

Original sponsor(s): Rules/Governor

1 IN THE SENATE BY THE SENATE SPECIAL COMMITTEE ON OIL & GAS
2 CS FOR SENATE BILL NO. 503 (Oil & Gas)
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; transferring the oil and
9 hazardous substance response office to the Department
10 of Military and Veterans' Affairs; relating to the
11 duties of the Department of Environmental Conserva-
12 tion and the Department of Military and Veterans'
13 Affairs in relation to oil, hazardous substances, and
14 radioactive material; providing that the Department
15 of Military and Veterans' Affairs has final state
16 decision-making authority in responses to catas-
17 trophic oil discharges and emergency disasters de-
18 clared by the governor that relate to oil or hazard-
19 ous substances; establishing the Alaska State Emer-
20 gency Response Commission and the Hazardous Substance
21 Spill Technology Review Council; transferring the
22 responsibility for the statewide and regional master
23 oil and hazardous substance discharge and prevention
24 contingency plans to the Alaska State Emergency
25 Response Commission; and providing for an effective
26 date."

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

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

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

4 * Sec. 2. AS 26.23.040 is amended by adding a new subsection to read:

5 (f) The Alaska division of emergency services shall establish
6 the oil and hazardous substance response office and perform related
7 duties under AS 46.08.100 - 46.08.190.

8 * Sec. 3. AS 26.23.050(b) is amended to read:

9 (b) Whenever, and to the extent that, money is needed to cope
10 with a disaster, the first recourse shall be to funds regularly appro-
11 priated to state and local agencies. The second recourse shall be to
12 funds available in the disaster relief fund or, for oil or hazardous
13 substances discharges, the oil and hazardous substance release re-
14 sponse fund, as the governor determines appropriate. If money avail-
15 able from these sources is insufficient, and if the governor finds
16 that other sources of money to cope with the disaster are not avail-
17 able or are insufficient, the governor may, notwithstanding any limi-
18 tation imposed by AS 37.07.080(e), transfer and spend money appropri-
19 ated for other purposes or, in situations involving natural disasters,
20 borrow from the United States government or other public or private
21 sources for a term not to exceed two years.

22 * Sec. 4. AS 26.23 is amended by adding a new section to read:

23 Sec. 26.23.215. RELATIONSHIP TO OTHER PLANNING STATUTES. To the
24 extent that the state emergency plan, interjurisdictional plans, and
25 local plans prepared under this chapter relate to action required to
26 avert damage from a release of oil or a hazardous substance, the plans
27 must be substantially equivalent in relevant respects to the emergency
28 plans prepared or approved by the Alaska State Emergency Response
29 Commission under AS 46.04.200 - 46.04.210 and AS 46.13 and use the

1 same incident command system used in those plans.

2 * Sec. 5. AS 39.50.200(b) is amended by adding a new paragraph to read:

3 (50) Hazardous Substance Spill Technology Review Council
4 (AS 46.13.110).

5 * Sec. 6. AS 44.66.010(a) is amended by adding a new paragraph to read:

6 (17) Hazardous Substance Spill Technology Review Council
7 (AS 46.13.110) -- June 30, 1994.

8 * Sec. 7. AS 46.03.020 is amended by adding a new paragraph to read:

9 (14) enter into agreements with agencies of the state and
10 federal government, political subdivisions, the University of Alaska,
11 or private entities to conduct research into oil and hazardous sub-
12 stances spill technology; the department shall give priority to re-
13 search topics recommended to it by the Hazardous Substance Spill
14 Technology Review Council under AS 46.13.120.

15 * Sec. 8. AS 46.03.865(a) is amended to read:

16 (a) When the department finds that an actual or imminent dis-
17 charge of oil, a hazardous substance, or low level radioactive mate-
18 rials to the air, water, land, or subsurface land of the state poses
19 an immediate threat to the public health or welfare [,] or the envi-
20 ronment of the state, it may issue an order declaring an emergency and
21 directing a person or persons to take action the department believes
22 necessary to meet the emergency, and protect the public health, wel-
23 fare, or environment. The department may also exercise the authority
24 granted to the oil and hazardous substance response office under
25 AS 46.08.140. However, if the situation for which the department
26 declares an emergency develops into a catastrophic oil discharge, as
27 defined in AS 46.04.900, or becomes a declared disaster emergency
28 under AS 26.23, the division of emergency services, Department of
29 Military and Veterans' Affairs, shall exercise the authority of the

1 department under this subsection and the department's activities shall
2 be subject to the approval of the division.

3 * Sec. 9. AS 46.03.865(c) is amended to read:

4 (c) During a period of emergency declared under (a) of this
5 section, each state agency, including, when appropriate, the division
6 of emergency services, Department of Military and Veterans' Affairs
7 [UNDER THE AUTHORITY CONFERRED BY AS 26.20], shall take whatever
8 action the department finds necessary to meet the emergency [,] and to
9 protect the public health, welfare, or environment. However, if the
10 situation for which the department declared an emergency develops into
11 a catastrophic oil discharge, as defined in AS 46.04.900, or becomes a
12 declared disaster under AS 26.23, each state agency, including the
13 department, shall take whatever action the division of emergency
14 services finds is necessary to meet the disaster and to protect the
15 public health, welfare, or environment.

16 * Sec. 10. AS 46.04.080(a) is amended to read:

17 (a) The actual or imminent occurrence of a catastrophic oil
18 discharge constitutes a disaster emergency under AS 26.23 without a
19 declaration of disaster by the governor under AS 26.23.020. The [.
20 HOWEVER, THE] department shall augment and support [PERFORM THE DUTIES
21 OF] the Alaska division of emergency services, Department of Military
22 and Veterans' Affairs, in the performance of the division's duties
23 under AS 26.23.040 and AS 46.08.100 - 46.08.190 as they apply to
24 catastrophic oil discharges. During a response to a catastrophic oil
25 discharge, the [THE] department shall consult and coordinate its
26 duties [UNDER THIS SECTION] with the Alaska division of emergency ser-
27 vices and act under directives of the division.

28 * Sec. 11. AS 46.04.090(a) is amended to read:

29 (a) The department, when feasible, shall enter into contracts

1 with persons or private organizations to provide the personnel, equip-
2 ment, or other services or supplies that [WHICH] may be required to
3 carry out this chapter. Contracts under this section are governed by
4 AS 36.30 (State Procurement Code). When private contracting is not
5 feasible, the department may establish and maintain at ports, harbors,
6 or other locations in the state, the cleanup personnel, equipment, and
7 supplies that [WHICH], in its judgment, are necessary to carry out
8 this chapter. When exercising its authority under this subsection,
9 the department shall coordinate with the oil and hazardous substance
10 response office in the Department of Military and Veterans' Affairs to
11 avoid duplication of efforts.

12 * Sec. 12. AS 46.04.200 is amended to read:

13 Sec. 46.04.200. STATE MASTER PLAN. (a) The Alaska State Emer-
14 gency Response Commission [DEPARTMENT] shall prepare and annually
15 review and revise a statewide master oil and hazardous substance
16 discharge and prevention contingency plan.

17 (b) The state master plan prepared under this section must

18 (1) take into consideration the elements of an oil dis-
19 charge contingency plan approved or submitted for approval by the
20 Department of Environmental Conservation under AS 46.04.030;

21 (2) include an incident command system consistent with the
22 requirements of AS 46.13.090(b) that clarifies and specifies [CLARIFY
23 AND SPECIFY] the respective responsibilities of each of the following
24 in the assessment, containment, and cleanup of a [CATASTROPHIC OIL
25 DISCHARGE OR OF A SIGNIFICANT] discharge of oil or a hazardous sub-
26 stance into the environment of the state:

27 (A) the Department of Environmental Conservation, the
28 division of emergency services in the Department of Military and
29 Veterans' Affairs, and other agencies of the state;

- 1 (B) municipalities of the state;
2 (C) appropriate federal agencies;
3 (D) operators of facilities;
4 (E) private parties whose land and other property may
5 be affected by the oil or hazardous substance discharge; and
6 (F) other parties identified by the commission [COM-
7 MISSIONER] as having an interest in or the resources to assist in
8 the containment and cleanup of an oil or hazardous substance
9 discharge;

10 (3) include an incident command system consistent with the
11 requirements of AS 46.13.090(b) that specifies [SPECIFY] the respec-
12 tive responsibilities of parties identified in (2) of this subsection
13 in an emergency response under AS 26.23, AS 46.03.865, or AS 46.04.-
14 080; and

15 (4) identify actions necessary to reduce the likelihood of
16 catastrophic oil discharges and significant discharges of hazardous
17 substances.

18 (c) In preparing and annually reviewing the state master plan,
19 the commission [COMMISSIONER] shall

20 (1) consult with municipal and community officials, and
21 with representatives of affected regional organizations;

22 (2) submit the draft plan to the public for review and
23 comment;

24 (3) submit to the legislature for review, not later than
25 the 10th day following the convening of each regular session, the plan
26 and any annual revision of the plan; and

27 (4) require or schedule unannounced oil spill drills to
28 test the sufficiency of an oil discharge contingency plan approved
29 under AS 46.04.030 or of the cleanup plans of a party identified under

1 (b)(2) of this section.

2 * Sec. 13. AS 46.04.210(a) is amended to read:

3 (a) For any region of the state, the boundaries of which are
4 determined by the commission [COMMISSIONER] by regulation, in which
5 the department is required to review and approve an oil discharge
6 contingency plan submitted by a person under AS 46.04.030, the commis-
7 sion [DEPARTMENT] shall prepare and annually review and revise a
8 regional master oil and hazardous substance discharge and prevention
9 contingency plan.

10 * Sec. 14. AS 46.04 is amended by adding a new section to article 2 to
11 read:

12 Sec. 46.04.220. DEFINITION. In AS 46.04.200 - 46.04.210, "com-
13 mission" means the Alaska State Emergency Response Commission estab-
14 lished under AS 46.13.

15 * Sec. 15. AS 46.08.040 is amended by adding new subsections 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 (c) The adjutant general of the Department of Military and
21 Veterans' Affairs may use money from the fund to pay costs incurred by
22 the division of emergency services, Department of Military and Veter-
23 ans' Affairs, to

24 (1) establish and maintain the oil and hazardous substance
25 response office and for the expenses of the oil and hazardous sub-
26 stance response corps and the oil and hazardous substance response
27 depots established by that office; and

28 (2) contain, clean up, and take other necessary action to
29 address a release or threatened release of oil or a hazardous

1 substance.

2 (d) The Alaska State Emergency Response Commission may use money
3 from the fund to prepare, review, and revise the state and regional
4 master oil and hazardous substance discharge and prevention contingen-
5 cy plans required under AS 46.04.200 - 46.04.210.

6 * Sec. 16. AS 46.08.070(a) is amended to read:

7 (a) The commissioner and the adjutant general shall seek reim-
8 bursement promptly under this section, AS 46.03.760(e), or federal law
9 for the cost incurred in the cleanup or containment of oil or a haz-
10 ardous substance that has been released.

11 * Sec. 17. AS 46.08.070(b) is amended to read:

12 (b) The attorney general, at the request of the commissioner or
13 the adjutant general, shall immediately seek to recover money expended
14 by the department or the division of emergency services under AS 46.-
15 08.005 - 46.08.080 or other law to contain and clean up oil or a
16 hazardous substance that has been released or to control the threaten-
17 ed release of oil or a hazardous substance.

18 * Sec. 18. AS 46.08.100 is amended to read:

19 Sec. 46.08.100. OFFICE ESTABLISHED. There is established in the
20 division of emergency services, Department of Military and Veterans'
21 Affairs, [DEPARTMENT] the oil and hazardous substance response office.
22 The office shall include a director and employees who are specially
23 trained in programs and technologies related to the containment and
24 cleanup of releases or threatened releases of oil and hazardous sub-
25 stances.

26 * Sec. 19. AS 46.08.110(c) is amended to read:

27 (c) Members of the corps are entitled to per diem and expenses
28 as determined by the division [COMMISSIONER] for training and for days
29 spent in service to the state in containment and cleanup actions.

1 * Sec. 20. AS 46.08.130(b) is amended to read:

2 (b) The office may respond under (a) of this section to an oil
3 or hazardous substance discharge only if:

4 (1) the oil discharge is a catastrophic oil discharge that
5 constitutes a disaster [AN] emergency under AS 46.04.080(a);

6 (2) the discharge of oil or a hazardous substance is de-
7 clared to be an emergency under AS 46.03.865;

8 (3) the governor declares the discharge an emergency under
9 AS 26.23; or

10 (4) the division director or the commissioner of environ-
11 mental conservation reasonably believes that there has been a dis-
12 charge of oil or a hazardous substance, or that there is a potential
13 discharge of oil or a hazardous substance, and the discharge may
14 qualify under (1) - (3) of this subsection; or

15 (5) the office is requested by the commissioner of environ-
16 mental conservation to assist the department because the commissioner
17 reasonably believes that the discharge or potential discharge poses an
18 imminent and substantial threat to public health or welfare or to the
19 environment.

20 * Sec. 21. AS 46.08.130 is amended by adding a new subsection to read:

21 (c) When the office responds to an oil or hazardous substance
22 discharge under this section, its activities are governed by the
23 incident command system applicable to the type of discharge to which
24 it is responding, as required under AS 46.13.090(b).

25 * Sec. 22. AS 46.08.190 is amended by adding a new paragraph to read:

26 (4) "division" means the division of emergency services,
27 Department of Military and Veterans' Affairs.

28 * Sec. 23. AS 46.08 is amended by adding new sections to read:

29 ARTICLE 3. RESPONSE TECHNOLOGIES.

1 * Sec. 20. AS 46.08.130(b) is amended to read:

2 (b) The office may respond under (a) of this section to an oil
3 or hazardous substance discharge only if:

4 (1) the oil discharge is a catastrophic oil discharge that
5 constitutes a disaster [AN] emergency under AS 46.04.080(a);

6 (2) the discharge of oil or a hazardous substance is de-
7 clared to be an emergency under AS 46.03.865;

8 (3) the governor declares the discharge an emergency under
9 AS 26.23; or

10 (4) the division director or the commissioner of environ-
11 mental conservation reasonably believes that there has been a dis-
12 charge of oil or a hazardous substance, or that there is a potential
13 discharge of oil or a hazardous substance, and the discharge may
14 qualify under (1) - (3) of this subsection; or

15 (5) the office is requested by the commissioner of environ-
16 mental conservation to assist the department because the commissioner
17 reasonably believes that the discharge or potential discharge poses an
18 imminent and substantial threat to public health or welfare or to the
19 environment.

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23 incident command system applicable to the type of discharge to which
24 it is responding, as required under AS 46.13.090(b).

25 * Sec. 22. AS 46.08.190 is amended by adding a new paragraph to read:

26 (4) "division" means the division of emergency services,
27 Department of Military and Veterans' Affairs.

28 * Sec. 23. AS 46.08 is amended by adding new sections to read:

29 ARTICLE 3. RESPONSE TECHNOLOGIES.

1 Sec. 46.08.200. APPROVAL PROCESS FOR RESPONSE TECHNOLOGIES. (a)
2 The department shall, by regulation, adopt procedures and criteria it
3 will use for approving or disapproving equipment, substances, and
4 other technologies for use in containment and cleanup of a release of
5 oil or a hazardous substance. The regulations must include the proto-
6 cols developed by the Hazardous Substance Spill Technology Review
7 Council under AS 46.13.120 and provide that the approval process will
8 take no longer than six months after the date the department receives
9 an application for approval.

10 (b) A person may apply to the department for approval of equip-
11 ment, a substance, or other technology for use in containment or
12 cleanup of a potential release of oil or a hazardous substance. An
13 application under this subsection must be in written form and include
14 information requested by the department.

15 Sec. 46.08.210. PROHIBITION. A person may not use equipment, a
16 substance, or other technology for containment or cleanup of a release
17 of oil or a hazardous substance unless the equipment, substance, or
18 other technology has been approved by the department for that use.

19 * Sec. 24. AS 46.09.030 is amended to read:

20 Sec. 46.09.030. DISASTER EMERGENCIES. The commissioner of
21 environmental conservation or the director of the division of emer-
22 gency services, Department of Military and Veterans' Affairs, may
23 request the governor to determine that an actual or imminent release
24 of a hazardous substance constitutes a disaster emergency under
25 AS 26.23. If the governor declares a disaster emergency under AS 26.-
26 23, the commissioner shall [MAY] assist the division of emergency
27 services, Department of Military and Veterans' Affairs, [ADJUTANT
28 GENERAL] in the relief of the emergency.

29 * Sec. 25. AS 46 is amended by adding a new chapter to read:

1 CHAPTER 13. ALASKA STATE EMERGENCY RESPONSE COMMISSION.

2 Sec. 46.13.010. ALASKA STATE EMERGENCY RESPONSE COMMISSION
3 ESTABLISHED. (a) There is established in the Department of Military
4 and Veterans' Affairs the Alaska State Emergency Response Commission.

5 (b) The oil and hazardous substance response office established
6 under AS 46.08.100 shall serve as staff for the commission.

7 Sec. 46.13.020. COMPOSITION OF THE COMMISSION. The commission
8 consists of the commissioners of community and regional affairs,
9 environmental conservation, fish and game, health and social services,
10 labor, natural resources, public safety, and transportation and public
11 facilities, or the designees of the commissioners, the adjutant gen-
12 eral of the Department of Military and Veterans' Affairs or a desig-
13 nee, and seven public members to be appointed by the governor. To the
14 extent practicable, the commission must include members with expertise
15 in the emergency response field.

16 Sec. 46.13.030. OFFICERS, TERMS, AND COMPENSATION. The adjutant
17 general of the Department of Military and Veterans' Affairs, or the
18 adjutant general's designee, shall chair the commission. The commis-
19 sioner of environmental conservation, or the commissioner's designee,
20 shall serve as vice-chair. Members of the commission other than those
21 from the designated state departments serve at the pleasure of the
22 governor for staggered terms of three years. Members of the commis-
23 sion serve without compensation but are entitled to per diem and
24 travel expenses authorized for members of boards and commissions under
25 AS 39.20.180.

26 Sec. 46.13.040. POWERS AND DUTIES OF COMMISSION. The commission
27 shall

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

- 1 (2) designate, and revise as necessary, the boundaries of
2 emergency planning districts, using the boundaries of political sub-
3 divisions if appropriate;
- 4 (3) review, oversee, and facilitate the preparation and
5 implementation of emergency plans for hazardous substance response,
6 including the statewide and local plans prepared under AS 26.23;
- 7 (4) prepare, review, and revise the statewide and regional
8 master oil and hazardous substance discharge and prevention contingen-
9 cy plans required under AS 46.04.200 - 46.04.210;
- 10 (5) establish a local emergency planning committee for each
11 emergency planning district, and appoint, and revise as necessary, the
12 membership of each committee;
- 13 (6) supervise and coordinate the activities of local emer-
14 gency planning committees;
- 15 (7) establish procedures for receiving and processing
16 requests from the public for information under 42 U.S.C. 11044, in-
17 cluding tier II information under 42 U.S.C. 11022;
- 18 (8) perform other coordinating, advisory, or planning tasks
19 related to hazardous substance emergency planning and preparedness,
20 community right-to-know reporting, toxic chemical release reporting,
21 or management of hazardous substances;
- 22 (9) provide procedures and oversight to integrate, as
23 appropriate, hazardous substance response planning under 42 U.S.C.
24 11001 - 11005, federal contingency planning under 33 U.S.C. 1321 and
25 other federal laws applicable to hazardous substance discharges, and
26 state, regional, and local hazardous substance contingency planning
27 under AS 26.23 and AS 46.04.200 - 46.04.210;
- 28 (10) to the extent consistent with the constitution and law
29 of the state, perform all other functions prescribed for state

1 emergency response commissions under 42 U.S.C. 11001 - 11005; and

2 (11) adopt regulations necessary to carry out the purposes
3 of this chapter and 42 U.S.C. 11001 - 11005.

4 Sec. 46.13.050. AGENCY COOPERATION. The commission may request
5 data, reports, or other information from a state agency. To the
6 extent feasible and not otherwise prohibited by laws making specific
7 information confidential and nondisclosable, a state agency shall
8 cooperate with the commission and furnish the commission with the
9 information and assistance necessary to accomplish the purposes of 42
10 U.S.C. 11001 - 11005 and this chapter.

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

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

24 Sec. 46.13.080. DUTIES OF LOCAL EMERGENCY PLANNING COMMITTEES.
25 Each local emergency planning committee shall

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

29 (2) appoint a chair and establish rules by which the

1 committee shall function, including provisions for public notification
2 of committee activities, public meetings to discuss the emergency
3 plan, public comments, response to the comments by the committee,
4 distribution of the emergency plan, and designation of an official to
5 serve as coordinator for information;

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

8 (4) evaluate the need for resources necessary to develop,
9 implement, and exercise the emergency plan, and make recommendations
10 with respect to additional resources that may be required and the
11 means for providing the additional resources;

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

15 (6) participate as a local advisory committee in the prepa-
16 ration of statewide regional contingency plans.

17 Sec. 46.13.090. EMERGENCY PLANS. (a) Each emergency plan must
18 include

19 (1) identification of facilities subject to the require-
20 ments of 42 U.S.C. 11001 - 11005 that are within the emergency plan-
21 ning district, identification of routes likely to be used for the
22 transportation of substances on the list of extremely hazardous sub-
23 stances referred to in 42 U.S.C. 302(a), and identification of addi-
24 tional facilities contributing or subjected to additional risk due to
25 their proximity to facilities subject to the requirements of 42 U.S.C.
26 11001 - 11005 such as hospitals or natural gas facilities;

27 (2) methods and procedures to be followed by facility
28 owners and operators and local emergency and medical personnel to
29 respond to a release of hazardous substances, and to a release of

1 substances on the list of extremely hazardous substances referred to
2 in 42 U.S.C. 302(a);

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

6 (4) procedures providing reliable, effective, and timely
7 notification by the facility emergency coordinators to persons des-
8 igned in the emergency plan, and to the public, that a release has
9 occurred, consistent with the emergency notification requirements of
10 42 U.S.C. 11004;

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

13 (6) a description of emergency equipment and facilities in
14 the community and at each facility in the community subject to the
15 requirements of 42 U.S.C. 11001 - 11005, and an identification of the
16 persons responsible for the equipment and facilities;

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

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

21 (9) methods and schedules for exercising the emergency
22 plan.

23 (b) Each emergency plan must incorporate within it an incident
24 command system. The incident command system must provide that final
25 state decision-making authority in situations involving a response to
26 a release of a hazardous substance lies with the Department of Envi-
27 ronmental Conservation unless the release is a declared disaster
28 emergency under AS 26.23 or a catastrophic oil discharge under AS 46.-
29 04.080, in which case the incident command system must provide that

1 final state decision-making authority lies with the division of emer-
2 gency services, Department of Military and Veterans' Affairs.

3 Sec. 46.13.100. FINDINGS AND PURPOSE. The legislature

4 (1) finds and declares that there exists a lack of scien-
5 tific knowledge concerning the availability, properties, and effec-
6 tiveness of various hazardous substance containment and cleanup tech-
7 nologies; and

8 (2) concludes that it is in the best interest of the state
9 and its citizens to establish a Hazardous Substance Spill Technology
10 Review Council in the Alaska State Emergency Response Commission to
11 assist in the identification of containment and cleanup products and
12 procedures for arctic and sub-arctic hazardous substance releases and
13 make recommendations to the departments and agencies of the state
14 regarding their use and deployment.

15 Sec. 46.13.110. HAZARDOUS SUBSTANCE SPILL TECHNOLOGY REVIEW
16 COUNCIL. (a) There is established in the Alaska State Emergency
17 Response Commission the Hazardous Substance Spill Technology Review
18 Council.

19 (b) The council consists of the adjutant general of the Depart-
20 ment of Military and Veterans' Affairs, the commissioner of environ-
21 mental conservation, a representative of the University of Alaska
22 appointed by the governor, the governor's senior science advisor, a
23 representative of the Prince William Sound Science Center in Cordova
24 appointed by the governor, and four other members, one from each
25 judicial district of the state, appointed by the governor, with broad
26 experience or expertise in one or more of the following areas: phys-
27 ical or biological science; oil technology, transportation, or manage-
28 ment; fisheries; economics; environmental engineering; or law. The
29 U.S. Coast Guard and the Environmental Protection Agency may each

1 appoint a federal employee to the council to represent their agencies
2 as nonvoting members. Appointed state members of the council serve
3 overlapping three-year terms.

4 (c) The council members shall elect from among themselves a
5 chair and vice-chair.

6 (d) The oil and hazardous substance response office established
7 under AS 46.08.100 shall serve as staff for the council.

8 (e) State and federal members of the council serve without
9 compensation, but are entitled to per diem and travel expenses autho-
10 rized for boards and commissions under AS 39.20.180.

11 (f) The council shall meet regularly at the call of the commis-
12 sion or the chair of the council.

13 (g) State members of the council are subject to AS 39.50.

14 Sec. 46.13.120. DUTIES OF THE COUNCIL. The council shall

15 (1) review and recommend to the Department of Environmental
16 Conservation research topics for it to pursue under its authority in
17 AS 46.03.020(a)(14);

18 (2) establish testing protocols to be used by the Depart-
19 ment of Environmental Conservation to evaluate the effectiveness of
20 hazardous substance spill technologies for use in the state;

21 (3) identify sources of money that may be available for
22 discharge-related research;

23 (4) make proposals to the governor and commission to en-
24 courage and fund prevention, response, cleanup, and mitigation of
25 future discharges of hazardous substances;

26 (5) compile and maintain information relating to

27 (A) containment and cleanup technology that is avail-
28 able in the event of a hazardous substance discharge, the extent
29 to which current containment and cleanup technology is available

1 and may be applied in the state, and ways to improve hazardous
2 substance spill response technology and procedures;

3 (B) steps that should be taken by government and
4 industry to ensure proper management, handling, and transporta-
5 tion of hazardous substances and to improve the statewide ability
6 of industry and governmental agencies to respond to discharges of
7 hazardous substances;

8 (C) the extent to which industry practices and govern-
9 mental practices or laws should be changed to reduce or minimize
10 the potential for hazardous substance discharges;

11 (D) hazardous substances spill technology research
12 conducted by the Department of Environmental Conservation; and

13 (6) perform other functions as may be requested by the
14 commission.

15 Sec. 46.13.130. INVESTIGATIONS; HEARINGS. (a) The council may
16 issue subpoenas, administer oaths, and conduct investigations related
17 to its duties.

18 (b) The council may compel the attendance of witnesses and
19 production of papers, books, records, accounts, documents, and testi-
20 mony, and may have the deposition of witnesses taken in a manner
21 prescribed by court rule or law for the taking of depositions in civil
22 actions when consistent with the duties assigned to the council.

23 (c) On a majority vote of the council, subpoenas and subpoenas
24 duces tecum may be issued and served in the manner prescribed by
25 AS 44.62.430(b) and (c) and court rule. The failure, refusal, or
26 neglect to obey a subpoena is punishable as contempt in the manner
27 prescribed by law or court rule. The superior court may compel obedi-
28 ence to the council's subpoena in the same manner as prescribed for
29 obedience to a subpoena issued by the court.

1 (d) State agencies shall, to the extent permitted by law, coop-
2 erate with the council and provide it with information it requests for
3 carrying out its duties.

4 Sec. 46.13.900. DEFINITIONS. In this chapter,

5 (1) "commission" means the Alaska State Emergency Response
6 Commission;

7 (2) "council" means the Hazardous Substance Spill Technol-
8 ogy Review Council;

9 (3) "hazardous substance" has the meaning given in AS 46.-
10 03.826.

11 * Sec. 26. TRANSITIONAL PROVISION. The Alaska State Emergency Response
12 Commission established under AS 46.13, enacted by sec. 25 of this Act, is a
13 continuation of the Alaska State Emergency Response Commission established
14 by Administrative Order No. 103. The terms of the public members of the
15 commission who are serving terms on the effective date of this Act continue
16 until the date that was scheduled for their expiration before the effective
17 date of this Act.

18 * Sec. 27. TESTING PROCEDURES. (a) The Hazardous Substance Spill
19 Technology Review Council shall establish the initial testing protocols
20 required under AS 46.13.120(2), enacted by sec. 25 of this Act, by
21 January 1, 1991.

22 (b) The Department of Environmental Conservation shall adopt the
23 initial regulations required under AS 46.08.200(a), enacted by sec. 23 of
24 this Act, by July 1, 1991.

25 * Sec. 28. AS 46.08.040(2), 46.08.040(5), and 46.08.150(3) are re-
26 pealed.

27 * Sec. 29. AS 46.08.210, enacted by sec. 23 of this Act, takes effect
28 July 1, 1992.

29 * Sec. 30. Except as provided in sec. 29 of this Act, this Act takes

1 effect July 1, 1990.