

Original sponsor(s): Rules/Governor

1 IN THE HOUSE BY THE RESOURCES COMMITTEE
2 CS FOR HOUSE BILL NO. 566 (Resources)
3 IN THE LEGISLATURE OF THE STATE OF ALASKA
4 SIXTEENTH LEGISLATURE - SECOND SESSION

5 A BILL

6 For an Act entitled: "An Act authorizing the governor to spend money from
7 the oil and hazardous substance release response fund
8 for declared disasters; providing that the Department
9 of Environmental Conservation has final state
10 decision-making authority during situations involving
11 a response to the release of oil or a hazardous sub-
12 stance; returning to the division of emergency ser-
13 vices the catastrophic oil discharge response func-
14 tions formerly assigned to the Department of Environ-
15 mental Conservation under AS 46.04.080(a); estab-
16 lishing the Alaska State Emergency Response Commis-
17 sion; requiring certain emergency plans to be sub-
18 stantially equivalent; and providing for an effective
19 date."

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

21 * Section 1. AS 26.23.020(g) is amended by adding a new paragraph to
22 read:

23 (11) use money from the oil and hazardous substance release
24 response fund, established by AS 46.08.010, to respond to a declared
25 disaster emergency related to an oil or hazardous substance discharge.

26 * Sec. 2. AS 26.23.050(b) is amended to read:

27 (b) Whenever, and to the extent that, money is needed to cope
28 with a disaster, the first recourse shall be to funds regularly appro-
29 priated to state and local agencies. The second recourse shall be to

1 funds available in the disaster relief fund or, for oil or hazardous
2 substances discharges, the oil and hazardous substance release re-
3 sponse fund, as the governor determines appropriate. If money avail-
4 able from these sources is insufficient, and if the governor finds
5 that other sources of money to cope with the disaster are not avail-
6 able or are insufficient, the governor may, notwithstanding any limi-
7 tation imposed by AS 37.07.080(e), transfer and spend money appropri-
8 ated for other purposes or, in situations involving natural disasters,
9 borrow from the United States government or other public or private
10 sources for a term not to exceed two years.

11 * Sec. 3. AS 26.23 is amended by adding a new section to read:

12 Sec. 26.23.215. RELATIONSHIP TO OTHER PLANNING STATUTES. To the
13 extent that the state emergency plan, interjurisdictional plans, and
14 local plans prepared under this chapter relate to action required to
15 avert damage from a release of oil or a hazardous substance, the plans
16 must be substantially equivalent in relevant respects to the emergency
17 plans prepared or approved by the Alaska State Emergency Response
18 Commission under AS 46.13 and use the same incident command system
19 used in those plans.

20 * Sec. 4. AS 46.03.865(c) is amended to read:

21 (c) When the department issues an order [DURING A PERIOD OF
22 EMERGENCY DECLARED] under (a) of this section, each state agency [,
23 INCLUDING, WHEN APPROPRIATE, THE DEPARTMENT OF MILITARY AND VETERANS'
24 AFFAIRS UNDER THE AUTHORITY CONFERRED BY AS 26.20,] shall take whatev-
25 er action the department finds necessary to meet the emergency, and to
26 protect the public health, welfare, or environment.

27 * Sec. 5. AS 46.04.080(a) is amended to read:

28 (a) The actual or imminent occurrence of a catastrophic oil
29 discharge constitutes a disaster emergency under AS 26.23. In the

1 event of a catastrophic oil discharge, the [HOWEVER, THE DEPARTMENT
2 SHALL PERFORM THE DUTIES OF THE ALASKA DIVISION OF EMERGENCY SERVICES
3 UNDER AS 26.23.040 AS THEY APPLY TO CATASTROPHIC OIL DISCHARGES. THE]
4 department shall, to the extent consistent with the plans developed
5 under AS 46.04.200 - 46.04.210 and AS 46.13, consult and coordinate
6 its duties under this chapter and AS 46.03 [SECTION] with the Alaska
7 division of emergency services.

8 * Sec. 6. AS 46.04 is amended by adding a new section to article 2 to
9 read:

10 Sec. 46.04.220. CONSISTENCY WITH OTHER PLANS. The plans pre-
11 pared under AS 46.04.200 - 46.04.210 must be substantially equivalent
12 in relevant respects to the emergency plans prepared or approved by
13 the Alaska State Emergency Response Commission under AS 46.13 and use
14 the same incident command system used in those plans.

15 * Sec. 7. AS 46.08.040 is amended by adding a new subsection to read:

16 (b) When the governor declares a disaster related to an oil or
17 hazardous substance discharge emergency under AS 26.23.020(c), the
18 governor may, during the effective period of the disaster emergency,
19 use money from the fund to respond to the disaster emergency.

20 * Sec. 8. AS 46 is amended by adding a new chapter to read:

21 CHAPTER 13. ALASKA STATE EMERGENCY RESPONSE COMMISSION.

22 Sec. 46.13.010. ALASKA STATE EMERGENCY RESPONSE COMMISSION
23 ESTABLISHED. There is established in the Department of Environmental
24 Conservation the Alaska State Emergency Response Commission.

25 Sec. 46.13.020. COMPOSITION OF THE COMMISSION. The commission
26 consists of the commissioners of community and regional affairs,
27 environmental conservation, fish and game, health and social services,
28 labor, natural resources, public safety, and transportation and public
29 facilities, or the designees of the commissioners, the adjutant

1 general of the Department of Military and Veterans' Affairs or a
2 designee, and seven public members to be appointed by the governor.
3 To the extent practicable, the commission must include members with
4 expertise in the emergency response field.

5 Sec. 46.13.030. POWERS AND DUTIES OF COMMISSION. The commission
6 shall

7 (1) serve as the state emergency response commission re-
8 quired under 42 U.S.C. 11001 - 11005;

9 (2) designate, and revise as necessary, the boundaries of
10 emergency planning districts, using the boundaries of political sub-
11 divisions if appropriate;

12 (3) review, oversee, and facilitate the preparation and
13 implementation of emergency plans for hazardous substance response,
14 including statewide, regional, and local contingency plans prepared
15 under AS 26.23 and AS 46.04.200 - 46.04.210;

16 (4) establish a local emergency planning committee for each
17 emergency planning district, and appoint, and revise as necessary, the
18 membership of each committee;

19 (5) supervise and coordinate the activities of local emer-
20 gency planning committees;

21 (6) establish procedures for receiving and processing
22 requests from the public for information under 42 U.S.C. 11044, in-
23 cluding tier II information under 42 U.S.C. 11022;

24 (7) perform other coordinating, advisory, or planning tasks
25 related to hazardous substance emergency planning and preparedness,
26 community right-to-know reporting, toxic chemical release reporting,
27 or management of hazardous substances;

28 (8) provide procedures and oversight to integrate, as
29 appropriate, hazardous substance response planning under 42 U.S.C.

1 11001 - 11005, federal contingency planning under 33 U.S.C. 1321 and
2 other federal laws applicable to hazardous substance discharges, and
3 state, regional, and local hazardous substance contingency planning
4 under AS 26.23 and AS 46.04.200 - 46.04.210;

5 (9) to the extent consistent with the constitution and law
6 of the state, perform all other functions prescribed for state emer-
7 gency response commissions under 42 U.S.C. 11001 - 11005; and

8 (10) adopt regulations necessary to carry out the purposes
9 of this chapter and 42 U.S.C. 11001 - 11005.

10 Sec. 46.13.040. OFFICERS, TERMS, AND COMPENSATION. The commis-
11 sioner of environmental conservation, or the commissioner's designee,
12 shall chair the commission. The adjutant general of the Department of
13 Military and Veterans' Affairs, or the adjutant general's designee,
14 shall serve as vice-chair. Members of the commission other than those
15 from the designated state departments serve at the pleasure of the
16 governor for staggered terms of three years. Members of the commis-
17 sion serve without compensation but are entitled to per diem and
18 travel expenses authorized for members of boards and commissions under
19 AS 39.20.180.

20 Sec. 46.13.050. AGENCY COOPERATION. The commission may request
21 data, reports, or other information from a state agency. To the
22 extent feasible, the state agency shall cooperate with the commission
23 and furnish the commission with the information and assistance neces-
24 sary to accomplish the purposes of 42 U.S.C. 11001 - 11005 and this
25 chapter.

26 Sec. 46.13.060. EMERGENCY PLANNING DISTRICT BOUNDARIES. Bound-
27 aries for emergency planning districts are the regions designated by
28 the division of emergency services, Department of Military and Veter-
29 ans' Affairs unless otherwise designated by the commission.

1 Sec. 46.13.070. LOCAL EMERGENCY PLANNING COMMITTEES. The com-
2 mission shall establish and appoint the members of a local emergency
3 planning committee for each emergency planning district. Each commit-
4 tee must include, at a minimum, representatives from each of the
5 following groups or organizations: elected state and local officials;
6 law enforcement; civil defense; fire fighting; first aid; health;
7 local environmental, hospital, and transportation personnel; broadcast
8 and print media; community groups; and owners and operators of facili-
9 ties subject to the requirements of 42 U.S.C. 11001 - 11005.

10 Sec. 46.13.080. DUTIES OF LOCAL EMERGENCY PLANNING COMMITTEES.
11 Each local emergency planning committee shall

12 (1) establish procedures for receiving and processing
13 requests from the public for information under 42 U.S.C. 11044, in-
14 cluding tier II information under 42 U.S.C. 11022;

15 (2) appoint a chair and establish rules by which the com-
16 mittee shall function, including provisions for public notification of
17 committee activities, public meetings to discuss the emergency plan,
18 public comments, response to the comments by the committee, distribu-
19 tion of the emergency plan, and designation of an official to serve as
20 coordinator for information;

21 (3) prepare and periodically review an emergency plan in
22 accordance with 42 U.S.C. 11003(a);

23 (4) evaluate the need for resources necessary to develop,
24 implement, and exercise the emergency plan, and make recommendations
25 with respect to additional resources that may be required and the
26 means for providing the additional resources;

27 (5) to the extent consistent with the constitution and law
28 of the state, perform all other functions prescribed for emergency
29 planning committees in 42 U.S.C. 11001 - 11005; and

1 (6) participate as a local advisory committee in the prepara-
2 tion of statewide regional contingency plans.

3 Sec. 46.13.090. EMERGENCY PLANS. (a) Each emergency plan must
4 include

5 (1) identification of facilities subject to the require-
6 ments of 42 U.S.C. 11001 - 11005 that are within the emergency plan-
7 ning district, identification of routes likely to be used for the
8 transportation of substances on the list of extremely hazardous sub-
9 stances referred to in 42 U.S.C. 302(a), and identification of addi-
10 tional facilities contributing or subjected to additional risk due to
11 their proximity to facilities subject to the requirements of 42 U.S.C.
12 11001 - 11005 such as hospitals or natural gas facilities;

13 (2) methods and procedures to be followed by facility
14 owners and operators and local emergency and medical personnel to
15 respond to a release of hazardous substances, and to a release of
16 substances on the list of extremely hazardous substances referred to
17 in 42 U.S.C. 302(a);

18 (3) designation of a community emergency coordinator and
19 facility emergency coordinators, who shall make determinations neces-
20 sary to implement the emergency plan;

21 (4) procedures providing reliable, effective, and timely
22 notification by the facility emergency coordinators to persons des-
23 ignated in the emergency plan, and to the public, that a release has
24 occurred, consistent with the emergency notification requirements of
25 42 U.S.C. 11004;

26 (5) methods for determining the occurrence of a release,
27 and the area or population likely to be affected by that release;

28 (6) a description of emergency equipment and facilities in
29 the community and at each facility in the community subject to the

1 requirements of 42 U.S.C. 11001 - 11005, and an identification of the
2 persons responsible for the equipment and facilities;

3 (7) evacuation plans, including provisions for a precau-
4 tionary evacuation and alternative traffic routes;

5 (8) training programs, including schedules for training of
6 local emergency response and medical personnel; and

7 (9) methods and schedules for exercising the emergency
8 plan.

9 (b) Each emergency plan must incorporate within it an incident
10 command system. The incident command system must provide that final
11 state decision-making authority in situations involving a response to
12 the release of a hazardous substance lies with the Department of
13 Environmental Conservation. The plans must include criteria the
14 department will use when considering whether to delegate all or part
15 of its authority in specific response situations.

16 Sec. 46.13.100. CONSULTATION WITH CITIZEN ADVISORY GROUPS. The
17 commission and the local planning committees established under AS 46.-
18 13.070 shall actively solicit the advice of appropriate citizen advi-
19 sory groups and oversight councils when performing their duties under
20 this chapter. When feasible, the commission and planning committees
21 shall meet with the advisory groups and oversight councils or with
22 representatives of the groups or councils.

23 Sec. 46.13.900. DEFINITIONS. In this chapter,

24 (1) "commission" means the Alaska State Emergency Response
25 Commission;

26 (2) "hazardous substance" has the meaning given in AS 46.-
27 03.826.

28 * Sec. 9. TRANSITIONAL PROVISION. The Alaska State Emergency Response
29 Commission established under AS 46.13, enacted by sec. 8 of this Act, is a

1 continuation of the Alaska State Emergency Response Commission established
2 by Administrative Order No. 103. The terms of the public members of the
3 commission who are serving terms on the effective date of this Act continue
4 until the date that was scheduled for their expiration before the effective
5 date of this Act.

6 * Sec. 10. This Act takes effect immediately under AS 01.10.070(c).