submitted complete applications for licensure by credentials were denied a license. All such dental hygienist applicants received licenses. One dentist candidate's application was tabled by the board, with the applicant being advised that the examination in his current state of license did not meet the acceptance criteria of 12 AAC 23.951. This candidate was further advised that the board anticipated changes in statute or regulation in

the near future which would make his application acceptable for licensure. The candidate agreed to having his application held for future consideration. One candidate's application was tabled due to incomplete documentation. The necessary additional information was explained to the dentist and further consideration of this application remains pending receipt of that information.

Western Regional Examining Board (WREB)

Alaska recognizes and participates in the WREB for purposes of licensure by examination of dentists and dental hygienists. This regional examining board includes 10 Western states. WREB is also working toward developing common standards with other regional testing agencies, the Southern Regional Testing Agency and the Central Regional Dental Testing Service. During FY 97, 27 WREB licensing examinations for dentists and dental hygienists were scheduled in 14 states from Virginia to Alaska. There were an additional 19 local anesthesia examinations for dental hygienists provided. Alaskan dentists and hygienists served as testing examiners (on their own time) at many of these competency examinations. Additionally, Alaskan dental professionals attend two WREB Board of Directors and Examination Review Committee meetings each year. The WREB is dedicated to the concept of administering a valid, fair, and reliable dental examination. The WREB is nationally recognized for these features. A new activity for this organization is an effort toward developing a centralized credentials and background verification process for dental professionals. This system is intended to be available to all state licensing agencies and has the potential of consolidating investigations which now take place at individual state levels.

Other Regulation Activities

Many of the board's regulation activities have been detailed above in the Goals and Objectives section. Other regulation activities are as follows:

Ethical Standards:

The board introduced a proposal to add section **12 AAC 28.905** to Article 8, General Provisions for Licensure, that would bind licensees to published editions of the Code of Ethics of the American Dental Association (ADA) and the American Dental Hygiene Association. Although the proposal progressed through the public comment period without opposition, the board determined that there is language in the ADA Code of Ethics which may conflict with state government. This regulation proposal is currently under review by the board and a modification of its language is anticipated.

Administrative Order 157:

Adopted and forwarded to the Department of Law were changes to regulations intended to simplify or clarify language and remove obsolete provisions as follows:

12 AAC 28.010 - *Amended* - updating terminology for specialists.

12 AAC 28.100 - *Repealed* - Alaska examiners no longer being used.

12 AAC 28.105 - *Amended* - WREB exam is the recognized Alaska exam.

12 AAC 28.110-.290 - *Repealed* - Obsolete description of an exam no longer provided.

12 AAC 28.400, .405, .410, .420 - Amendments and addition to simplify and clarify the continuing education certification requirements.

Legislation of Interest

The Board of Dental Examiners has taken a position on **CS SB 90**. On April 4, 1997, the board resolved that *"the board opposes the amendment to Senate Bill 90 as this bill is in conflict with the Mission Statement of the board and is also in conflict with the Code of Ethics of the American Dental Association and the American Dental Hygiene Association. The reason is that the board feels that 'unconventional' or 'experimental' dentistry does not ensure the best possible dental care or protect the health, safety, and welfare of the public. In fact, unconventional or experimental dentistry provides the opposite."*

STATE OF ALASKA
Boards and Commissions

DENTAL EXAMINERS

BOARD: Board of Dental Examiners

BOARD IDENTIFICATION NUMBER: 024

DEPARTMENT: DEPARTMENT OF COMMERCE AND ECONOMIC DEVELOPMENT

AUTHORITY: AS 08.36.010

STATUS: Active

SUNSET DATE: June 30, 1997

REQUIREMENTS: Legislative Confirmation

PROHIBITIONS: Cannot serve more than all or part of two consecutive terms.

TERM: 4 years

DESCRIPTION: 9 members appointed by Governor: 6 licensed dentists who have engaged in the practice of dentistry in the state for 5 years immediately preceding appointment; 2 dental hygienists who have engaged in the practice of dentistry in the state for 5 years immediately preceding appointment; 1 public member; terms begin on February 1.

FUNCTION: Regulates and controls licensing, permits, revocations of the dental profession.

CHAIR: Board selects.

SPECIAL FACTS: Quorum - majority; may be removed for cause; annual report to Governor. A member who has served all or part of two successive terms may not be reappointed unless four years have elapsed since the person has last served.
E-mail address: Anne-Lise_Hagevig@commerce.state.ak.us

COMPENSATION: Standard Travel and Per Diem. No additional compensation.

MEETINGS: At the call of the chairperson, 4 times per year, or the call of majority of board.

FOR FURTHER INFORMATION CONTACT: Ms. Anne-Lise Hagevig, Licensing Examiner, Division of Occupational Licensing, DCED, P.O. Box 110806 M/S 0800, Juneau, AK, 99811 0806, Phone: 907 465 2542, Fax: 907 465 2974

Membership Roster
DENTAL EXAMINERS (024)

Member	Appointed	Reappointed	Term Exp.
Vacant Public			02/01/97
James R. Arneson Dentist 506 Marine Way Kodiak, AK 99615	07/19/93	02/20/97	01/31/01
James A. Clark Dentist 3312 Princeton Way Anchorage, AK 99508	04/07/95	02/20/97	01/31/01
Kenneth L. Crooks Dentist P.O. Box 1610 Dillingham, AK 99576	04/07/95		02/01/99
Raymond L. Lang Dentist Nome Dental Offices, Inc. P.O. Box 812 Nome, AK 99762	04/07/95		02/01/98
Phyllis L. Pendergrast Dentist 1001 Noble Street, Suite 420 Fairbanks, AK 99701	11/05/93	04/07/95	02/01/99
Carol L. Ross Dentist P.O. Box 1140 Wrangell, AK 99929	04/07/95		02/01/99
Susan C. Seater Hygienist 1610 Laurie Lane Juneau, AK 99801-9544	05/17/93	02/01/97	01/31/01
Connie S. Stewart Hygienist P.O. Box 755 Petersburg, AK 99833	04/07/95		02/01/99

HB

138

SENATE COMMITTEE REPORT

DATE: 4/1/97

FURTHER:

DATE TURNED IN TO OFFICE: 4-16-97

Labor and Commerce Committee considered HOUSE BILL NO. 138

"An Act relating to the Board of Storage Tank Assistance; and providing for an effective date."

and recommends:

[ ] be **replaced** with _____ CS _____ (_____)

[ ] adopt **previous** _____ CS _____ (_____)

[ ] attached amendment(s)

[ ] adopt Letter of Intent by _____ Committee

[ ] further referral to the _____ Committee

Senate Bill:
[ ] same title
[ ] new title

House Bill:
[ ] same title
[ ] technical change
[ ] new: SCR# _____

SIGNING DO PASS	*DP*	*OTHER RECOMMENDATIONS*	*NR*	*DNP*	*AM*
		Kim Kelly	—		
			✓		
CHAIR: Drew A. Kunan	✓	*CHAIR:*			

NEW FISCAL NOTE(S):

Department	Date	Zero	Fiscal

PREVIOUS FISCAL NOTE(S):*

Department	Date	Zero	Fiscal
DEC/SPAR	3/14/97	✓	

[ ] **APPROPRIATION -- no fiscal note**

***include fiscal notes accompanying Governor's bill**

Official Business

COMMITTEE: SENATE LABOR AND COMMERCE

DATE: 4/15/97

Subject of meeting: HB 138 Board of Storage Tank Assistance

SIGN-IN

PLEASE PRINT!

NAME	ADDRESS (MAILING) & (ZIP)	PHONE	REPRESENTING	DO YOU WANT TO TESTIFY?
JOHN BARNETT	410 WILLOUGHBY JUNEAU AK 99801	465-5219	BOARD OF STORAGE TANK ASSISTANCE	Y

FISCAL NOTE

No. 1
Bill Version HB 138
(H) Publish Date: 3/14/97

STATE OF ALASKA
1997 LEGISLATIVE SESSION

BILL NO.

Revision Date:
Title: An Act relating to the Board of Storage Tank Assistance; and providing effective date
Sponsor: Rules Committee
Requestor: Resources

Department Affected: Environmental Conservation
BRU: SPAR
Component: Storage Tank Program

COMPONENT SERIAL NO. 2063

Expenditures/Revenues: (Thousands of Dollars)

OPERATING EXPENDITURES	FY 98	FY 99	FY 00	FY 01	FY 02	FY 03
PERSONAL SERVICES	0.0	0.0	0.0	0.0	0.0	0.0
TRAVEL	0.0	0.0	0.0	0.0	0.0	0.0
CONTRACTUAL	0.0	0.0	0.0	0.0	0.0	0.0
SUPPLIES	0.0	0.0	0.0	0.0	0.0	0.0
EQUIPMENT	0.0	0.0	0.0	0.0	0.0	0.0
LAND&STRUCTURES	0.0	0.0	0.0	0.0	0.0	0.0
GRANTS,CLAIMS	0.0	0.0	0.0	0.0	0.0	0.0
MISCELLANEOUS	0.0	0.0	0.0	0.0	0.0	0.0
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0
CAPITAL EXPENDITURES	0.0	0.0	0.0	0.0	0.0	0.0
CHANGE IN REVENUES ( )	0.0	0.0	0.0	0.0	0.0	0.0
FUND SOURCE						
1002 Federal Receipts	0.0	0.0	0.0	0.0	0.0	0.0
1003 GF Match	0.0	0.0	0.0	0.0	0.0	0.0
1004 GF	0.0	0.0	0.0	0.0	0.0	0.0
1005 GF/Program Receipt	0.0	0.0	0.0	0.0	0.0	0.0
1006 GF/MHTIA	0.0	0.0	0.0	0.0	0.0	0.0
Other	0.0	0.0	0.0	0.0	0.0	0.0
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

Estimate of any current year (FY97) cost: $ 0.0

POSITIONS:

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

ANALYSIS: (Attach a separate page if necessary.)

Funding for the Board of Storage Tank Assistance is included in the FY 98 budget request. Duties of the Board which include allocation of grants and settlement of disputes will be accomplished by the Department, if not the Board. Therefore, costs for those tasks have been continued in the FY 98 budget request irrespective of the Board's extension. The Department supports the conclusions and recommendations of the Legislative Audit Report 08-1432-92 which call for re-establishment of the board as modified by the addition of a public member. HB 138 seeks to authorize those recommendations.

Prepared by: James Hayden
Phone: 907-465-5200
Division: SPAR
Date: 3/7 97

Approved by Commissioner:
Agency: Department of Environmental Conservation
Date: 3/7/97

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(REV 10/96) I:\allshare\fiscalno\blnkform.xls

COMMITTEE COPY

Board of Storage Tank Assistance

√ The Board is a seven member board comprised of two Commissioners and five citizens from the private sector.

√ Board members serve without compensation.

√ The Board has a staff of one employee.

√ The Board is a judicial appeal board that resolves disputes between the regulated community and the Department of Environmental Conservation thereby saving the state thousands of dollars in potential legal costs.

√ The Board mediates disputes regarding eligibility for financial assistance, eligible costs, priority ranking positions and contaminated site cleanup plans.

√ The Board provides technical and educational assistance to petroleum storage tank owners and operators throughout Alaska.

The 1990 Legislature established the seven-member Board of Storage Tank Assistance with two government members and five public members. The commissioners of the Departments of Environmental Conservation and Transportation and Public Facilities are the government members. Each of the five public members are required to have special knowledge pertaining to underground storage tanks. A registered engineer familiar with tank cleanups, a general contractor familiar with tank installations and closures, a person from the insurance industry that is knowledgeable about pollution liability insurance for underground storage tanks, a owner of more than 10 tanks, and an owner of 10 or less tanks. Former Governor Cowper appointed the original seven board members on September 5,1990. Members serve without compensation other than per diem and expenses when traveling. They have an Executive Director, who is their sole employee.

The Board of StorageTankAssistance is an Appeal Board to mediate disputes between the Department of Environmental Conservation and regulated underground petroleum storage tank owners and operators. In regard to disputes arising over eligibility, priority rankings and eligible costs, the Board's decisions are binding upon the Department and the owner or operator. For corrective action plan disputes, or denials for payment under the retroactive reimbursement program (sec. 7, ch.96, SLA 1990), the board may only issue recommendations. In addition, the Board works directly with the legislature on funding issues and determines the program distribution of the annual legislative appropropriations.

The first duty of the Board was to write regulations relating to financial assistance for UST owners and operators. The Board also jointly developed regulations with DEC pertaining to cleanup standards and allowable technologies to be used in the cleanup of contamination resulting from leaking tanks. The Department of Environmental Conservation is responsible for administering the Storage Tank Assistance Fund. The Department is tasked with advertising the application periods, receiving the applications, processing the requests, administering the grants and auditing project costs. The Division of Investments in the Department of Commerce and Economic Development works in partnership with the DEC to provide cleanup loans for eligible UST owners and operators. Although the Board developed the financial assistance regulations, the Department of Environmental Conservation actually implements those regulations by physically processing each applicant's request for financial assistance. This enables the Board to remain objective and unbiased when a dispute arises. The Board is then tasked with resolving the matter in a prompt and conscientious manner.

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Board of Storage Tank Assistance

Board Members:

Insurance Industry	**Judy Chadwick-Anderson** Brady & Company 1031 West Fourth St. Suite 400 Anchorage, AK 99501	 Fax	276-5617 276-6292	Chairperson
Engineer	**Steve Johnson** Harding Lawson Associates 601 E. 57th Place Anchorage, AK 99518	 Fax	563-8102 561-4574	
Large Tank Owner	**Jim Weymiller** P.O. Box 70647 Fairbanks, AK 99707	 Fax	456-7600 452-4479	
Small Tank Owner	-- VACANT --			
Tank Contractor	**Robert Haines** B.C. Excavating 2251 Cinnabar Loop Anchorage, AK 99507	 Fax	344-4490 344-4492	
DEC Representative	**Kurt Fredriksson** Director, Spill Prevention & Response 410 Willoughby Ave Juneau, AK 99801	 Fax	465-5255 465-5262	
DOT Representative	**Nate Johnson** DOT & PF 3132 Channel Drive Juneau, AK 99801	 Fax	465-6954 465-2460	

Staff to Board:
(1 employee)

John C. Barnett
Board of Storage Tank Assistance, Executive Director
410 Willoughby Avenue
Juneau, AK 99801

465-5219
465-5218 Fax

Sec. 46.03.360. Board of storage tank assistance.

(a) There is established the Board of Storage Tank Assistance. For administrative purposes, the board is located in the department. The board consists of the commissioners of environmental conservation and transportation and public facilities, or their designees, and the following persons who shall be appointed by the governor to serve at the pleasure of the governor for staggered four-year terms:

(1) an engineer registered under AS 08.48 who is knowledgeable about installing, upgrading, repairing, or closing underground petroleum storage tank systems;

(2) a general contractor registered under AS 08.18 who is knowledgeable about installing, upgrading, repairing, or closing underground petroleum storage tank systems;

(3) two persons who own or operate an underground petroleum storage tank system, at least one of whom does not own or operate more than 10 underground petroleum storage tanks; and

(4) a member of the insurance industry.

(b) The board may employ a full-time director and no more than one other employee. The department shall provide additional administrative and clerical support to the board.

(c) The board shall meet at the call of the chair, who shall be selected by the members from among themselves.

(d) The members of the board serve without compensation, but are entitled to per diem and travel expenses authorized by law for boards and commissions.

(e) Under AS 44.62 (Administrative Procedure Act), the board shall adopt regulations under which the department shall

(1) determine which costs of tightness testing and site assessment are eligible costs under AS 46.03.415 ;

(2) rank requests for assistance under AS 46.03.420 ;

(3) determine which costs of risk assessment, containment, corrective action, and cleanup are eligible costs under AS 46.03.420 ;

(4) determine which costs of upgrading and closure are eligible costs under AS 46.03.430 .

(f) If the department determines that an owner or operator is not eligible for assistance under AS 46.03.410 - 46.03.430 or that a cost is not eligible under AS 46.03.415 - 46.30.430 and the affected owner or operator disputes that determination, or if an owner or operator disputes the ranking assigned to a request for assistance under AS 46.03.420, the owner or operator may apply to the board for resolution of the dispute. The board may issue a decision in a dispute brought to it under this subsection. The decision is binding on the owner, operator, and department.

(g) The board may adopt regulations to limit the number of sites per calendar year for which an owner or operator may be awarded financial assistance under AS 46.03.420 - 46.03.430. The department shall implement the regulations.

Sec. 44.66.010. Termination of state boards and commissions.

(a) Boards and commissions listed in this subsection expire on the date set out after each:

(1) Alcoholic Beverage Control Board (AS 04.06.010) - June 30, 1998;

(2) [Repealed, 1983 Initiative Proposal No. 2, sec. 6].

(3) Board of Parole (AS 33.16.020) - June 30, 1997;

(4) Alaska Public Utilities Commission (AS 42.05.010) - June 30, 1999;

(5) [Repealed, sec. 20 ch 110 SLA 1981].

(6) [Repealed, sec. 63 ch 21 SLA 1985].

(7) [Repealed, sec. 16 ch 161 SLA 1984].

(8) [Repealed, sec. 33 ch 23 SLA 1995].

(9) [Repealed, sec. 2 ch 97 SLA 1986].

(10) Alaska Commission on Aging (AS 44.21.200) - June 30, 2000;

(11) Council on Domestic Violence and Sexual Assault (AS 18.66.010) - June 30, 1998;

(12) [Repealed, sec. 33 ch 23 SLA 1995].

(13) [Repealed, sec. 21 ch 6 SLA 1993].

(14) Special Education Service Agency (AS 14.30.600) - June 30, 2004;

(15) Alaska Tourism Marketing Council (AS 44.33.700) - December 30, 2000;

(16) [Repealed, sec. 33 ch 23 SLA 1995].

(17) Citizens' Review Panel for Permanency Planning under AS 47.14.200 - June 30, 1997;

(18) Board of Storage Tank Assistance (AS <Picture>46.03.360 <Picture>) - June 30, 1996;

(19) Hazardous Substance Spill Technology Review Council (AS 46.13.110) - June 30, 1995.

(b) Upon termination, a commission listed in (a) of this section shall continue in existence until June 30 of the next succeeding year for the purpose of concluding its affairs.

(c) A commission scheduled for termination under this chapter may be continued or reestablished by the legislature for a period not to exceed four years.

NOTICE OF PROPOSED CHANGES TO THE UNDERGROUND STORAGE TANK REGULATIONS OF THE ALASKA DEPARTMENT OF ENVIRONMENTAL CONSERVATION

MAR 18 1997

QUICK SUMMARY

What is being changed: Underground Storage Tank (UST) Regulations, 18 AAC 78.

Who is affected: Owners and operators of regulated underground storage tanks, certified tank workers, assessment firms, qualified persons performing sampling, and laboratories.

Why we are proposing changes: To ensure consistency between UST regulations, the UST procedures manual, and proposed changes to cleanup standards in 18 AAC 75, to improve provisions for laboratory approval, and to update and clarify sections found in the UST regulations and Manual. Details are provided in this notice, particularly the second paragraph.

Comment Period Ends: May 16, 1997.

Copies of Proposed Regulations: Available at DEC's offices statewide, on DEC's home page, or you may call Cynthia Pring-Ham at (907) 465-5301.

Your comments may be electronically submitted directly from DEC's home page by selecting "proposed regulations" or from the Storage Tank Program (STP) home page by selecting "proposed changes in UST Regulations".

DEC Home page: Http://www.state.ak.us/dec
STP Home page: Http://www.state.ak.us/dec/dspar/stp_home.htm

NOTICE IS GIVEN that the Alaska Department of Environmental Conservation (DEC), with the Board of Storage Tank Assistance and the Division of Occupational Licensing, Department of Commerce and Economic Development, under authority vested by AS 46.03.020 and 46.03.360 - 46.03.450, proposes to amend, repeal, and adopt regulations in Title 18, Chapter 78, of the Alaska Administrative Code (18 AAC 78) regarding underground storage tank requirements, tank worker certification, storage tank assistance fund, corrective action, laboratory approval, and definitions as follows:

The proposed amendments include revisions to Article 3, Corrective Action for Leaking Underground Storage Tanks (LUST), that reflect proposed changes to the Oil and Hazardous Substances Pollution Control regulations in 18 AAC 75. This will ensure consistency of cleanup standards and final reporting requirements at LUST and non-LUST contaminated sites. Other proposed revisions include changes to the laboratory provisional approval status and addition of a performance evaluation audit sample. The UST Procedures Manual is being revised to be consistent with the proposed cleanup standards in 18 AAC 75 and the analysis for petroleum

hydrocarbons in the Petroleum Cleanup Guidance. The proposed changes include clarifications and updates to certain sections of the regulations and manual, including the Alaska Series Methods. DEC specifically request comments on the continued use of the Alaska Series Methods at underground storage tanks sites and whether these methods should be required for all petroleum sites.

To comply with administrative Order 157 and to make its regulations easier to understand, DEC also seeks comments on this chapter regarding how it might be improved, including the use of "plain English." If portions of this chapter are confusing, or if you have other suggested improvements, please send in your comments by May 16, 1997.

NOTICE IS ALSO GIVEN that any interested person may present written comments relevant to the proposed action, including comments concerning the cost of compliance with the proposed regulations and alternative practical methods of complying, by writing to Cynthia Pring-Ham, Storage Tank Program, Alaska Department of Environmental Conservation, 410 Willoughby Avenue, Juneau, AK 99801-1795; by facsimile at (907) 465-5218; or by E-mail at Cpringha@envircon.state.ak.us. **Comments must be received by 4:30 pm, May 16, 1997.**

If you are a person with a disability who may need special assistance to participate in the process on the proposed regulations, please contact Fran Podmolik at (907) 465-5041 by May 1, 1997, to make necessary arrangements.

This action will not require an increase appropriation.

After the close of the public comment period, DEC will either adopt these or other proposals dealing with the same subject, without further notice, or may decide to take no action on them. The language of the final regulations may vary from that of the proposed regulations. You should comment during the time allowed if your interests could be affected.

Dated: March 13, 1997

Michele Brown, Commissioner
Department of Environment Conservation

ALASKA DEPARTMENT OF ENVIRONMENTAL CONSERVATION
ADDITIONAL REGULATIONS NOTICE INFORMATION
(AS 44.62.190 (d))

1. **General subject:** Underground Storage Tank Regulations

2. **Citation:** 18 AAC 78

3. **Reason for proposed action:** To ensure consistency between UST regulations, the UST procedures manual, and proposed changes to cleanup standards in 18 AAC 75, to improve provisions for laboratory approval, and to update and clarify sections found in the UST Regulations and Manual.

4. **Program category and BRU affected**: Storage Tank Program/Spill Prevention and Response

5. **Cost of implementation** (in thousands of dollars):

	Initial Year FY	**Subsequent FY**
General Funds	**$0**	**$0**
Federal Funds	**$0**	**$0**
Other:	**$0**	**$0**
TOTAL COST	**$0**	**$0**

6. **Contact person**: Cynthia Pring-Ham
Environmental Specialist III
Storage Tank Program/ADEC
410 Willoughby Ave.
Juneau, AK 99801

7. **Origin of the proposed action:** staff of state agency and general public

8. **Date:** 3/5/97

Prepared by: Cynthia Kay Pring-Ham
(signature)

Name (typed): Cynthia Kay Pring-Ham

Title: Environmental Specialist III

Phone: (907) 465-5301

DEPARTMENT OF ENVIRONMENTAL CONSERVATION

18 AAC 78

UNDERGROUND STORAGE TANKS

PUBLIC REVIEW DRAFT

March 13, 1997

PUBLIC COMMENT PERIOD ENDS: May 16, 1997

Tony Knowles
Governor

Michele Brown
Commissioner

CHAPTER 78. UNDERGROUND STORAGE TANKS.

The article list for 18 AAC 78 is amended to read:

Article

1. Underground Storage Tanks (18 AAC 78.005 - 18 AAC 78.100)
2. Corrective Action for Leaking Underground Storage Tanks (18 AAC 78.200 - 18 AAC 78.280)
3. (Reserved) [CLEANUP STANDARDS (18 AAC 78.300 - 18 AAC 78.350)]
4. Certification of Underground Storage Tank Workers (18 AAC 78.400 - 18 AAC 78.495)
5. Storage Tank Assistance Fund (18 AAC 78.500 - 18 AAC 78.560)
6. Cleanup Standards (18 AAC 78.600 - 18 AAC 78.630)
8. Laboratory Approval (18 AAC 78.800 - 18 AAC 78.810)
9. General Provisions (18 AAC 78.910 - 18 AAC 78.995)

18 AAC 78.005(e)(4) is amended to read:

(e) The following USTs are exempt from the requirements of this chapter:

[no changes to (1)-(3) of this subsection]

(4) a UST that contains petroleum in a concentration that is less than the amount allowed by the applicable groundwater and surface water cleanup standard [WATER QUALITY CRITERIA] adopted in 18 AAC 75.330 [18 AAC 70.020(b) FOR COMPOUNDS OF CONCERN THAT ARE CONSIDERED TOXIC OR OTHER DELETERIOUS ORGANIC AND INORGANIC SUBSTANCES UNDER THAT SUBSECTION,] or the applicable soil cleanup standard in 18 AAC 75.325 [LEVEL AT 18 AAC 78.315]; and

[no changes to (5) of this subsection]

The lead-in to 18 AAC 78.005(f) is amended to read:

(f) The following USTs must meet the minimum requirements of 18 AAC 78.010(b) and, if a release is suspected or confirmed, the requirements of 18 AAC 78.200 - 18 AAC 78.280 and of 18 AAC 78.600 - 18 AAC 78.630 [18 AAC 78.300 - 18 AAC 78.350], but are exempt from all other requirements of this chapter:

[no further changes to this subsection]

(Eff. 3/25/91, Register 118; am 8/21/91, Register 119; am 11/3/95, Register 136; am ___/___/97, Register ____)

Authority: AS 46.03.020 AS 46.03.405
AS 46.03.365 AS 46.03.420
AS 46.03.380 Sec. 7, ch. 96, SLA 1990
AS 46.03.400

18 AAC 78.030(c) is amended to read:

(c) Metal piping that routinely contains petroleum and that is in contact with the ground must be cathodically protected using nationally-recognized codes of practice specified in 18 AAC 78.025(f)(6) and must meet the requirements of 18 AAC 78.025(e)(3)(B)- (D).

18 AAC 78.030(d)(2)(A) is amended to read:

(2) a tank may be upgraded by cathodic protection if

(A) the cathodic protection system complies with 18 AAC 78.025(e)(3)(B)-(D) [18 AAC 78.025(e)(3)]; and

(Eff. 3/25/91, Register 118; am 11/3/95, Register 136; am ___/___/97, Register ____)

Authority: AS 46.03.020 AS 46.03.365 AS 46.03.375

The editor's note for 18 AAC 78.040 is amended to read:

Editor's note: To assist in meeting the requirements of this section, the transfer procedures in the National Fire Protection Association Publication 385 may be used as guidance. Further guidance on spill and overfill prevention appears in American Petroleum Institute Publication 1621, *Recommended Practice for Bulk Liquid Stock Control at Retail Outlets*, and National Fire Protection Association Standard 30, *Flammable and Combustible Liquids Code*. A copy of each document is available for review at the department offices in Anchorage, Fairbanks, Juneau, and Soldotna [ANY REGIONAL OFFICE OF THE DEPARTMENT], or may be obtained from the publisher at the address listed in the editor's note at 18 AAC 78.025.

The editor's note for 18 AAC 78.045 is amended to read:

Editor's notes: The document referred to in this section may be reviewed at the department offices in Anchorage, Fairbanks, Juneau, and Soldotna [ANY REGIONAL OFFICE OF THE DEPARTMENT], or may obtained from the publisher. The publisher's address is listed in the editor's note at 18 AAC 78.025.

The editor's note for 18 AAC 78.050 is amended to read:

Editor's note: The publications referred to in this section may be reviewed at the department offices in Anchorage, Fairbanks, Juneau, and Soldotna [ANY REGIONAL OFFICE OF THE DEPARTMENT], or may be obtained from the publisher. Publishers' addresses are listed in the editor's note at 18 AAC 78.025.

The editor's note for 18 AAC 78.055 is amended to read:

Editor's note: The publications referred to in this section may be reviewed at the department offices in Anchorage, Fairbanks, Juneau, and Soldotna [ANY REGIONAL OFFICE OF THE DEPARTMENT], or may be obtained from the publisher. Publishers' addresses are listed in the editor's note at 18 AAC 78.025.

The lead-in to 18 AAC 78.085(a) is amended to read:

(a) At least 15 days, but not more than 60 days before beginning permanent closure under (c) of this section or a change-in-service under (d) of this section, the owner or operator shall notify the department, in writing, on a form provided by the department. The department will, in its discretion, waive the minimum 15-day notification period if the owner or operator documents to the department's satisfaction that providing for the notification period would prohibit the project from being completed or would be detrimental to human health or safety or to the environment. The owner or operator shall report a change in the stated date of closure or change-in-service to the nearest department office in Anchorage, Fairbanks, Juneau, or Soldotna [DISTRICT OFFICE] at least three days before the scheduled closure or change-in-service. If closure does not occur within 60 days after the date given in the notice, the owner or operator shall submit a new notice to the department, indicating the actual closure date. The requirements of this subsection do not apply if

[no further changes to this subsection]

18 AAC 78.085(c) is amended to read:

(c) To permanently close a tank, the owner or operator shall empty and clean it by removing all liquids and accumulated sludge. A UST that is to be closed must be removed from the ground, along with all associated piping, or filled with an inert solid material. A UST with a known or past release must be removed from the ground unless the department, in its discretion, allows the tank to remain in place because removal of the tank would endanger existing structures. The resulting excavation must be investigated and cleaned up as required by 18 AAC 78.230 - 18 AAC 78.280 and 18 AAC 78.600 - 18 AAC 78.630 [18 AAC 78.350]. The owner or operator shall document the name of the disposal firm, the disposal method, and the disposal location for all liquids, sludges, and UST components, including tanks, piping, and equipment.

The lead-in to 18 AAC 78.085(d) is amended to read:

(d) Continued use of a UST to store a substance other than petroleum [NONPETROLEUM SUBSTANCE] is considered a change-in-service. Before a change-in-service, the owner or operator shall

[no further changes to this subsection]

18 AAC 78.085(g)(1) is amended to read:

(1) American Petroleum Institute Recommended Practice 1604, *Closure of [REMOVAL AND DISPOSAL OF USED] Underground Petroleum Storage Tanks*, Third Edition. 1996 [1987, INCLUDING SUPPLEMENT, NOVEMBER 28, 1990];

(Eff. 3/25/91, Register 118; am 11/3/95, Register 136; am ___/___/97, Register ____)

Authority: AS 46.03.020 AS 46.03.365 AS 46.03.395

18 AAC 78.090(d)(2) is amended to read:

(2) the site assessment must include the collection of soil samples; the number and location of samples collected is determined as follows:

(A) for an in-place assessment:

(i) of an individual tank that occupies a surface area less than 250 square feet, at least two borings or test pits must be placed within five feet of the tank, each at the midpoint along two sides of an imaginary rectangle drawn around the tank, with one of the borings or pits located on the side parallel to the end of the tank that has the fill point and the second boring or pit located on the side parallel to the length of the tank where contamination is most likely to be present, as determined by field screening;

(ii) of an individual tank that occupies a surface area equal to or greater than 250 square feet, at least two borings or test pits must be placed within five feet of the tank as required under (i) of this subparagraph; one additional sample must be collected for each additional 250 square feet of pit area, or portion thereof over the initial 250 square feet, at points where contamination is most likely to be present, as determined by field screening; for example, if the total pit area is 1,250 square feet, four additional samples are required;

(iii) of multiple tanks, by locating the borings or test pits for each tank according to (i) or (ii) of this subparagraph, as applicable; the same boring or test pit may be used to satisfy the requirements applicable to more than one tank if that boring or test pit meets the requirements for each tank separately;

(iv) of dispensing areas, at least one boring or test pit must be placed adjacent to any UST dispensing equipment; if multiple dispensers exist on a common dispensing island, then one boring or test pit may be placed at the midpoint between the dispensers; if multiple dispensing islands exist, then additional borings or test pits are required at each island; if a canopy exists in a configuration that prevents excavating or boring equipment from operating adjacent to the dispensers or dispenser islands, samples may be collected as close as possible to the dispenser islands;

(v) of in-place piping, at least one boring or test pit must be placed adjacent to the piping at points where contamination is most likely to be present, as determined by field screening;

(vi) soil samples for assessments under this subparagraph must be collected from each boring or test pit at an elevation that is below, and within two feet of, the tank bottom and that is within two feet below the lowest point of the piping for the UST dispensing equipment; and

(vii) in this subparagraph, "total surface area" is calculated by multiplying the tank length plus five feet by the tank diameter or width (for square tanks) plus five feet;

(B) for assessment of a closure by removal

(i) of an individual tank with an excavated pit area less than 250 square feet, at least two samples must be collected from the pit area, one at a position centered longitudinally and underneath where the tank had been located [THE CENTER] and one under [AT THE END] where the fill pipe end of the tank [TANK'S FILL POINT] had been located;

(ii) of an individual tank with an excavated pit area equal to or greater than 250 square feet, at least two samples must be collected from the pit area as required under (i) of this subparagraph; one additional sample must be collected for each additional 250 square feet of pit area, or portion thereof over the initial 250 square feet, at points where contamination is most likely to be present, as determined by field screening; for example, if the total pit area is 1,250 square feet, four additional samples are required;

[no further changes to this paragraph]

18 AAC 78.090(d)(4) is amended to read:

(4) if groundwater or the seasonal high water table is known or suspected to exist at a depth anywhere from the surface to within five feet below the bottom of the tank, or if groundwater is known or suspected to be contaminated, at least one boring or test pit must reach groundwater or the zone of seasonal water table fluctuation adjacent to the excavation zone or excavated pit area, as the case may be, and at least one soil sample must then be collected from the first six inches of groundwater-saturated soil or the zone of seasonal water table fluctuation in accordance with the *UST Procedures Manual*; and

18 AAC 78.090(h) and (i) are amended to read:

(h) If a site assessment is begun on or after November 3, 1995, the owner or operator shall use the analytical methods set out in Table G in 18 AAC 78.800(b). If site assessment sampling began before November 3, 1995, and if test results satisfy the applicable groundwater, surface water, and soil [WATER QUALITY CRITERIA AND] cleanup standards [LEVELS] referred to in (i) of this section, the owner or operator may [CONTINUE TO] use the following analytical methods [USED BEFORE THAT DATE TO COMPLETE THE SITE] and the specified range of petroleum hydrocarbons; these methods are included in EPA's *Test Methods for Evaluating Solid Waste*, SW846, adopted by reference in Table G in 18 AAC 78.800(b):

(1) for gasoline range hydrocarbons, EPA method 8015 Modified, integrated from the beginning of C_6 to the beginning of C_{10} with a boiling point range between approximately 60°C and 170°C;

(2) for diesel range hydrocarbons, EPA method 8100 Modified, integrated from the beginning of C_{10} to the beginning of C_{28}, with a boiling point range between approximately 170°C and 400°C; and

(3) for residual range hydrocarbons, EPA method 418.1 to obtain the total concentration of petroleum hydrocarbons minus the concentration quantified in the gasoline range and diesel range (the ranges listed in (1) and (2) of this subsection). [IF A SITE ASSESSMENT IS BEGUN ON OR AFTER NOVEMBER 3, 1995, THE OWNER OR OPERATOR SHALL USE THE ANALYTICAL METHODS SET OUT IN TABLE G IN 18 AAC 78.800(B).]

(i) Further investigation is not required if

(1) the assessment, observations, and investigations of the UST site indicate that a release has not occurred; and

(2) the test results indicate that

[(A)] the applicable groundwater and surface water cleanup standards set out in Table B in 18 AAC 75.330 and [THERE IS NO CONTAMINATED GROUNDWATER OR SURFACE WATER;

(B) THE APPLICABLE WATER QUALITY CRITERIA ADOPTED IN 18 AAC 70.020(B) FOR COMPOUNDS OF CONCERN THAT ARE CONSIDERED TOXIC OR OTHER DELETERIOUS ORGANIC OR INORGANIC SUBSTANCES UNDER THAT SUBSECTION HAVE NOT BEEN EXCEEDED; AND

(C)] the applicable soil cleanup standards [LEVELS] set out in Tables A1 and A2 in 18 AAC 75.325 [18 AAC 78.315] have not been exceeded.

(Eff. 3/25/91, Register 118; am 8/21/91, Register 119; am 11/3/95, Register 136; am ___/___/97, Register ____)

Authority: AS 46.03.020 AS 46.03.380
AS 46.03.365 AS 46.03.405

18 AAC 78.100(b)(2)(F)(iii) is amended to read:

(iii) soil and groundwater cleanup, as required by 18 AAC 78.600 - 18 AAC 78.630 [18 AAC 78.300 - 18 AAC 78.350]; and

18 AAC 78.100(h)(1) is amended to read:

(h) In addition to the requirements of (f) and (g) of this section, the owner or operator shall keep the following records for the period indicated:

(1) written leak detection manuals and any performance claims concerning any release detection system used and the manner in which the claims have been justified or tested by the equipment manufacturer or installer must be kept for five years after the date of installation or as long as the leak detection system is in service, whichever is longer;

[no further changes to this subsection]

(Eff. 3/25/91, Register 118; am 8/21/91, Register 119; am 11/3/95, Register 136; am ___/___/97, Register ____)

Authority: AS 46.03.020 AS 46.03.395
AS 46.03.365 AS 46.03.400
AS 46.03.380 AS 46.03.405
AS 46.03.390

18 AAC 78.210(c)(3) is amended to read:

(3) test results indicate that

[(A)] the applicable groundwater and surface water cleanup standards set out in Table B adopted in 18 AAC 75.330 and [THERE IS NO CONTAMINATED GROUNDWATER OR SURFACE WATER;

(B) THE APPLICABLE WATER QUALITY CRITERIA ADOPTED IN 18 AAC 70.020(B) FOR COMPOUNDS OF CONCERN THAT ARE CONSIDERED TOXIC OR OTHER DELETERIOUS ORGANIC OR INORGANIC SUBSTANCES UNDER THAT SUBSECTION ARE NOT EXCEEDED; AND

(C)] the applicable soil cleanup levels in Tables A1 and A2 in 18 AAC 75.325 [18 AAC 78.315] are not exceeded.

(Eff. 3/25/91, Register 118; am 11/3/95, Register 136; am ___/___/97, Register ____)

Authority: AS 46.03.020 AS 46.03.365 AS 46.03.375

18 AAC 78.220(b) is amended to read:

(b) The owner or operator shall notify one of the department's [LOCAL] offices in Anchorage, Fairbanks, Juneau, or Soldotna [DISTRICT OFFICE] of any release that is known or suspected to be 55 gallons or more, immediately upon knowledge of the release.

18 AAC 78.220(c)(1) is amended to read:

(1) notify one of the department's [LOCAL] offices in Anchorage, Fairbanks, Juneau, or Soldotna [DISTRICT OFFICE] of

[no further changes to this paragraph]

The lead-in to 18 AAC 78.220(d) is amended to read:

(d) The owner or operator shall report to one of the department's [LOCAL] offices in Anchorage, Fairbanks, Juneau, or Soldotna [DISTRICT OFFICE]

[no further changes to this subsection]

Eff. 3/25/91, Register 118; am 8/21/91, Register 119; am 11/3/95, Register 136; am ___/___/97, Register ___)

Authority: AS 46.03.020 AS 46.03.365

18 AAC 78.230(4) is amended to read:

(4) properly stockpile excavated contaminated soils to prevent water run-on and run-off in accordance with 18 AAC 78.600(g) [18 AAC 78.311] and remedy any hazard posed by contaminated soils that are excavated or exposed in response to a release confirmation, site characterization, site assessment, abatement, or corrective action; if these remedies include treatment, stockpiling, or disposal of contaminated soils, the owner or operator shall use a method that the department, in its discretion, determines will adequately protect human health and safety and the environment. (Eff. 3/25/91, Register 118; am 8/21/91, Register 119; am 11/3/95, Register 136; am ___/___/97, Register ____)

Authority: AS 46.03.020 AS 46.03.365

18 AAC 78.235(a)(1) is amended to read:

(1) [SUFFICIENT] soil samples, sufficient in number and location to represent the conditions of the soil, must be taken to adequately characterize the horizontal and vertical distribution of the release in the soil and to identify soil properties that are likely to influence the type and rate of migration of the released petroleum;

18 AAC 78.235(f) is amended to read:

(f) If a release investigation is begun on or after November 3, 1995, the owner or operator shall use the analytical methods set out in Table G in 18 AAC 78.800(b). If release investigation sampling began before November 3, 1995, the owner or operator may [CONTINUE TO] use the following analytical methods [USED BEFORE THAT DATE FOR CORRECTIVE ACTION AND FINAL CLEANUP VERIFICATION SAMPLING] and the specified range of petroleum hydrocarbons set out in 18 AAC 78.090(h)(1)-(3); these methods are included in EPA's *Test Methods for Evaluating Solid Waste*, SW846, adopted by reference in Table G in 18 AAC 78.800(b). [IF A RELEASE INVESTIGATION IS BEGUN ON OR AFTER NOVEMBER 3, 1995, THE OWNER OR OPERATOR SHALL USE THE ANALYTICAL METHODS SET OUT IN TABLE G IN 18 AAC 78.800(B).] (Eff. 11/3/95, Register 136; am ___/___/97, Register ____)

Authority: AS 46.03.020 AS 46.03.365

18 AAC 78.240(a) and (b) are amended to read:

(a) If the release of petroleum from a UST is confirmed and corrective action is required under 18 AAC 78.235(e), the owner or operator of the UST shall undertake soil and water cleanup as prescribed in 18 AAC 78.600 - 18 AAC 78.630 [18 AAC 78.300 - 18 AAC 78.350].

(b) At a site where an investigation indicates the presence of free product, the owner or operator shall remove all [MEASURABLE] free product while continuing, as necessary, any action taken under 18 AAC 78.210 - 18 AAC 78.235 or preparing for an action required by 18 AAC 78.240 - 18 AAC 78.280. To meet the requirements of this subsection, the owner or operator shall

(1) notify the department within 24 hours after the discovery of [A MEASURABLE THICKNESS OF] free product;

(2) conduct free product removal in a manner that

(A) minimizes the spread of contamination into an [A PREVIOUSLY] uncontaminated area [ZONE] by using recovery and disposal techniques appropriate to site [THAT TAKE INTO CONSIDERATION THE HYDROGEOLOGIC] conditions [AT THE SITE]; and

(B) avoids further [PROPERLY TREATS,] discharges and [, OR] disposes of recovery products [BYPRODUCTS] in compliance with applicable local, state, and federal [, STATE, AND LOCAL] requirements [LAW, USING APPROVED METHODS];

(3) ensures that each [ABATE] free product [MIGRATION BY DESIGNING A FREE PRODUCT] removal system is designed to minimize free product migration; and

(4) ensures that a [HANDLE ANY] flammable substance is handled in a manner that avoids fires or explosions.

(Eff. 3/25/91, Register 118; am 8/21/91, Register 119; am 11/3/95, Register 136; am ___/___/97, Register ____)

Authority: AS 46.03.020 AS 46.03.380
AS 46.03.365 AS 46.03.410

18 AAC 78.260(e) is amended to read:

(e) Upon approval of a corrective action plan, or as directed by the department, the owner or operator shall implement the plan, including modifications to the plan made by the department. The owner or operator shall monitor, evaluate, and report the results of implementing the plan in a final corrective action report as specified by 18 AAC 78.630 [AS REQUIRED BY A SCHEDULE AND IN A FORMAT ESTABLISHED BY THE DEPARTMENT]. (Eff. 3/25/91, Register 118; am 11/3/95, Register 136; am ___/___/97, Register ____)

Authority: AS 46.03.020 AS 46.03.365

18 AAC 78.280(d) is amended to read:

(d) The department will give public notice under (a) of this section if implementation of an approved plan does not achieve the established cleanup standards [LEVELS] in the plan and termination of that plan is being considered by the department. (Eff. 3/25/91, Register 118; am 11/3/95, Register 136; am ___/___/97, Register ____)

Authority: AS 46.03.020 AS 46.03.365

Article 3 of 18 AAC 78 is repealed and reserved as follows:

ARTICLE 3. (Reserved)

Editor's note: The provisions of former 18 AAC 78.300 - 18 AAC 78.350, dealing with cleanup standards, were repealed and readopted as 18 AAC 78.600 - 18 AAC 78.630.

ARTICLE 4. CERTIFICATION OF UNDERGROUND STORAGE TANK WORKERS.

18 AAC 78.410(a)(4) is amended to read:

(4) cathodic protection [DESIGN AND] testing.

(Eff. 3/25/91, Register 118; am 8/21/91, Register 119; am 8/4/94, Register 131)

Authority: AS 46.03.020 AS 46.03.365 AS 46.03.375

8 AAC 78.455(a)(4) is amended to read:

(4) for cathodic protection [DESIGN AND] testing, shall be at the job site when testing of cathodic protection is being performed;

(Eff. 3/25/91, Register 118; am 8/4/94, Register 131; am 11/3/95, Register 136; am ___/___/97, Register ____)

Authority: AS 46.03.020 AS 46.03.365 AS 46.03.375

ARTICLE 5. STORAGE TANK ASSISTANCE FUND

18 AAC 78.500(b)(3) is amended to read:

(3) cleanup action under 18 AAC 78.600 - 18 AAC 78.630 [18 AAC 78.300 - 18 AAC 78.350];

18 AAC 78.500(c) is amended to read:

(c) The owner or operator of a UST who applies for a grant or loan for an eligible cost identified in (b) of this section shall follow the eligibility requirements and procedures established in AS 46.03.415, 46.03.420, 46.03.430, sec. 7, ch. 96, SLA 1990, Sec. 1-4, ch. 107, SLA 1994, and this chapter. (Eff. 3/25/91, Register 118; am 8/21/91, Register 119; am 1/27/94, Register 129; am 6/23/94, Register 130; am 11/3/95, Register 136; am ___/___/97, Register ____)

Authority:	AS 46.03.020	AS 46.03.410
	AS 46.03.360	AS 46.03.415
	AS 46.03.365	AS 46.03.420
	AS 46.03.380	AS 46.03.430
		Sec. 7, ch. 96, SLA 1990
		Sec. 1-4, ch. 107, SLA 1994

The authority line for 18 AAC 78.505 is amended to read:

Authority:	AS 44.66.020	AS 46.03.365	AS 46.03.420
	AS 46.03.020	AS 46.03.410	AS 46.03.430
	AS 46.03.360	AS 46.03.415	sec.7, ch. 96, SLA 1990
			Sec. 1-4, ch. 107, SLA 1994

The authority line for 18 AAC 78.508 is amended to read:

Authority:	AS 46.03.020	AS 46.03.400
	AS 46.03.360	AS 46.03.410
	AS 46.03.365	AS 46.03.415
	AS 46.03.380	AS 46.03.420
	AS 46.03.385	sec. 7, ch. 96, SLA 1990
		Sec. 1-4, ch. 107, SLA 1994

The authority line for 18 AAC 78.509 is amended to read:

Authority: AS 46.03.020
AS 46.03.360
AS 46.03.365
AS 46.03.410
AS 46.03.415
AS 46.03.420
AS 46.03.430
Sec. 7, ch. 96, SLA 1990
Sec. 1-4, ch. 107, SLA 1994

The authority line for 18 AAC 78.511 is amended to read:

Authority: AS 46.03.020
AS 46.03.360
AS 46.03.365
AS 46.03.410
AS 46.03.415
AS 46.03.420
Sec. 7, ch. 96, SLA 1990
Sec. 1-4, ch. 107, SLA 1994

The authority line for 18 AAC 78.513 is amended to read:

Authority: AS 46.03.020
AS 46.03.360
AS 46.03.365
AS 46.03.375
AS 46.03.410
AS 46.03.415
AS 46.03.420
AS 46.03.430
Sec. 7, ch. 96, SLA 1990
Sec. 1-4, ch. 107, SLA 1994

The authority line for 18 AAC 78.514 is amended to read:

Authority: AS 46.03.020
AS 46.03.360
AS 46.03.365
AS 46.03.410
AS 46.03.415
AS 46.03.420
AS 46.03.430
Sec. 7, ch. 96, SLA 1990
Sec. 1-4, ch. 107, SLA 1994

18 AAC 78.515(b)(2) and the authority line for 18 AAC 515 are amended to read:

(b) To be eligible for a grant or loan under this section

. . . .

(2) the owner or operator must have complied with the applicable requirements of AS 46.03.420, Sec. 1-4, ch. 107, SLA 1994, and 18 AAC 78.508;

. . . .

(Eff. 3/25/91, Register 118; am 8/21/91, Register 119; am 1/6/93, Register 125; am 1/27/94, Register 129; am 6/23/94, Register 130; am 11/3/95, Register 136; am ___/___/97, Register ____)

Authority: AS 46.03.020
AS 46.03.360
AS 46.03.365
AS 46.03.410
AS 46.03.420
AS 46.08.075
Sec. 1-4, ch. 107, SLA 1994

18 AAC 78.520(a)(1) is amended to read:

(a) The owner or operator of a UST may apply to the department under AS 46.03.430 for a grant to upgrade or close a UST that was installed before December 22, 1988. To be eligible for a grant,

(1) the owner or operator must have complied with all applicable requirements of 18 AAC 78.508 and Sec. 1-4, ch. 107, SLA 1994;

[no further changes to this subsection]

18 AAC 78.520(b) is amended to read:

(b) Costs eligible for grant assistance are for work approved by the department for

(1) preparation of reports, [PREPARING ENGINEERING] designs, schedules, or [AND CORRECTIVE ACTION] plans;

(2) contracted labor and equipment charges;

(3) adding or retrofitting cathodic protection systems, linings, spill and overflow controls, pumps and dispensers, or other devices designed to eliminate or reduce the probability of product release;

(4) treatment and disposal of tank liquids and sludges, and substandard tanks;

(5) leak detection for new or upgraded tank installations;

(6) site assessment for closure of an existing UST;

(7) approved force account charges described at 18 AAC 78.514(a)(9) [18 AAC 78.530(a)(9)];

(8) removal and installation of tanks; and

(9) cleanup incidental to tank upgrade or closure, [DISPOSAL, OR LONG-TERM STORAGE OF SOIL,] not to exceed $4,000.

(Eff. 3/25/91, Register 118; am 8/21/91, Register 119; am 6/23/94, Register 130; am 11/3/95, Register 136; am ___/___/97, Register ____)

Authority:	AS 46.03.020	AS 46.03.410
	AS 46.03.360	AS 46.03.430
	AS 46.03.365	Sec. 1-4, ch. 107, SLA 1994

18 AAC 78.520 is amended by adding an editor's note to read:

Editor's note: The text of 18 AAC 78.520(b)(4) as set out in this section was previously amended by the department, effective August 21, 1991, and was to appear in Register 119. That amendment, however, was overlooked by the publisher. The department's copy of this chapter that has been made available to the public included the correct version of 18 AAC 78.520(b)(4), and the department has been consistently applying the requirements of that subsection based on the 1991 amendment).

The authority line for 18 AAC 78.534 is amended to read:

Authority:	AS 46.03.020	AS 46.03.415
	AS 46.03.360	AS 46.03.420
	AS 46.03.365	AS 46.03.430
	AS 46.03.410	Sec. 7, ch. 96, SLA 1990
		Sec. 1-4, ch. 107, SLA 1994

The authority line for 18 AAC 78.535 is amended to read:

Authority:	AS 44.66.010	AS 46.03.410
	AS 46.03.020	AS 46.03.415
	AS 46.03.360	AS 46.03.420
	AS 46.03.365	AS 46.03.430
		Sec. 7, ch. 96, SLA 1990
		Sec. 1-4, ch. 107, SLA 1994

The authority line for 18 AAC 78.537 is amended to read:

Authority:	AS 46.03.020	AS 46.03.410
	AS 46.03.360	AS 46.03.415
	AS 46.03.365	AS 46.03.420
		Sec. 7, ch. 96, SLA 1990
		Sec. 1-4, ch. 107, SLA 1994

The authority line for 18 AAC 78.555 is amended to read:

Authority:	AS 46.03.020	AS 46.03.410
	AS 46.03.360	AS 46.03.415
	AS 46.03.365	AS 46.03.420
	AS 46.03.430	AS 46.03.430
		Sec. 7, ch. 96, SLA 1990
		Sec. 1-4, ch. 107, SLA 1994

The authority line for 18 AAC 78.560 is amended to read:

Authority:	AS 46.03.020	AS 46.03.415
	AS 46.03.360	AS 46.03.420
	AS 46.03.365	AS 46.03.430
	AS 46.03.410	Sec. 7, ch. 96, SLA 1990
		Sec. 1-4, ch. 107, SLA 1994

18 AAC 78 is amended by adding new sections to read:

ARTICLE 6. CLEANUP STANDARDS.

Section

18 AAC 78.600. APPLICABILITY;GENERAL CLEANUP REQUIREMENTS. (a) The requirements of 18 AAC 78.600 - 18 AAC 78.630 apply to a facility at which a release of petroleum from a UST has occurred.

(b) The owner or operator of a UST for which corrective action is required by 18 AAC 78.240 shall

(1) conduct cleanup actions as required by 18 AAC 78.600 - 18 AAC 78.630; and

(2) restore the site to protect human health, safety, and welfare, and the environment as required by 18 AAC 75.320 - 18 AAC 75.390.

(c) The owner and operator of a UST shall ensure that the collection, interpretation, and reporting of data required by 18 AAC 78.600 - 18 AAC 78.630 are in accordance Chapter 2 of the *UST Procedures Manual* and required sampling and analysis is conducted or supervised by a qualified, impartial third party.

(d) The owner and operator of an offsite or portable remediation facility shall ensure that a qualified impartial third party conducts or supervises soil sampling to verify that cleanup standards are met, unless the department allows another person to conduct or supervise soil sampling as provided in (e) of this section. Soil sampling and analysis must be conducted as required by Chapter 2 of the *UST Procedures Manual.*

(e) The department will, in its discretion, and on a site-specific basis, waive the requirement to use an impartial third party under (c) or (d) of this section if the owner or operator of a UST or an offsite permanent or portable remediation facility documents to the department's satisfaction that work performed under (c) or (d) of this section will be conducted or supervised by a qualified and objective person. To meet the requirements of this subsection, the owner or operator shall submit

(1) the resume of the person qualified to conduct or supervise the work to be performed under (c) of this section, showing relevant education, vocational training, related work experience, and any special training, license, certificate, or registration held by that person; and

(2) for a company, agency, utility, or municipality with environmental staff, a description of the supervisory and organizational structure related to the person identified in (1) of this subsection.

(f) Laboratory analyses submitted to comply with this section must be performed by a laboratory approved or provisionally approved by the department for each parameter analyzed. The owner or operator shall ensure that reports submitted to the department include the current state laboratory UST identification number for the laboratory that performed the analysis.

(g) Unless otherwise approved by the department, petroleum-contaminated soil that originates from a UST site and that is stockpiled must comply with 18 AAC 75.365.

(h) An owner and operator shall ensure that the person conducting remediation under this chapter complies with cleanup operation requirements in 18 AAC 75.355. (Eff. 3/25/91, Register 118; am 11/3/95, Register 136; am ___/___97, Register ____)

Authority: AS 46.03.020 AS 46.03.365 AS 46.03.375

18 AAC 78.605. SOIL CLEANUP LEVELS. (a) Soil samples from an excavation created as part of a corrective action must be collected as required by 18 AAC 78.610, analyzed in accordance with Chapter 2 of the *UST Procedures Manual*, and reported as required by 18 AAC 78.625 - 18 AAC 78.630. Subject to 18 AAC 75.320(c) and (d), if laboratory results indicate that the concentrations of a hazardous substance are below the applicable soil cleanup standards determined under 18 AAC 75.325, soil cleanup will be considered adequate unless subsequent evidence shows that the testing was not representative, or that sampling did not detect all contamination.

(b) The identity of a released refined petroleum product must be assumed to be unknown unless an analysis done in accordance with Chapter 2 of the *UST Procedures Manual* shows that the product is only gasoline, or only a refined nongasoline product. The department will, in its discretion, waive the requirement that a product be identified by analysis if the owner or operator documents to the department's satisfaction that only one type of product was stored or distributed during the facility's operational life.

(c) Soils additionally contaminated with a hazardous substance other than a petroleum product are subject to 18 AAC 75 and could be subject to other department regulations, including 18 AAC 60, 18 AAC 62, 18 AAC 70, and 18 AAC 72. (Eff. ___/___/97, Register ____)

Authority: AS 46.03.020 AS 46.03.365

18 AAC 78.610. SOIL SAMPLE NUMBER AND LOCATION. (a) The owner or operator of a UST shall collect and analyze soil samples to verify that a site subject to corrective action meets the cleanup requirements of this chapter. Soil samples must be collected and analyzed in accordance with 18 AAC 78.600(c) and (e).

(b) The minimum number of cleanup verification grab samples required for excavated soils that have been remediated is set out in Table F of this section.

TABLE F
NUMBER OF SAMPLES FOR POST-REMEDIATED EXCAVATED SOIL

Cubic Yards of Soil	Minimum Number of Samples
0-10 (0-15 tons)	1
11-50 (16-75 tons)	2
51-100 (76-150 tons)	3
101-500 (151-750 tons)	5
501-1000	7
1001-2000	10
More than 2000	10 samples plus + one (1) for each additional 500 cubic yards, or as prescribed by ADEC

(c) For untreated stockpiled soils, at least two grab samples must be collected from stockpiles of 50 cubic yards or less, with at least one additional sample collected from each additional 50 cubic yards of soil.

(d) Samples for any soils remaining in place at the site must be sufficient in number and location to represent the condition of the soils. (Eff. ___/___/97, Register ____)

Authority: AS 46.03.020 AS 46.03.365

18 AAC 78.615. GROUNDWATER AND SURFACE WATER CLEANUP. If treating contaminated groundwater or surface water, the owner or operator shall clean up the site to the applicable groundwater and surface water standards in 18 AAC 75.330(b). (Eff. ___/___/97, Register ____)

Authority: AS 46.03.020 AS 46.03.365

18 AAC 78.620. GROUNDWATER AND SURFACE WATER SAMPLE NUMBER AND LOCATION. (a) If documented evidence shows that, before remediation, groundwater or surface water contained a hazardous substance in concentrations exceeding the applicable cleanup standard determined under 18 AAC 75.330, the owner or operator of the UST that caused or resulted in the groundwater contamination shall, after remediation, collect and analyze water samples to verify that the remedial activities met the cleanup requirements of this chapter.

(b) Groundwater monitoring wells must be installed, developed, and decommissioned as specified in 18 AAC 75.335(d). Samples must be collected in accordance with the *UST Procedures Manual.*

(c) Long-term monitoring at a UST corrective action site, if required, must follow the requirements specified in 18 AAC 75.335(c). (Eff. ___/___/97, Register ____)

Authority: AS 46.03.020 AS 46.03.365

18 AAC 78.625. SUBMISSION AND EVALUATION OF ANALYTICAL RESULTS. (a) The owner or operator shall submit the results of the laboratory analyses for samples collected under 18 AAC 78.610(a) and 18 AAC 78.620 and shall include the current state laboratory UST identification number for the laboratory that performed the analyses. Based on the results of the analyses, the owner or operator shall submit documentation that demonstrates that the cleanup requirements of 18 AAC 78.600 - 18 AAC 78.630 have been met.

(b) Evaluation of analytical results must meet the applicable conditions of 18 AAC 75.360(c).

(c) If water is present in an excavation, the department will determine whether further soil or water samples must be taken.

(d) The owner or operator shall notify the department if contamination exceeding the required cleanup level exists at a site, the further removal of which would endanger existing structures or would be otherwise infeasible. The department will decide whether

(1) the contamination can remain without threatening human health or safety or the environment; and

(2) the owner or operator must conduct additional monitoring or take further cleanup measures.

(e) Except as provided in (d) of this section, if all contaminated soil exceeding the target cleanup standard is not excavated, the owner or operator shall submit for department approval a corrective action plan as described in 18 AAC 78.250. (Eff. ___/___/97, Register ____)

Authority: AS 46.03.020 AS 46.03.365

18 AAC 78.630. FINAL REPORTING REQUIREMENTS. (a) Unless the department, in its discretion, finds that a final corrective action report is not needed, the owner or operator shall submit a written final corrective action report to the department for each site that has been cleaned up.

(b) The owner or operator shall meet all corrrective action reporting requirements and conditions specified in 18 AAC 75.360 before a site will be considered closed, unless the department specifies otherwise.

(c) In addition to the requirements of (b) of this section, the corrective action report must include

(1) the sampling reports specified in Chapter 2 of the *UST Procedures Manual*; and

(2) any site-specific modification to a procedure in the *UST Procedures Manual*.

(Eff. ___/___/97, Register ____)

Authority: AS 46.03.020 AS 46.03.365

ARTICLE 8. UNDERGROUND STORAGE TANK LABORATORY APPROVAL.

The section listing for article 8 is amended to read:

Section
800. Approval requirements
810 Approval status
815. Change in approval status

18 AAC 78.800 is repealed and readopted to read:

18 AAC 78.800. APPROVAL REQUIREMENTS. (a) Laboratory chemical analyses of soil and water required to be conducted under this chapter must be performed by a laboratory approved by the department. When an owner or operator submits samples of soil or water under 18 AAC 78.090, 18 AAC 78.235, and 18 AAC 78.600 - 18 AAC 78.630, the manager of the laboratory that performs the chemical analysis shall include with each analysis the current state laboratory UST identification number. That number is assigned by the department when it receives an application and fee under this section. The department will not accept a submittal of soil or water samples without that number.

(b) To obtain department approval for a laboratory, the laboratory manager shall

(1) submit a complete application on a form provided by the department, have the application accepted by the department, and pay a nonrefundable $800 annual fee for department review of the laboratory's application, quality assurance (QA) manual, and performance evaluation audit sample (PE sample) results;

(2) submit a notarized statement signed by the laboratory manager, certifying that, for purposes of this chapter, the laboratory will adhere to all methods, for all parameters, listed in Table G of this section and will include those methods in its QA manual;

(3) subject to (f) of this section, submit a QA manual or similar document for department approval that assures generation of quality data by the laboratory; the QA manual must contain the methods referred to in (2) of this subsection and must include the minimum elements described in the United States Environmental Protection Agency's *Guidance on Preparation of Laboratory Quality Assurance Plans*, Revision No. 1, dated October 9, 1992, (EPA 910/9-92-032), as amended through _____, 1997, adopted by reference; and

(4) pass the performance evaluation audits for gasoline range organics, diesel range organics, residual range organics, and BTEX required under (c) and (d) of this section.

Table G: Reference Guide to Sample Collection and Laboratory Analysis

Part A: Soils, Sediments, Sludges, and Fill Materials

Parameter	Preparation Method[1]	Analytical Method[1]	Analytical Detection Limit[2]	Practical Quantitation Limit[3]	Container Description	Preservation/ Holding Time
Gasoline Range Organics	AK101*	AK101*	0.7 mg/kg	7 mg/kg min.	4 oz. amber glass, TLS	methanol, <25°C/ 28 days
Diesel Range Organics	AK102*	AK102*	0.5 mg/kg	5 mg/kg min.	4 oz. amber glass, TLC	4° ± 2°C / 14 days to extract, analyze < 40 days
Residual Range Organics	AK103*	AK103*	10 mg/kg	100 mg/kg	min. 4 oz. amber glass, TLC	4° ± 2°C / 14 days to extract, analyze <-40 days
Total BTEX	AK101*	AK101*	0.007 mg/kg	0.07 mg/kg	min. 4 oz. amber glass, TLS	4° ± 2°C / 14 days or per method requirements
Polynuclear Aromatic Hydrocarbons (PAH)	3540 or 3550	8250, 8270, or 8310	0.1 mg/kg	1.0 mg/kg	min. 4 oz. amber glass, TLS	4° ± 2°C / 14 days to extract; analyze < 40 days
Total Volatile Chlorinated Solvents**	5030	8010, 8240, or 8260	0.008 mg/kg	0.08 mg/kg	min 4 oz. amber glass, TLS	4° ± 2°C / 14 days
Polychlorinated biphenyls (PCBs)	3550 or 3540	8080 or 8081	0.01 mg/kg	0.05 mg/kg	min. 4 oz amber glass, TLC	4° ± 2°C / 14 days to extract; analyze < 40 days
Total Arsenic	per analytical method sepcification	6010, 6020, 7060, or 7061	1 mg/kg	10 mg/kg	min. 4 oz amber glass, TLC	4° ± 2°C / 6 months max. on digestate
Total Cadmium	per analytical method sepcification	6010,6020, 7130, or 7131	1 mg/kg	10 mg/kg	min. 4 oz amber glass, TLC	4° ± 2°C / 6 months max. on digestate
Total Chromium	per analytical method sepcification	6010, 6020, 7190, or 7191	1 mg/kg	10 mg/kg	min. 4 oz amber glass, TLC	4° ± 2°C / 6 months max. on digestate
Total Lead	per analytical method sepcification	6010, 6020, 7420, 7421	1 mg/kg	10 mg/kg	min. 4 oz amber glass, TLC	4° ± 2°C / 6 months max. on digestate

Legend: **Total BTEX** = Benzene, Toluene, Ethylbenzene, isomers of Xylene (para, meta, or orthoxylene);
PAH = naphthalene,fluorene,anthracene,pyrene, benzo-a-anthracene, acenaphthene, chrysene, benzo-a-pyrene,dibenzo-a,h-anthracene, benzo-b-fluoranthene, benzo-k-fluoranthene, ideno-123-cd-pyrene;
VOA = Volatile Organic Analysis; **TLC** = Teflon lined screw caps; **TLS** = Teflon lined septa sonically bonded to screw caps;

[1] Unless otherwise noted, all preparation and analytical methods refer to those contained in EPA's Methods for Chemical Analysis of Water & Wastes, EPA 600/4-79-020, revised March, 1983 or its Test Methods for the Evaluating Solid Waste, SW-846, (PB84128677), 3rd Edition, including Final Updates I, II, IIA, and IIB, dated January 1995, as amended through _____, 1997, Environmental Monitoring and Support Laboratory, Cincinnati, OH 45268, all of which are adopted by reference.

[2] Method detection limits (MDL) are determined at the department, as specified in 40 C.F.R., Part 136, Appendix B, as amended through ___, 1997, adopted by reference. Each laboratory must verify its own method detection limits and must be better than or equal to those listed here.

[3] Practical quantitation limits (PQL), like method detection limits, are instrument specific. PQLs must be established by each laboratory and must be equal to or exceed those listed here. For purposes of this chapter, PQL = 10 x MDL, except for PCBs which are PQL= 5 x MDL (56 C.F.R. 26511).

* ADEC Analytical Methods AK101, AK102, and AK103 are included in the department's Underground Storage Tank Procedures Manual as Appendix D.

** May be analyzed out of AK101 methanol preserved sample

Table G: Reference Guide to Sample Collection and Laboratory Analysis (cont.)
Part B: Ground, Surface, Waste, and Marine Waters[4]

Parameter	Preparation Method[1]	Analytical Method[1]	Analytical Detection Limit[2]	Practical Quantitation Limit[3]	Container Description	Preservation/ Holding Time
Gasoline Range Organics	AK101*	AK101*	30 µg/L	300 µg/L	40 mL VOA, TLS	pH < 2 (HCl), 4° ± 2°C / 14 days
Diesel Range Organics	AK102*	AK102*	20 µg/L	200 µg/L	1 L amber glass, TLC	pH < 2 (HCl) 4° ± 2°C / 7 days to extract, analyze < 40 days
Residual Range Organics	Soils only method					
Total BTEX	AK 101*	AK 101*	0.7 µg/L	7 µg/L	duplicate 40 mL vials/sample, TLS	pH < 2 (HCl), 4° ± 2°C / 14 days
Polynuclear Aromatic Hydrocarbons (PAH)	3510 or 3520	610 or 625	1 µg/L	10 µg/L	1 L amber glass, TLS	4° ± 2°C / 7 days to extract, analyze < 40 days
Total Volatile Chlorinated Solvents	5030	601 or 624	0.8 µg/L	8 µg/L	duplicate 40 mL vials/sample, TLS	pH < 2 (HCl), 4° ± 2°C / 14 days
Polychlorinated biphenyls (PCBs)	3510 or 3520	608	1 µg/L	5 µg/L	1 L amber glass, TLC	4° ± 2°C /7 days to extract, analyze < 30 days
Total Arsenic	per analytical method specifications	6010, 6020, 7060, or 7061	100 µg/L	1000 µg/L	min. 100 mL HDPE[5]	pH < 2 (HNO_3), 4° ± 2°C/6 months max. on digestate
Total Cadmium	per analytical method specifications	6010, 6020, 7130, or 7131	100 µg/L	1000 µg/L	min. 100 mL HDPE[5]	pH < 2 (HNO_3), 4° ± 2°C/6 months max. on digestate
Total Chromium	per analytical method specifications	6010, 6020, 7190, or 7191	100 µg/L	1000 µg/L	min. 100 mL HDPE[5]	pH < 2 (HNO_3), 4° ± 2°C/6 months max. on digestate
Total Lead	per analytical method specifications	6010, 6020, 7420, or 7421	100 µg/L	1000 µg/L	min. 100 mL HDPE[5]	pH < 2 (HNO_3), 4° ± 2°C/6 months max. on digestate

Legend: See Part A of this table

[1] See Part A of this table
[2] See Part A of this table
[3] See Part A of this table
[4] Sample collection and laboratory analyses for water collected from drinking water sources must be done in accordance with 18 AAC 80.
[5] HDPE, High Density Polyethylene sample collection bottles, critically cleaned for trace metals analysis.
* ADEC Analytical Methods AK101, AK102, and AK103 are included in the department's Underground Storage Tank Procedures Manual as Appendix D.

(c) A laboratory manager seeking initial approval or renewal of approval under this section and 18 AAC 78.810 shall demonstrate the laboratory's ability to analyze samples for the parameters listed in Table G by successfully analyzing PE samples, using the methods specified in Table G, for gasoline range organics, diesel range organics, and BTEX in solids and in waters, and residual range organics in solids only. The laboratory manager shall submit the analysis of the PE samples to the department no more than 90 days before the application is submitted and no later than 30 days after the application is submitted. If the PE sample falls outside the acceptable range, within 30 days after receiving notice of the failure, the laboratory manager shall submit to the department a corrective action report that identifies the cause of failure and includes a remedial action plan; if the department

(1) approves the corrective action report, it will place the laboratory on provisionally approved status; within six months, the laboratory manager shall ensure that a PE sample of the previously failed regulated analyte is reanalyzed by the laboratory; if the laboratory

(A) passes the PE sample, the department will classify the laboratory in approved status; or

(B) fails the PE sample, the department will disapprove the laboratory;

(2) does not approve the corrective action report, department will disapprove the laboratory.

(d) In the analysis of PE samples under (c) of this section, the laboratory manager shall use the required methods listed in Table G. The laboratory manager shall obtain PE samples from a supplier listed by the American Association for Laboratory Accreditation unless the department, in its discretion, after receiving a written request from the laboratory manager, approves use of another supplier. A list of department-approved suppliers will be sent with the initial application. To pass a PE sample, the analysis of each sample analyzed must be accurate to a minimum confidence interval of 95 percent.

(e) If any change occurs in the minimum elements described in the QA manual under (b)(3) of this section, the laboratory manager shall report the change to the department within 30 days after the change occurs. Laboratory approval is valid only if the minimum elements remain constant. Failure to comply with this requirement could result in loss of approval.

(f) The department will, in its discretion, waive the requirement for department approval of a QA manual submitted under (b)(3) of this section if the laboratory is accredited, certified, or approved for organic and inorganic analytical methods by the department for purposes of another chapter in this title. A laboratory manager seeking a waiver under this subsection shall submit to the department the laboratory's current EPA identification number.

(g) To renew approval, a laboratory manager shall submit an application with the required $800 annual fee no more than 90 days and no less than 30 days before approval expires. Failure to submit a completed renewal application and fee when due could result in lapse of approval. (Eff. 11/3/95, Register 136; am ___/___/97, Register ____)

Authority: AS 44.46.020 AS 46.03.365
AS 44.46.025 AS 46.03.710
AS 46.03.020 AS 46.03.740
AS 46.03.050 AS 46.03.745

Editor's note. 1. EPA's *Guidance on Preparation of Laboratory Quality Assurance Plans*, Revision No. 1, adopted by reference in 18 AAC 78.800(b), is on file in the Office of the Lieutenant Governor and may be reviewed at the department's offices in Anchorage, Fairbanks, Juneau, and Soldotna, or may be obtained from the United States Environmental Protection Agency, 1200 Sixth Avenue, Seattle, WA 98101, (360) 871-0748, Fax: (360) 871-8747.

2. The American Association for Laboratory Accreditation may be contacted at 656 Quince Orchard Road #704, Gaithersburg, MD 20878, (301) 670-1377.

3. The EPA documents referred to in Table G, Part A, note 1, in 18 AAC 78.800(b) are on file in the Office of the Lieutenant Governor, may be reviewed at the department, or may be obtained from (a) for EPA 600/4-79-020, United States Government Bookstore, Room 194 Federal Building, 915 Second Ave., Seattle, WA 98174, (206) 553-4270, Fax: (206) 553-6717; and (b) for SW-846, National Technical Information Service, Springfield, VA 22161, (800) 553-6847, Fax: (703) 321-8547.

18 AAC 78.810 is repealed and readopted to read:

18 AAC 78.810. APPROVAL STATUS. Based on its review of the application, the QA manual, and the PE sample results submitted under 18 AAC 78.800, and subject to 18 AAC 78.815, the department will, upon initial application or renewal, classify a laboratory as follows:

(1) **Provisionally Approved.** This is a limited approval that allows a laboratory to operate as an approved laboratory pending resolution of the department's administrative limitations in reviewing the application or the laboratory's deficiencies, or for one year, whichever is less; unless the department, in its discretion, specifies a shorter period for a laboratory with provisional approval, the laboratory manager shall ensure that all requirements for full approval are completed before provisional approval expires or the department will deny approval upon reapplication; the department will, in its discretion, grant provisional approval to a laboratory under the following circumstances:

(A) the department cannot process all applications for approval in a timely manner;

(B) the laboratory has deficiencies in its QA manual; or

(C) the laboratory fails one or more parameters from a PE sample;

(2) **Approved.** The department will approve a laboratory that meets the requirements of 18 AAC 78.800; the department will send a letter of acceptance and a certificate of approval to the laboratory manager; in addition,

(A) approval under this paragraph is effective for one year; and

(B) the department will, in its discretion, deny approval for a specific parameter if the laboratory has not passed the PE sample for that parameter required under 18 AAC 78.800(d); or

(3) **Disapproved.** The department will disapprove an application if the laboratory manager

(A) fails to ensure that the laboratory meets the requirements of 18 AAC 78.800;

(B) misrepresents the laboratory's capabilities;

(C) fails to disclose pertinent information in the application; or

(D) fails to pay the required fee. (Eff. 11/3/95, Register 136; am ___/___/97, Register ____)

Authority:	AS 44.46.020	AS 46.03.365
	AS 44.46.025	AS 46.03.710
	AS 46.03.020	AS 46.03.740
	AS 46.03.050	AS 46.03.745

18 AAC 78 is amended by adding a new section to read:

18 AAC 78.815. CHANGE IN APPROVAL STATUS. (a) If the department receives one or more written complaints about a laboratory's performance, the department will, in its discretion, review that laboratory's work product, submittals to the department, and the results of any investigation conducted under (e) of this section. The department will, in its discretion, if a review under this subsection warrants such an action,

(1) downgrade the laboratory to provisionally approved status; or

(2) suspend or revoke approval, subject to 18 AAC 78.960.

(b) The department will, in its discretion, downgrade a laboratory's status because of an unsatisfactory PE sample, as follows:

(1) if a laboratory with provisionally approved status fails a PE sample, the department will disapprove the laboratory; or

(2) if an approved laboratory fails a PE sample, the laboratory manager shall submit to the department a corrective action report within 30 days after receiving notice of the failure; if the department

(A) approves the corrective action report, the laboratory will maintain its approved status; within six months, the laboratory manager shall ensure that a PE sample of the previously failed analyte is reanalyzed; if the laboratory

(i) fails the follow-up PE sample, the department will downgrade the laboratory to provisionally approved status; or

(ii) passes the follow-up PE sample, the laboratory will maintain its approved status; or

(B) does not approve the corrective action report, the department will place the laboratory on provisionally approved status.

(c) The following are grounds for suspension or revocation of an approved or provisionally approved status:

(1) violating or failing to meet a requirement applicable to the operation of a laboratory under this chapter;

(2) misrepresenting a laboratory's qualifications, capabilities, or experience;

(3) falsifying data or a report;

(4) engaging in unethical or fraudulent practices in generating analytical data, as described in EPA Region 10's *Quality Management Program Plan*, section 4.0, "EPA Policy on Fraud, Waste, and Abuse," document control number RQMP-001/92, Revision No. 1A dated 12/23/92, as amended through _____, 1997, adopted by reference;

(5) failing an onsite investigation under (e) of this section; and

(6) operating under significant deficiencies in quality assurance as evidenced by the production of invalid analytical data or otherwise being unable to provide accurate analytical data using approved methods.

(d) In addition to the grounds for suspension or revocation of approval stated in (c) of this section, the department will, in its discretion, suspend or revoke the approved or provisionally approved status of a laboratory that is principally owned, operated, or controlled by an entity that has been suspended or otherwise restricted in its laboratory operation by a federal agency or by an agency of this state or another state.

(e) If the department believes an approved or provisionally approved laboratory is consistently submitting erroneous data or is otherwise not performing according to the requirements of 18 AAC 78.800, it will, in its discretion, conduct an onsite investigation of the laboratory. The department will charge the laboratory $73 per hour for costs of the investigation, including the report that describes each area of noncompliance.

(f) The department will maintain a list of approved and provisionally approved laboratories and will distribute the list to interested persons upon request. (Eff. ___/___/97, Register ____)

Authority: AS 44.46.020
AS 44.46.025
AS 46.03.020
AS 46.03.050
AS 46.03.365
AS 46.03.710
AS 46.03.740
AS 46.03.745

Editor's note. EPA Region 10's *Quality Management Program Plan*, section 4.0, "EPA Policy on Fraud, Waste, and Abuse," document control number RQMP-001/92, adopted by reference in this section, may be reviewed at the department's Anchorage, Fairbanks, and Juneau offices, is available from the United States Environmental Protection Agency, Region 10 Office, 1200 Sixth Avenue, Seattle, Washington 98101, and is on file in the Office of the Lieutenant Governor.

18 AAC 78.995 is repealed and readopted to read:

18 AAC 78.995. DEFINITIONS. Unless the context indicates otherwise, in this chapter or in AS 46.03.360 - 46.03.450

(1) "aboveground release" means a release to the surface of the land or to surface water, including a release from the aboveground portion of a UST, and an aboveground release associated with overfills or transfer operations as the petroleum moves to or from a UST;

(2) "accuracy" means the degree of agreement between an analytical result and the true value;

(3) "airport hydrant fuel distribution system" means an underground or aboveground fuel piping system connected to a fuel storage tank if the system includes

(A) a bulk reservoir of at least 100,000 gallons;

(B) a fuel dispensing station located 200 feet or more from the storage tank;

(C) multiple hydrants;

(D) pipe diameter of at least six inches;

(E) system operating pressure capable of at least 75 psi; and

(F) a minimum monthly flow-through of 1,000,000 gallons;

(4) "analytical method" means a set of written instructions that define procedures to be followed by an analyst to obtain the required result;

(5) "ancillary equipment" has the meaning given that term in the definition for "underground petroleum storage tank system" in AS 46.03.450;

(6) "applicant" means a person who has applied for certification or assistance under this chapter;

(7) "approved" means approved by the department;

(8) "before beginning work" means before a change, upgrade, addition, or removal of any part of a UST, including associated equipment and material surrounding the UST, or before a change in service;

(9) "belowground release" means a release of petroleum to the subsurface of the land or to groundwater, including a release from the belowground portion of a UST, and a belowground release associated with an overfill or transfer operation as the petroleum moves to or from a UST;

(10) "beneath the surface of the ground," as that term is used in the definition of "underground storage tank" in AS 46.03.450, means overspread with earthen materials;

(11) "board" means the Board of Storage Tank Assistance established under AS 46.03.360;

(12) "BTEX" means benzene, toluene, ethylbenzene, and isomers of xylene (para, meta, orthoxylene);

(13) "cathodic protection" means a technique to prevent corrosion of a metal surface by making that surface the cathode of an electrochemical cell; for example, a tank system can be cathodically protected through the application of either galvanic anodes or impressed current;

(14) "certification" means a certification of competency issued by the division of occupational licensing under this chapter, indicating that a person has met the requirements for a specified category of UST work;

(15) "certified," "certified tank worker," or "certified worker" mean a person who has been issued certification for a specific category of UST work by the division;

(16) "change in configuration" means a change, upgrade, addition, or removal of any part of a UST and ancillary equipment;

(17) "change-in-service" means to change the use of a UST from containing petroleum to containing a substance other than petroleum;

(18) "chemical" has the meaning given in AS 46.03.450;

(19) "cleanup standards" means the standards established under 18 AAC 75 for the level of a hazardous substance in a medium that is considered protective of public health, safety, and welfare and the environment under specified exposure conditions;

(20) "close" has the meaning given in AS 46.03.375(g)(1);

(21) "closure" has the meaning given in AS 46.03.430(d)(1);

(22) "compatible" means the ability of two or more substances to maintain their respective physical and chemical properties upon contact with one another for the design life of the tank system under conditions likely to be encountered in the UST;

(23) "connected underground piping" means the underground piping, including valves, elbows, joints, flanges, and flexible connectors attached to a tank system through which petroleum flows; to determine how much piping is connected to a UST, the piping that joins two UST's should be allocated equally between them;

(24) "construction season" means April 1 through September 30;

(25) "containment and cleanup" has the meaning given in AS 46.03.450;

(26) "contaminated groundwater" means groundwater that exceeds the applicable groundwater standards in 18 AAC 75.330(b);

(27) "contaminated soil" means soil containing petroleum in excess of the applicable soil cleanup standards in 18 AAC 75.325;

(28) "contaminated surface water" means surface water that exceeds the applicable surface water standards in 18 AAC 75.330(c);

(29) "corrective action" has the meaning given in AS 46.03.450;

(30) "corrective action plan" means a plan that

(A) describes the procedures proposed by the owner or operator under 18 AAC 78.250 to investigate, assess, correct, contain, and clean up a petroleum release; and

(B) contains an interim cleanup cost estimate required for financial assistance under 18 AAC 78.508(g);

(31) "corrosion" means the deterioration of metal from the loss of positive charged metal ions from the metal surface into an electrolyte;

(32) "corrosion expert" means a person who

(A) by reason of thorough knowledge of the physical sciences and the principles of engineering and mathematics acquired through a professional education and related practical experience, is qualified to engage in the practice of corrosion control on buried or submerged metal piping systems and metal tanks; and

(B) is accredited or certified as being qualified by the National Association of Corrosion Engineers or is a registered engineer with licensing that includes education and experience in corrosion control of buried or submerged metal piping systems and metal tanks;

(33) "corrosion protection" means to prevent degradation of UST components caused by electrolysis or chemical action;

(34) "corrosion protection equipment" means cathodic protection systems and dielectric coatings that prevent electrolysis or chemical action;

(35) "department" means the Department of Environmental Conservation;

(36) "dielectric material" means a material that does not conduct direct electrical current; dielectric coatings are used to electrically isolate a UST from surrounding soil; dielectric bushings are used to electrically isolate portions of the UST, such as the tank from the piping;

(37) "diesel range organics" or "DRO" means mid-range petroleum products, such as diesel fuel, with petroleum hydrocarbon compounds corresponding to an alkane range from the beginning of C_{10} to the beginning of C_{25} and a boiling point range between approximately 170°C and 400°C;

(38) "discharge" has the meaning given in AS 46.04.900;

(39) "division" means the division of occupational licensing in the Department of Commerce and Economic Development;

(40) "electrical equipment" means underground equipment that contains dielectric fluid necessary for the operation of equipment, such as transformers and buried electrical cable;

(41) "emergency power generator" means an electrical motor-generator used exclusively to provide electrical power during primary power failure;

(42) "equivalent" as used in the definition of "qualified" means that the person earned at least 128 semester hours, or an equivalent number of quarter hours, at an accredited postsecondary institution, of which at least 24 credits were in the science major and at least 16 credits were in upper division level;

(43) "excavation zone" means a space containing a UST and backfill material bounded by the ground surface, walls, and floor of the pit and trenches into which the UST is placed when installed;

(44) "existing tank" means a UST used to contain an accumulation of petroleum and for which installation commenced on or before December 22, 1988; installation is considered to have commenced if the owner or operator had obtained all federal, state, and lo- al approvals or permits necessary to begin construction of the site or installation of the UST and

(A) a continuous onsite construction or installation program had begun; or

(B) the owner or operator had entered into contractual obligations for physical construction at the site or installation of the UST to be completed within a reasonable time and the contract could not have been canceled or modified without substantial loss;

(45) "facility" has the meaning given in AS 46.03.450;

(46) "farm" has the meaning given in AS 46.03.450;

(47) "farm tank," as that term is used in the definition of "underground storage tank" in AS 46.03.450, means a UST located on a farm;

(48) "field-constructed tank" means a 50,000 gallon or larger UST constructed onsite from readily available materials, but does not include a UST assembled from commercially available, factory constructed modular components;

(49) "final cleanup cost estimate" means an interim cleanup cost estimate that has been modified as required by 18 AAC 78.509(b)(3) for services other than professional services;

(50) "financial assistance" means a grant, loan, or reimbursement awarded under this chapter;

(51) "flow-through process tank," as that term is used in the definition of "underground storage tank" in AS 46.03.450, means a UST that forms an integral part of a production process through which there is a steady, variable, recurring, or intermittent flow of petroleum during the operation of the process; a flow-through process tank does not include a UST used for the storage of petroleum before its introduction into the production process or for the storage of finished products or byproducts from the production process;

(52) "force account" means work performed by the owner or operator of a UST, or an employee of the owner or operator;

(53) "free product" means a concentration of petroleum that is present as a non-aqueous phase liquid, a liquid not dissolved in water;

(54) "gasoline" means any petroleum distillate that is used for motor fuel or heating oil and that consists predominantly of hydrocarbons corresponding to an alkane range from the beginning of C_6 to the beginning of the C_{10};

(55) "gasoline range oganics" or "GRO" means light range petroleum products, such as gasoline, with petroleum hydrocarbon compounds corresponding to an alkane range from the beginning of C_6 to the beginning of C_{10} and a boiling point range between approximately 60°C and 170°C;

(56) "gathering lines," as that term is used in the definition of "underground storage tank" in AS 46.03.450, means any pipeline equipment, facility, or building used in the transportation of oil or gas during oil or gas production or gathering operations;

(57) "groundwater" means water in the zone of saturation, which is the zone below the water table where all interstices are filled with water;

(58) "groundwater and soil test" means to collect groundwater and soil samples from a UST area and to test the samples for the existence and concentration of contamination, using a laboratory approved by the department;

(59) "hazardous substance" means

(A) an element or compound that, when it enters into the atmosphere or in or upon the water or surface or subsurface land, presents an imminent and substantial danger to the public health or welfare, including fish, animals, vegetation, or any part of the natural habitat in which they are found;

(B) a substance defined as a hazardous substance under section 101 (14) of CERCLA, 42. U.S.C. 9601(14), as follows:

(i) any substance designated pursuant to section 311(b)(2)(A) of the Federal Water Pollution Control Act;

(ii) any element, compound, mixture, solution, or substance designated pursuant to section 102 of CERCLA;

(iii) any hazardous waste having the characteristics identified under or listed pursuant to section 3001 of the Solid Waste Disposal Act (but not including any waste the regulation of which under the Solid Waste Disposal act has been suspended by Act of Congress);

(iv) any toxic pollutant listed under section 307(a) of the Federal Water Pollution Control Act; and

(v) any hazardous air pollutant listed under section 112 of the Clean Air Act; and

(C) oil;

(60) "heating oil" means petroleum that is No. 1, No. 2, No. 4-light, No.4-heavy, No.5-light, No.5-heavy, and No. 6 technical grades of fuel oil, other residual fuel oils, including Navy Special Fuel Oil and Bunker C, and other fuels if used as a substitute for one of the fuels listed in this paragraph; "heating oil" is typically used in the operation of heating equipment, boilers, or furnaces;

(61) "hydraulic lift tank" means a UST holding hydraulic fluid for a closed-loop mechanical system that uses compressed air or hydraulic fluid to operate lifts, elevators, and other similar devices;

(62) "install" means to perform the work involved in placing a UST or any part of a UST in the ground and prepare it to be placed in service;

(63) "interim cleanup cost estimate" means an estimate of costs necessary to implement a corrective action plan, prepared by a qualified, impartial third party;

(64) "job site" means the physical location where a UST is to be installed or removed;

(65) "laboratory" means a mobile or fixed facility capable of providing analytical services;

(66) "laboratory manager" means the person principally responsible for overall management of laboratory operations, including compliance with applicable requirements of this chapter and the *UST Procedures Manual*;

(67) "liquid trap," as that term is used in the definition of "underground storage tank" in AS 46.03.450, means a sump, well cellar, or other trap used in association with oil and gas production, gathering, and extraction operations, including a gas production plant, to collect oil, water, and other liquids; a liquid trap may temporarily collect liquids for subsequent disposition or reinjection into a production or pipeline stream or may collect and separate liquids from a gas stream;

(68) "maintenance" means the normal operational upkeep to prevent a UST from releasing petroleum;

(69) "motor fuel" means petroleum or a petroleum-based substance that is motor gasoline, aviation gasoline, No. 1 or No. 2 diesel fuel, or any grade of gasohol, and that is typically used in the operation of a motor engine;

(70) "nationally-recognized code of practice" means a procedure, code, or standard developed by a nationally-recognized association or independent testing laboratory, including the Petroleum Equipment Institute (PEI); National Fire Protection Association (NFPA); International Fire Code Institute (IFCI); American Petroleum Institute (API); National Association of Corrosion Engineers (NACE); Occupational Safety and Health Agency (OSHA); United States. Environmental Protection Agency (EPA); Steel Tank Institute (STI); Fiberglass Petroleum Tank & Pipe Institute; American National Standards Institute (ANSI); American Society of Mechanical Engineers (ASME); American Society for Testing Materials (ASTM); Underwriters Laboratories; and Underwriters Laboratories of Canada;

(71) "native soil" means the soil below fill material or outside the immediate boundaries of the excavation zone;

(72) "new tank" or "new UST" means a UST that will be used to contain an accumulation of petroleum, and for which installation commenced after December 22, 1988;

(73) "noncommercial purposes," as that term is used in the definition of "underground storage tank" in AS 46.03.450, means, with respect to motor fuel, not for resale;

(74) "nongasoline fraction" means diesel or any other petroleum distillate used for motor fuel or heating oil that consists predominantly of hydrocarbons corresponding to an alkane range of C_{10} or greater;

(75) "on the premises where stored," as that term is used in the definition of "underground storage tank" in AS 46.03.450, means, with respect to heating oil, a UST located on the same property on which the stored heating oil is used;

(76) "operational life" means the period beginning when installation of a UST commences until the UST is permanently closed under 18 AAC 78.085;

(77) "operator" means a person who is in control of, or who has responsibility for, the daily operation of a UST used to store or dispense petroleum;

(78) "overfill" means a release that occurs when a UST is filled beyond its capacity, resulting in the discharge of petroleum into the environment;

(79) "owner" means a person who owns a UST used to store or dispense petroleum;

(80) "owner or operator" means the owner or operator of a UST that is subject to the requirements of this chapter; if the term is used to impose a duty that would result in a duplicative response or action if taken by both the owner and the operator, it means that the response or action must be taken either by the owner or by the operator;

(81) "parameter" means a single analytical determination or group of determinations using a specific method of analysis identified by the laboratory;

(82) "performance evaluation audit" means analysis and reporting of an unknown sample provided by a source external to the laboratory; this sample is sometimes referred to as a performance evaluation or blind sample;

(83) "petroleum" has the meaning given in AS 46.03.450;

(84) "phase I funding" means a grant or loan available to an eligible owner or operator for expedited funding to complete a corrective action plan, site characterization, site assessment, or interim cleanup cost estimate as part of an application for a grant or loan under 18 AAC 78.515; for purposes of this paragraph, "expedited funding" means a procedure that provides funding in advance of the normal funding procedure described in 18 AAC 78.509 for implementation of a corrective action plan prepared under 18 AAC 78.250;

(85) "phase II funding" means a grant or loan available to an eligible owner or operator seeking financial assistance for

(A) the cost of implementing cleanup under the approved corrective action plan; or

(B) reimbursement under 18 AAC 78.509(b)(2) or (3);

(86) "pipe" or "piping" means a hollow cylinder or tubular conduit that is constructed of nonearthen materials;

(87) "pipeline facility," as that term is used in the definition of "underground storage tank" in AS 46.03.450, means pipe rights-of-way and associated equipment, gathering lines, facilities, or buildings;

(88) "preliminary cleanup cost estimate" means an estimate of costs necessary to prepare and implement a corrective action plan;

(89) "professional services" has the meaning given in AS 36.30.990;

(90) "property" means an area in which a UST is located and that is defined by legal title;

(91) "qualified" means a person who actively practices environmental science or engineering, geology, physical science, hydrology, or a related field and meets the following minimum requirements:

(A) a bachelor's degree or equivalent from an accredited postsecondary institution in environmental science or engineering, geology, hydrology, physical science, or a related field; and

(B) at least one year of supervised sampling and analysis field work experience completed after the degree in (A) was obtained;

(92) "quality assurance" means the act of establishing confidence that analytical data is of a known and documented degree of excellence; the term covers the general areas of accuracy, completeness, representativeness, and comparability of data; a quality assurance program is a totally integrated program for assuring reliability of measurement data;

(93) "quality assurance manual" or "QA manual" means a written record of the policies, organization, objectives, and specific quality assurance program established by a laboratory to assure generation of quality data;

(94) "reconfiguration" or "significantly reconfigure" means to replace or realign the pipes connected to a UST or to retrofit a UST or any part of a UST by adding cathodic protection, lining, or spill or overfill controls that were not used at the time of original installation and that are designed to improve the ability of the UST to prevent a release;

(95) "registered engineer" means a professional engineer registered under AS 08.48.171 - 08.48.265;

(96) "release" has the meaning given in AS 46.08.900;

(97) "release detection" means to determine if a release of petroleum has occurred from a UST into the environment or into the interstitial space between the UST and its secondary barrier or the secondary containment around it;

(98) "residential tank," as that term is used in the definition of "underground storage tank" in AS 46.03.450, means a UST located on property used primarily for dwelling purposes;

(99) "residual range organic" or "RRO" means heavy range petroleum products, such as lubricating oils, with petroleum hydrocarbon compounds corresponding to an alkane range from the beginning of C_{25} to the beginning of C_{36} and a boiling point range between approximately 400°C and 550°C;

(100) "return to service" means to dispense, replenish, or sell petroleum;

(101) "secondary containment" means that a UST is designed to

(A) contain all leaks and spills from tanks and associated underground equipment; and

(B) prevent the escape of a leak or spill into the surrounding soil, surface water, or groundwater;

(102) "septic tank," as that term is used in the definition of "underground storage tank" in AS 46.03.450, means a watertight, covered receptacle designed and built to receive domestic wastewater, separate floating and settling solids from the liquid, anaerobically digest organic matter, store digested solids through a period of detention, and allow clarified liquids to discharge for final disposal;

(103) "significantly reconfigure" has the meaning given "reconfiguration" in this section;

(104) "site" means an area, defined by a release investigation, that is contaminated or that might be affected by contamination;

(105) "site assessment" has the meaning given in AS 46.03.450;

(106) "soil" means an unconsolidated geologic material, including clay, loam, loess, silt, sand, gravel, tills, or any combination of these materials;

(107) "storm water or waste water collection system," as that term is used in the definition of "underground storage tank" in AS 46.03.450, means piping, pumps, conduits, and any other equipment necessary to collect and transport the flow of surface water run-off resulting from precipitation or domestic or nondomestic wastewater to and from a retention area or an area where treatment is designated to occur; the collection of stormwater or wastewater does not include treatment except when incidental to conveyance; "stormwater or wastewater collection system" includes

(A) gravity, pressure, and vacuum sewers, including associated parts such as manholes and cleanouts;

(B) pump or collection stations; and

(C) each part of a collector sewer, regardless of ownership of the land on which it is installed;

(108) "substandard UST" means a UST that does not have corrosion protection or spill and overfill control;

(109) "sufficient evidence" means proof that satisfies the department;

(110) "supervised" means

(A) direct responsibility for preparing each report or making an interpretation regarding field data;

(B) onsite control by a qualified person who is responsible for all work that requires assessment, investigation, characterization, reporting, or interpretation, including

(i) selection of the location or depth of sample points in soil, groundwater, or stockpiles;

(ii) location, placement, or supervision of construction or completion of monitoring or remediation wells;

(iii) description of site characteristics, soil characteristics, or geological characteristics in field notes that will be used by the assessment firm in the report submitted to the owner or operator of the project;

(iv) duties required to be performed under the UST *Procedures Manual* other than those strictly limited to the physical act of sample collection and transport; or

(v) collection of final verification samples; and

(C) onsite or offsite control by a qualified person who is responsible for routine tasks associated with the physical act of sample collection and transportation;

(111) "surface impoundment," as used in the definition of "underground storage tank" in AS 46.03.450, means a natural topographic depression, man-made excavation, or diked area formed primarily of earthen materials, although the depression, excavation, or area might be lined with man-made materials; "surface impoundment" does not include an injection well;

(112) "taken out of service" means a UST that is empty; a UST is considered empty when all materials are removed so that no more than 2.5 centimeters, or one inch, of residue or 0.3 percent by weight of the total capacity of the UST remains in the system; "taken out of service" is sometimes referred to as "out of use," "not in use," and "out of operation";

(113) "tank" means a stationary device that is designed to hold an accumulation of petroleum, and that is constructed of nonearthen materials such as concrete, steel, or plastic that provide structural support;

(114) "tank system" has the meaning given in AS 46.03.450;