



LAWS OF ALASKA

1991

Source

CSSB 263(JUD)

Chapter No.

9

AN ACT

Relating to oil discharge prevention and contingency plans and financial responsibility requirements for oil operations; and providing for an effective date.

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

THE ACT FOLLOWS ON PAGE 1

Approved by the Governor: May 29, 1991
Actual Effective Date: May 30, 1991

AN ACT

1 Relating to oil discharge prevention and contingency plans and financial responsibility
2 requirements for oil operations; and providing for an effective date.
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6 * Section 1. FINDINGS. The legislature finds that

7 (1) whereas crude oil companies have indicated their intention and ability to be in
8 compliance with the June 1, 1991, applicability date of ch. 191, SLA 1990, including the new oil spill
9 response planning standards and new financial responsibility requirements, the entities involved in the
10 transportation and storage of noncrude oil are finding it difficult, if not impossible, to meet those
11 requirements by June 1, 1991, due to unforeseen developments;

12 (2) these developments include the fact that the London insurance markets, historically
13 the source of pollution liability insurance underwriting, are steadfastly refusing to offer policies that meet
14 the new financial responsibility requirements imposed by ch. 191, SLA 1990; most notably, they have
15 refused to issue certificates of financial responsibility or make themselves available for direct legal action
16 in Alaska courts;

17 (3) while larger companies involved in the transportation and storage of crude oil have
18 the financial ability to meet the new financial responsibility requirements through self-insurance, surety
19 bonding, or letters of credit, most noncrude transporters and facility operators do not have the financial
20 resources to make use of these avenues to satisfy the requirements;

21 (4) additionally, a study mandated by ch. 191, SLA 1990, designed to identify appropriate

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1 spill response times, specify personnel levels and equipment requirements, and identify specific locations
2 for oil discharge response equipment depots for noncrude oil tankers and barges will not be completed
3 until at least one month after June 1, 1991; this study's findings could have a significant effect on
4 emergency spill response planning by both transporters and the state;

5 (5) taken together, the uncertainties posed by these developments create a strong
6 possibility that many noncrude transporters and facility operators will find it necessary to either operate
7 illegally or cease operations in the state after June 1, 1991, which would in turn pose serious problems
8 for the residents of communities dependent on delivery and storage of noncrude oil products for fuel and
9 electrical generation;

10 (6) a one-year delay to June 1, 1992, in the applicability date for compliance with the
11 requirements of ch. 191, SLA 1990, for noncrude transporters and facility operators will allow thorough
12 consideration of the study described in (4) of this section and implementation of its findings into
13 emergency response planning; will permit noncrude transporters and operators to explore other options
14 to meet the statute's financial responsibility requirements, including the possibility of developing an
15 insurance pool to replace the coverage no longer being offered by the traditional insurance markets; and
16 will provide adequate time for the Department of Environmental Conservation to develop its
17 implementing regulations for contingency planning.

18 * Sec. 2. Section 32, ch. 191, SLA 1990, is amended to read:

19 Sec. 32. TRANSITIONAL PROVISIONS. (a) AS 46.04.030(k) - (m), enacted by sec.
20 10 of this Act, do not apply to oil discharge prevention and contingency plans for crude oil
21 operations until June 1, 1991. On and after June 1, 1991, a contingency plan for a crude oil
22 operation must comply with AS 46.04.030(k) - (m), enacted by sec. 10 of this Act, regardless
23 of whether the contingency plan is due for renewal under AS 46.04.030(d), as amended by sec.
24 9 of this Act.

25 (b) The amendments to AS 46.04.040, made by secs. 11 - 18 of this Act, do not apply
26 to persons required to show proof of financial responsibility for crude oil operations until
27 June 1, 1991. On and after June 1, 1991, proof of financial responsibility for a crude oil
28 operation must comply with AS 46.04.040, as amended by secs. 11 - 18 of this Act, regardless
29 of whether acceptance of proof of financial responsibility has expired under AS 46.04.040(f), as
30 amended by sec. 16 of this Act.

1 * Sec. 3. Section 32, ch. 191, SLA 1990, is amended by adding new subsections to read:

2 (c) AS 46.04.030(k) - (m), enacted by sec. 10 of this Act, do not apply to oil discharge
3 prevention and contingency plans for noncrude oil operations until June 1, 1992. On and after June 1,
4 1992, a contingency plan for a noncrude oil operation must comply with AS 46.04.030(k) - (m), enacted
5 by sec. 10 of this Act, regardless of whether the contingency plan is due for renewal under
6 AS 46.04.030(d), as amended by sec. 9 of this Act.

7 (d) The amendments to AS 46.04.040 made by secs. 11 - 13 of this Act do not apply to persons
8 required to show proof of financial responsibility for noncrude oil operations until June 1, 1992. On and
9 after June 1, 1992, proof of financial responsibility for a noncrude oil operation must comply with
10 AS 46.04.040, as amended by secs. 11 - 18 of this Act, regardless of whether acceptance of proof of
11 financial responsibility has expired under AS 46.04.040(f), as amended by sec. 16 of this Act.

12 * Sec. 4. INTERIM OPERATION. (a) A person with a crude oil discharge prevention and
13 contingency plan that is approved under AS 46.04.030 who submits plan amendments to the department
14 to show compliance with the requirements of ch. 191, SLA 1990, may continue to operate if the
15 department determines and notifies the person in writing that the contingency plan, as amended,
16 substantially complies with the requirements of ch. 191, SLA 1990. The department's notification of
17 substantial compliance for the interim contingency plan will allow the operator to continue operation
18 regardless of whether the department has completed any notice process otherwise required by the Alaska
19 Coastal Management Program for the interim operation.

20 (b) The authority to operate under this section is valid only until the earliest of the following
21 dates:

22 (1) the date the department takes action on the amended plan under AS 46.04.030 by
23 approving it, disapproving it, or approving it with terms or conditions attached; notwithstanding
24 AS 46.04.030(p), the department's action on the amended plan need not occur within 65 days of
25 submission of the amendments;

26 (2) the date the department revokes the plan under AS 46.04.030;

27 (3) the date the plan's previous approval lapses or expires for failure to be renewed; or

28 (4) February 1, 1992.

29 (c) In this section, "department" means the Department of Environmental Conservation.

30 * Sec. 5. This Act takes effect immediately under AS 01.10.070(c).