

Original sponsor(s): Rules/Governor

1 IN THE HOUSE

BY THE FINANCE COMMITTEE

2

CS FOR HOUSE BILL NO. 566 (Finance)

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IN THE LEGISLATURE OF THE STATE OF ALASKA

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SIXTEENTH LEGISLATURE - SECOND SESSION

5

A BILL

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For an Act entitled: "An Act providing that the Department of Environmental Conservation has final state decision-making authority during situations involving a response to the release of oil or a hazardous substance; returning to the division of emergency services the catastrophic oil discharge response functions formerly assigned to the Department of Environmental Conservation under AS 46.04.080(a); establishing the Alaska State Emergency Response Commission; requiring certain emergency plans to be substantially equivalent; and providing for an effective date."

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

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\* Section 1. AS 26.23 is amended by adding a new section to read:

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

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\* Sec. 2. AS 46.03.865(c) is amended to read:

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(c) When the department issues an order [DURING A PERIOD OF EMERGENCY DECLARED] under (a) of this section, each state agency [,

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1 INCLUDING, WHEN APPROPRIATE, THE DEPARTMENT OF MILITARY AND VETERANS'  
2 AFFAIRS UNDER THE AUTHORITY CONFERRED BY AS 26.20,] shall take whatever  
3 action the department finds necessary to meet the emergency, and to  
4 protect the public health, welfare, or environment.

5 \* Sec. 3. AS 46.04.080(a) is amended to read:

6 (a) The actual or imminent occurrence of a catastrophic oil  
7 discharge constitutes a disaster emergency under AS 26.23. In the  
8 event of a catastrophic oil discharge, the [HOWEVER, THE DEPARTMENT  
9 SHALL PERFORM THE DUTIES OF THE ALASKA DIVISION OF EMERGENCY SERVICES  
10 UNDER AS 26.23.040 AS THEY APPLY TO CATASTROPHIC OIL DISCHARGES. THE]  
11 department shall, to the extent consistent with the plans developed  
12 under AS 46.04.200 - 46.04.210 and AS 46.13, consult and coordinate  
13 its duties under this chapter and AS 46.03 [SECTION] with the Alaska  
14 division of emergency services.

15 \* Sec. 4. AS 46.04 is amended by adding a new section to article 2 to  
16 read:

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

22 \* Sec. 5. AS 46 is amended by adding a new chapter to read:

23 CHAPTER 13. ALASKA STATE EMERGENCY RESPONSE COMMISSION.

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

27 Sec. 46.13.020. COMPOSITION OF THE COMMISSION. The commission  
28 consists of the commissioners of community and regional affairs,  
29 environmental conservation, fish and game, health and social services,

1 labor, natural resources, public safety, and transportation and public  
2 facilities, or the designees of the commissioners, the adjutant gen-  
3 eral of the Department of Military and Veterans' Affairs or a desig-  
4 nee, and seven public members to be appointed by the governor. To the  
5 extent practicable, the commission must include members with expertise  
6 in the emergency response field.

7 Sec. 46.13.030. POWERS AND DUTIES OF COMMISSION. The commission  
8 shall

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

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

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

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

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

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

27 (7) provide procedures and oversight to integrate, as  
28 appropriate, hazardous substance response planning under 42 U.S.C.  
29 11001 - 11005, federal contingency planning under 33 U.S.C. 1321 and

1 other federal laws applicable to hazardous substance discharges, and  
2 state, regional, and local hazardous substance contingency planning  
3 under AS 26.23 and AS 46.04.200 - 46.04.210;

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

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

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

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

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

29 Sec. 46.13.070. LOCAL EMERGENCY PLANNING COMMITTEES. The

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

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

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

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

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

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

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

29 (6) participate as a local advisory committee in the

1 preparation of statewide regional contingency plans.

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

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

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

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

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

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

27 (6) a description of emergency equipment and facilities in  
28 the community and at each facility in the community subject to the  
29 requirements of 42 U.S.C. 11001 - 11005, and an identification of the

1 persons responsible for the equipment and facilities;  
2 (7) evacuation plans, including provisions for a precau-  
3 tionary evacuation and alternative traffic routes;  
4 (8) training programs, including schedules for training of  
5 local emergency response and medical personnel; and  
6 (9) methods and schedules for exercising the emergency  
7 plan.

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

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

22 Sec. 46.13.900. DEFINITIONS. In this chapter,

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

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

27 \* Sec. 6. TRANSITIONAL PROVISION. The Alaska State Emergency Response  
28 Commission established under AS 46.13, enacted by sec. 5 of this Act, is a  
29 continuation of the Alaska State Emergency Response Commission established

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

5 \* Sec. 7. This Act takes effect immediately under AS 01.10.070(c).