

Original sponsor(s): Resources Committee

1 IN THE HOUSE BY THE C&RA COMMITTEE
2 CS FOR HOUSE BILL NO. 577 (C&RA)
3 IN THE LEGISLATURE OF THE STATE OF ALASKA
4 SIXTEENTH LEGISLATURE - SECOND SESSION
5 A BILL
6 For an Act entitled: "An Act concerning the exercise of authority and
7 recovery of damages by the state and its municipal-
8 ities and villages in matters relating to environ-
9 mental conservation; relating to state assistance to
10 municipalities and villages for expenses for preven-
11 tion and abatement of environmental degradation;
12 establishing an oil and hazardous substance municipal
13 impact fund in the Department of Community and Re-
14 gional Affairs; and amending provisions applicable to
15 the suspension and reimposition of the oil and gas
16 production tax oil surcharge to provide money to that
17 fund; and providing for an effective date."
18 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:
19 * Section 1. AS 29.35.020(b) is amended to read:
20 (b) A municipality may adopt an ordinance to exercise a power
21 authorized by this subsection [PROTECT ITS WATER SUPPLY AND WATER-
22 SHED,] and may enforce the ordinance outside its boundaries. Before a
23 [THIS] power authorized by this subsection may be exercised inside the
24 boundaries of another municipality, the approval of the other munic-
25 ipality must be given by ordinance. A municipality intending to
26 exercise its authority under this subsection shall act by ordinance.
27 and may adopt an ordinance under this subsection to
28 (1) protect its water supply and watershed; or
29 (2) contain, clean up, or prevent the release or threatened

1 release of oil or a hazardous substance that may pose an imminent or
2 substantial threat to persons, property, or natural resources within
3 the municipality's boundaries; however, this paragraph does not au-
4 thorize a municipality to enforce an ordinance outside its boundaries
5 to regulate exploration, development, or production of oil, gas, or
6 minerals in a manner inconsistent with the state's management of those
7 resources when the state is the owner of the land, tideland, or sub-
8 merged land; the ordinance adopted must be consistent with a regional
9 master plan for the region in which the municipality is located if a
10 plan has been prepared by the Department of Environmental Conservation
11 under AS 46.04.210; in this paragraph, "natural resources" has the
12 meaning given in AS 46.03.826.

13 * Sec. 2. AS 29.35.200 is amended by adding a new subsection to read:

14 (d) A first class borough that exercises power necessary to
15 contain, clean up, or prevent a release or threatened release of oil
16 or a hazardous substance, and exercise a power granted to a municipal-
17 ity under AS 46.04, AS 46.08, or AS 46.09 shall exercise its authority
18 in a manner that is consistent with a regional master plan for the
19 region in which the borough is located if a plan has been prepared by
20 the Department of Environmental Conservation under AS 46.04.210.

21 * Sec. 3. AS 29.35.210(a) is amended by adding a new paragraph to read:

22 (13) contain, clean up, or prevent a release or threatened
23 release of oil or a hazardous substance, and exercise a power granted
24 to a municipality under AS 46.04, AS 46.08, or AS 46.09; the borough
25 shall exercise its authority under this paragraph in a manner that is
26 consistent with a regional master plan for the region in which the
27 borough is located if a plan has been prepared by the Department of
28 Environmental Conservation under AS 46.04.210.

29 * Sec. 4. AS 29.35.220 is amended by adding a new subsection to read:

1 (e) A third class borough may by ordinance exercise power neces-
2 sary to contain, clean up, or prevent a release or threatened release
3 of oil or a hazardous substance, and exercise a power granted to a
4 municipality under AS 46.04, AS 46.08, or AS 46.09, but the power
5 authorized by this subsection may be exercised only on a nonareawide
6 basis. The borough shall exercise its authority under this subsection
7 in a manner that is consistent with a regional master plan for the
8 region in which the borough is located if a plan has been prepared by
9 the Department of Environmental Conservation under AS 46.04.210.

10 * Sec. 5. AS 29.60 is amended by adding new sections to read:

11 ARTICLE 6. OIL AND HAZARDOUS SUBSTANCE MUNICIPAL
12 IMPACT ASSISTANCE.

13 Sec. 29.60.500. PURPOSE AND POLICY. (a) The legislature finds
14 and declares that the release of oil or hazardous substances into the
15 environment presents a real and substantial threat to the economy and
16 public welfare of the municipalities and villages that are affected by
17 the release.

18 (b) The legislature concludes that it is in the best interest of
19 the state and its citizens to provide a readily available fund for the
20 payment of the expenses incurred by municipalities and villages to
21 mitigate the additional costs of reasonable and appropriate functions
22 and services that arise out of the release of oil or hazardous sub-
23 stances.

24 (c) It is the intent of the legislature and declared to be the
25 public policy of the state that money to defray the additional costs
26 of reasonable and appropriate functions and services by municipalities
27 and villages arising from a release of oil or a hazardous substance
28 and to pay for efforts to abate that release will always be available.

29 Sec. 29.60.510. FUND ESTABLISHED. (a) There is established in

1 the state general fund the oil and hazardous substance municipal
2 impact fund. The fund shall be administered by the commissioner.

3 (b) Money from an appropriation made to the fund remaining in
4 the fund at the end of a fiscal year remains available for expenditure
5 by the department in successive fiscal years.

6 (c) The fund shall be used to make grants under AS 29.60.530 for
7 actual expenses incurred by municipalities and villages.

8 Sec. 29.60.520. FINANCING OF THE FUND. The legislature may
9 appropriate from the account established in AS 43.55.210 to the fund.

10 Sec. 29.60.530. ADMINISTRATION OF THE FUND. (a) The commis-
11 sioner may use money from the fund to make grants to a municipality or
12 village affected by a release of oil or a hazardous substance and
13 demonstrating extraordinary expenditures that are beyond the reason-
14 able capability of the municipality or village to meet from the munic-
15 ipality's or village's current revenue sources.

16 (b) A grant made under this section may be made

17 (1) only for

18 (A) provision of subsistence resources on which the
19 residents of the municipality or village rely for subsistence
20 needs;

21 (B) the additional costs of a reasonable and appropri-
22 ate function or service, including administrative expenses for
23 the incremental costs of providing the function or service,
24 limited to

25 (i) public health and welfare functions and
26 services, including hospital, clinic, and emergency medical
27 services; alcohol, drug abuse, and mental health services;
28 family support services; and the operation of waste disposal
29 systems and water quality improvement systems;

1 (ii) public safety functions and services, includ-
2 ing police protection, search and rescue, and fire protec-
3 tion;

4 (iii) public utility functions and services, in-
5 cluding the operation of electric generating plants and
6 distribution systems, water supply systems, telephone sys-
7 tems, and fuel distribution systems;

8 (iv) housing functions and services, limited to
9 leasing or making other arrangements for temporary housing
10 to be occupied by persons associated with containment or
11 clean up of the release;

12 (C) costs associated with leasing transportation
13 facilities for use in activities associated with the containment
14 or clean up;

15 (D) costs of repair or replacement of equipment or a
16 capital asset associated with a function or service set out in
17 (B) of this paragraph the useful life of which has been substan-
18 tially reduced by use associated with the containment or clean
19 up; and

20 (2) to compensate the municipality or village for

21 (A) the reduction of revenue attributable to the
22 discharge of the oil or hazardous substance; and

23 (B) the costs of projects or activities that are
24 delayed or lost because of the efforts of the municipality or
25 village associated with the containment or clean up.

26 (c) In determining whether an expenditure by a municipality or
27 village is eligible for a grant from the fund, the department shall
28 consider

29 (1) the availability of money to the recipient from other

1 sources that can be used to support the request;

2 (2) the degree to which the proposed expenditure in the
3 grant application alleviates or addresses an effect reasonably attrib-
4 utable to the oil or hazardous substance discharge;

5 (3) the ability of the municipality or village to accommo-
6 date or absorb the effect through existing programs; and

7 (4) other criteria the department considers appropriate.

8 (d) The department may reject an application for a grant under
9 this section or approve an application for a grant in an amount that
10 is less than the amount requested by a municipality or village if the
11 department determines that payment of the amount requested is not
12 warranted under this section.

13 (e) If the total amount of money requested by eligible munic-
14 ipalities and villages for projects exceeds the amount available in
15 the fund, the department shall rank all or a portion of the applica-
16 tions for the purpose of establishing the priority order of awarding
17 grants. In ranking an application under this subsection, the depart-
18 ment shall consider

19 (1) the severity of the effect addressed in the applica-
20 tion;

21 (2) the degree to which the effect on the municipality or
22 village is directly caused by the oil or hazardous substance dis-
23 charge; and

24 (3) whether the proposed project is part of a coordinated
25 program with other affected municipalities and villages.

26 (f) The provisions of (e) of this section do not prevent the de-
27 partment from making a grant payment in an amount that is less than an
28 amount requested by a municipality or village if the department deter-
29 mines that payment of the amount requested is not warranted under this

1 section.

2 (g) A grant made under (a) of this section may not be used di-
3 rectly or indirectly to reduce current municipal tax rates or to
4 retire existing bonded indebtedness of a municipality.

5 Sec. 29.60.540. RECORDS OF THE FUND. (a) The department shall
6 maintain accounting records showing the income and expenses of the
7 fund.

8 (b) The department shall develop procedures governing the expen-
9 diture of, and accounting for, money expended from the fund.

10 Sec. 29.60.550. REPORT TO THE LEGISLATURE. The commissioner
11 shall submit a report to the legislature not later than the 10th day
12 following the convening of each regular session of the legislature.
13 The report may include information considered significant by the
14 commissioner but must include:

15 (1) the amount of money expended under AS 29.60.530 during
16 the preceding fiscal year; and

17 (2) a detailed summary of department activities in adminis-
18 tering the fund during the preceding fiscal year.

19 Sec. 29.60.560. REGULATIONS. The commissioner may adopt regula-
20 tions that are necessary to implement the purposes of AS 29.60.500 -
21 29.60.590.

22 Sec. 29.60.570. IMPACT ASSESSMENT. (a) If, in response to a
23 release of oil or a hazardous substance, municipalities or villages
24 apply for grants under AS 29.60.530, the commissioner shall, after
25 consulting with and securing the written approval of the attorney
26 general, make an assessment of the social and economic effects of the
27 release of the oil or hazardous substance on the municipalities, the
28 villages, and the region in which the discharge occurs. The commis-
29 sioner may make the assessment by

- 1 (1) using staff of the department;
2 (2) contracting with a municipality or other entity for the
3 assessment; or
4 (3) authorizing a municipality or other entity to make the
5 assessment and supporting that effort by a grant.

6 (b) Only one assessment may be completed under this section for
7 each release of oil or a hazardous substance.

8 (c) The commissioner may pay the costs of the assessment from
9 money available in the fund.

10 Sec. 29.60.590. DEFINITIONS. In AS 29.60.500 - 29.60.590

11 (1) "containment and clean up" has the meaning given in
12 AS 46.08.900;

13 (2) "fund" means the oil and hazardous substance municipal
14 impact fund;

15 (3) "hazardous substance," "oil," and "release" have the
16 meanings given in AS 46.08.900;

17 (4) "village"

18 (A) means a place in which 25 or more persons reside
19 as a social unit that is not incorporated as a municipality under
20 state law;

21 (B) does not include a place within a borough if the
22 power, function, or service for which the grant application is
23 submitted is exercised or provided by the borough on an areawide
24 or nonareawide basis at the time the grant application is submit-
25 ted.

26 * Sec. 6. AS 43.55.220 is amended to read:

27 Sec. 43.55.220. USE OF REVENUE DERIVED FROM SURCHARGE. The
28 legislature may appropriate the annual estimated balance of the ac-
29 count established under AS 43.55.210 to

1 (1) the oil and hazardous substance release response fund
2 established by AS 46.08.010; and

3 (2) the oil and hazardous substance municipal impact fund
4 established by AS 29.60.510.

5 * Sec. 7. AS 43.55.230(a) is amended to read:

6 (a) Not later than 30 days after the end of each calendar quar-
7 ter, the commissioner of administration shall determine the cumulative
8 total of money

9 (1) that has been deposited through that calendar quarter
10 into the general fund under AS 43.55.210;

11 (2) expended through that calendar quarter from

12 (A) the oil and hazardous substance release response
13 fund established in AS 46.08.010; and

14 (B) the oil and hazardous substance municipal impact
15 fund established in AS 29.60.510.

16 * Sec. 8. AS 43.55.230(c) is amended to read:

17 (c) If the commissioner of administration reports that the
18 difference determined under (b) of this section equals or exceeds
19 \$60,000,000 [\$50,000,000], the commissioner of revenue shall suspend
20 imposition and collection of the surcharge levied and collected under
21 AS 43.55.200. Suspension of the imposition and collection of the
22 surcharge begins on the first day of the calendar quarter next follow-
23 ing the commissioner's receipt of the commissioner of administration's
24 report under (b) of this section. Before the first day of a suspen-
25 sion authorized by this subsection, the commissioner shall make a
26 reasonable effort to notify all persons who are known to the depart-
27 ment to be paying the surcharge under AS 43.55.200 that the surcharge
28 will be suspended.

29 * Sec. 9. AS 43.55.230(d) is amended to read:

1 (d) Except as provided in AS 43.55.240, if the commissioner of
2 administration reports that the difference determined under (b) of
3 this section is less than \$60,000,000 [\$50,000,000], the commissioner
4 of revenue shall require imposition and collection of the surcharge
5 authorized under AS 43.55.200. Reimposition of the surcharge begins
6 on the first day of the calendar quarter next following the commis-
7 sioner's receipt of the commissioner of administration's report under
8 (b) of this section. Before the first day of reimposition of the
9 surcharge authorized by this subsection, the commissioner shall make a
10 reasonable effort to notify all persons who are known to the depart-
11 ment to be required to pay the surcharge under AS 43.55.200 that the
12 surcharge will be reimposed.

13 * Sec. 10. AS 43.55.240 is amended to read:

14 Sec. 43.55.240. SURCHARGE NOT IMPOSED. The surcharge authorized
15 by AS 43.55.200 is not levied during any fiscal year for which the
16 estimated revenue from the surcharge would be sufficient to restore
17 the combined balances [BALANCE] of the oil and hazardous substance
18 release response fund and the oil and hazardous substance municipal
19 impact fund on the first day of the fiscal year to at least
20 \$60,000,000 [\$50,000,000], and

21 (1) the legislature does not, during the regular legisla-
22 tive session preceding the first day of the fiscal year, appropriate
23 money from the general fund

24 (A) to the oil and hazardous substance release re-
25 sponse fund sufficient to restore the balance of that fund on the
26 first day of the fiscal year to at least \$50,000,000; and

27 (B) to the oil and hazardous substance municipal
28 impact fund sufficient to restore the balance of that fund on the
29 first day of the fiscal year to at least \$10,000,000; or

1 (2) the legislature, during the regular legislative session
2 preceding the first day of the fiscal year, appropriates money from
3 the general fund

4 (A) to the oil and hazardous substance release re-
5 sponse fund sufficient to restore the balance of that fund on the
6 first day of the fiscal year to at least \$50,000,000 and, because
7 of gubernatorial veto or reduction in the amount of the appropri-
8 ation, restoration of the balance of the fund to at least
9 \$50,000,000 does not become law; or

10 (B) to the oil and hazardous substance municipal
11 impact fund sufficient to restore the balance of that fund on the
12 first day of the fiscal year to at least \$10,000,000 and, because
13 of gubernatorial veto or reduction in the amount of the appro-
14 priation, restoration of the balance of the fund to at least
15 \$10,000,000 does not become law.

16 * Sec. 11. Section 3, ch. 112, SLA 1989 is amended to read:

17 Sec. 3. APPLICATION OF AS 43.55.240. (a) AS 43.55.240, added
18 by sec. 2 of this Act, does not apply to prevent the levy and collec-
19 tion of the surcharge imposed by AS 43.55.200 until the first day of
20 the fiscal year next following the day on which the combined balances
21 [BALANCE] of the oil and hazardous substance release response fund and
22 the oil and hazardous substance municipal impact fund first exceed
23 \$60,000,000 [EXCEEDS \$50,000,000].

24 (b) The commissioner of administration shall certify to the
25 commissioner of environmental conservation, the commissioner of reve-
26 nue, the commissioner of community and regional affairs, and the
27 division of legislative finance the date on which the combined bal-
28 ances [BALANCE] of the oil and hazardous substance release response
29 fund and the oil and hazardous substance municipal impact fund first

1 exceed \$60,000,000 [EXCEEDS \$50,000,000].

2 * Sec. 12. AS 46.03.822(a) is amended to read:

3 (a) Notwithstanding any other provision or rule of law and
4 subject only to the defenses set out in (b) of this section and the
5 exception set out in (i) of this section, the following persons are
6 strictly liable, jointly and severally, for damages to persons or
7 property, whether public or private, including damage to the natural
8 resources of the state or a municipality, or to the natural resources
9 that are owned by a village. [AND] for the costs of response, contain-
10 ment, removal, or remedial action incurred by the state, [OR] a munic-
11 ipality, or a village, and for the additional costs of a function or
12 service, including administrative expenses for the incremental costs
13 of providing the function or service, that are incurred by the state,
14 a municipality, or a village. resulting from an unpermitted release
15 of a hazardous substance or, with respect to response costs, the
16 substantial threat of an unpermitted release of a hazardous sub-
17 stance:

18 (1) the owner of, and the person having control over, the
19 hazardous substance at the time of the release or threatened release;
20 this paragraph does not apply to a consumer product in consumer use;

21 (2) the owner and the operator of a vessel or facility,
22 from which there is a release, or a threatened release that causes the
23 incurrence of response costs, of a hazardous substance;

24 (3) any person who at the time of disposal of any hazardous
25 substance owned or operated any facility or vessel at which the haz-
26 ardous substances were disposed of, from which there is a release, or
27 a threatened release that causes the incurrence of response costs, of
28 a hazardous substance;

29 (4) any person who by contract, agreement, or otherwise

1 arranged for disposal or treatment, or arranged with a transporter for
2 transport for disposal or treatment, of hazardous substances owned or
3 possessed by the person, other than domestic sewage, or by any other
4 party or entity, at any facility or vessel owned or operated by an-
5 other party or entity and containing hazardous substances, from which
6 there is a release, or a threatened release that causes the incurrence
7 of response costs, of a hazardous substance;

8 (5) any person who accepts or accepted any hazardous sub-
9 stances, other than refined oil, for transport to disposal or treat-
10 ment facilities, vessels or sites selected by the person, from which
11 there is a release, or a threatened release that causes the incurrence
12 of response costs, of a hazardous substance.

13 * Sec. 13. AS 46.03.900 is amended by adding new paragraphs to read:

14 (35) "service" means a function performed or service pro-
15 vided by the state or by a municipality under a duty or power au-
16 thorized by AS 29 or other provision of law authorizing a municipality
17 to perform functions or provide services, or a comparable function
18 performed or service provided by a village; "service" includes func-
19 tions not previously performed and services not previously provided by
20 the state, by the municipality, or by the village;

21 (36) "village" means a place in which 25 or more persons
22 reside as a social unit that is not incorporated as a municipality
23 under state law.

24 * Sec. 14. AS 46.04.020(e) is amended to read:

25 (e) The department shall enter into negotiations for memoranda
26 of understanding or cooperative agreements with the United States
27 Coast Guard, the United States Environmental Protection Agency, munic-
28 ipalities, villages, and other persons in order to

29 (1) facilitate coordinated and effective oil discharge

1 response in the state;

2 (2) provide for cooperative review of oil discharge contin-
3 gency plans submitted to the department under AS 46.04.030;

4 (3) provide for cooperative inspections of oil terminal
5 facilities by the department and the United States Coast Guard or
6 United States Environmental Protection Agency; and

7 (4) provide for cooperative oil discharge notification
8 procedures.

9 * Sec. 15. AS 46.04.030 is amended by adding a new subsection to read:

10 (h) Before approving an oil discharge contingency plan under
11 this section, the commissioner shall

12 (1) consult with municipal officials and with representa-
13 tives of affected regions and community organizations; and

14 (2) disseminate the draft plan to the public for review and
15 comment.

16 * Sec. 16. AS 46.04.900(5) is amended to read:

17 (5) "containment and cleanup" includes all direct and
18 indirect efforts associated with the prevention, abatement, contain-
19 ment, or removal of discharged oil or a pollutant, and the restoration
20 of the environment to its former state; when applied to expenses, the
21 term includes the additional costs of providing a reasonable and
22 appropriate function or service incurred in response to the discharge
23 of a pollutant, including [, AND ALL INCIDENTAL] administrative expen-
24 ses for the incremental costs of providing the function or service;

25 * Sec. 17. AS 46.04.900 is amended by adding new paragraphs to read:

26 (18) "service" means a function performed or service pro-
27 vided by the state, a municipality, or a village, including functions
28 not previously performed and services not previously provided by the
29 state, the municipality, or the village;

1 (19) "village" means a place in which 25 or more persons
2 reside as a social unit that is not incorporated as a municipality
3 under state law.

4 * Sec. 18. AS 46.08.040 is amended to read:

5 Sec. 46.08.040. PURPOSES OF THE FUND. The commissioner may use
6 money from the fund to

7 (1) investigate and evaluate the release or threatened
8 release of oil or a hazardous substance, and contain, clean up, and
9 take other necessary action, such as monitoring and assessing, to
10 address a release or threatened release of oil or a hazardous sub-
11 stance that poses an imminent and substantial threat to the public
12 health or welfare, or to the environment; an assessment made under
13 this paragraph may include an assessment of the social and economic
14 effects of the release or threatened release;

15 (2) pay all costs incurred to establish and maintain the
16 oil and hazardous substance response office and for the expenses of
17 the oil and hazardous substance response corps and the oil and hazard-
18 ous substance response depots established by that office;

19 (3) provide matching funds for participation in federal oil
20 discharge cleanup activities and under 42 U.S.C. 9601 - 9657 (Compre-
21 hensive Environmental Response, Compensation, and Liability Act of
22 1980); [AND]

23 (4) recover the costs to the state, [OR TO] a municipality,
24 or a village of a containment and cleanup resulting from the release
25 or the threatened release of oil or a hazardous substance; [.]

26 (5) prepare, review, and revise

27 (A) the state's master oil and hazardous substance
28 discharge and prevention contingency plan required by AS 46.04.-
29 200; and

1 (B) a regional master oil and hazardous substance
2 discharge and prevention contingency plan required by AS 46.04.-
3 210; [AND]

4 (6) restore the environment by addressing the effects of an
5 oil or hazardous substance release; and

6 (7) make grants under AS 46.08.072.

7 * Sec. 19. AS 46.08.070(c) is amended to read:

8 (c) The department shall [MAY] reimburse a municipality or
9 village for actual expenses [, OTHER THAN NORMAL OPERATING EXPENSES,]
10 incurred in the abatement of a release or threatened release of oil or
11 a hazardous substance if

12 (1) the municipality or village has entered into an agree-
13 ment with the commissioner under AS 46.04.020(e) or AS 46.09.020(e);
14 and

15 (2) the commissioner determines that the expenses were an
16 appropriate [FOR A NECESSARY EMERGENCY FIRST] response to a release or
17 threatened release that, at the time of the release or threatened
18 release, posed an imminent and substantial threat to the public health
19 or welfare, or to the environment.

20 * Sec. 20. AS 46.08 is amended by adding a new section to read:

21 Sec. 46.08.072. GRANTS. (a) The department may make grants to
22 a municipality or a village to enable the municipality or village to
23 carry out an emergency first response to a release or threatened
24 release of oil or a hazardous substance that poses an imminent and
25 substantial threat to the public health or welfare or to the environ-
26 ment. A grant may be used by the grant recipient to pay costs in-
27 curred by the recipient for the direct efforts associated with the
28 containment and clean up of oil or a hazardous substance and related
29 incidental administrative costs.

1 (b) When an applicant submits an application for a grant under
2 this section, the department shall review and accept or reject the
3 grant application as promptly as possible to permit the municipality
4 or village to execute a proper response.

5 (c) After consultation with the Department of Community and
6 Regional Affairs, the department shall adopt regulations to carry out
7 this section. The regulations must establish

- 8 (1) eligibility requirements of applicants;
9 (2) procedures for review of applications submitted under
10 (a) of this section so that the department may make the decisions
11 under (b) of this section;
12 (3) standards for the evaluation of applications; and
13 (4) other conditions for the receipt of a grant.

14 (d) Regulations adopted under (c) of this section must include
15 as a factor the applicant's ability to provide an emergency first
16 response if the grant application is not approved.

17 (e) In reviewing and making a determination about the applica-
18 tion submitted under this section, the department may not consider
19 whether the amount to be expended as a grant is an expense recoverable
20 under AS 46.08.070.

21 * Sec. 21. AS 46.08.900(3) is amended to read:

22 (3) "containment and cleanup" includes the direct and
23 indirect efforts associated with the prevention, abatement, contain-
24 ment, or removal of oil or a hazardous substance, and the restoration
25 of the environment; when applied to expenses, the term includes the
26 additional costs of providing a reasonable and appropriate function or
27 service incurred in response to the discharge of the oil or hazardous
28 substance, including [, AND INCIDENTAL] administrative expenses for
29 the incremental costs of providing the function or service;

1 * Sec. 22. AS 46.08.900 is amended by adding new paragraphs to read:

2 (11) "service" means a function performed or service pro-
3 vided by the state, a municipality, or a village, including functions
4 not previously performed and services not previously provided by the
5 state, the municipality, or the village;

6 (12) "village"

7 (A) means a place in which 25 or more persons reside
8 as a social unit that is not incorporated as a municipality under
9 state law;

10 (B) does not include a place within a borough if the
11 relevant power, function, or service is exercised or provided by
12 the borough on an areawide or nonareawide basis at the time the
13 grant application or request for reimbursement is submitted.

14 * Sec. 23. AS 46.09.060(b) is amended to read:

15 (b) Authority to contain, clean up, or prevent a release or
16 threatened release of oil or of a hazardous substance, and to exercise
17 other powers necessary to implement this chapter, AS 46.04, and
18 AS 46.08, are granted to municipalities that do not otherwise have
19 that authority. Except as provided in (a) of this section, a munic-
20 ipality may exercise its police power within the area of the munic-
21 ipality.

22 * Sec. 24. AS 46.09.900(2) is amended to read:

23 (2) "containment and cleanup" includes the direct and
24 indirect efforts associated with the prevention, abatement, contain-
25 ment, or removal of a hazardous substance, and the restoration of the
26 environment; when applied to expenses, the term includes the addition-
27 al costs of providing a reasonable and appropriate function or service
28 incurred in response to the discharge of the hazardous substance,
29 including [, AND INCIDENTAL] administrative expenses for the

1 incremental costs of providing the function or service:

2 * Sec. 25. AS 46.09.900 is amended by adding a new paragraph to read:

3 (8) "service" means a function performed or service pro-
4 vided by the state, including functions not previously performed and
5 services not previously provided by the state.

6 * Sec. 26. Sections 12 and 13 of this Act are retroactive to March 24,
7 1989.

8 * Sec. 27. This Act takes effect immediately under AS 01.10.070(c).