

Original sponsor(s): Rules/Governor

1 IN THE SENATE

BY THE FINANCE COMMITTEE

2

CS FOR SENATE BILL NO. 503 (Finance)

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

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for declared disasters; transferring the oil and

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hazardous substance response office to the Department

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of Military and Veterans' Affairs; relating to the

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duties of the Department of Environmental Conserva-

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tion and the Department of Military and Veterans'

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Affairs in relation to oil, hazardous substances, and

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radioactive material; providing that the Department

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of Military and Veterans' Affairs has final state

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decision-making authority in responses to catas-

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trophic oil discharges and emergency disasters de-

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clared by the governor that relate to oil or hazard-

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ous substances; establishing the Alaska State Emer-

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gency Response Commission and the Hazardous Substance

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Spill Technology Review Council; transferring the

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responsibility for the statewide and regional master

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oil and hazardous substance discharge and prevention

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contingency plans to the Alaska State Emergency

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Response Commission; and providing for an effective

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date."

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

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* 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 include in the research

13 topics for which it conducts or contracts for research, the research

14 topics recommended to it by the Hazardous Substance Spill Technology

15 Review Council under AS 46.13.120.

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

17 (a) When the department finds that an actual or imminent dis-

18 charge of oil, a hazardous substance, or low level radioactive mate-

19 rials to the air, water, land, or subsurface land of the state poses

20 an immediate threat to the public health or welfare [,] or the envi-

21 ronment of the state, it may issue an order declaring an emergency and

22 directing a person or persons to take action the department believes

23 necessary to meet the emergency, and protect the public health, wel-

24 fare, or environment. The department may also exercise the authority

25 granted to the oil and hazardous substance response office under

26 AS 46.08.140. However, if the situation for which the department

27 declares an emergency develops into a catastrophic oil discharge, as

28 defined in AS 46.04.900, or becomes a declared disaster emergency

29 under AS 26.23, the division of emergency services, Department of

1 Military and Veterans' Affairs, shall exercise the authority of the
2 department under this subsection and the department's activities shall
3 be subject to the approval of the division.

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

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

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

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

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

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

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

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

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

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

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

28 (A) the Department of Environmental Conservation, the
29 division of emergency services in the Department of Military and

1 Veterans' Affairs, and other agencies of the state;
2 (B) municipalities of the state;
3 (C) appropriate federal agencies;
4 (D) operators of facilities;
5 (E) private parties whose land and other property may
6 be affected by the oil or hazardous substance discharge; and
7 (F) other parties identified by the commission [COM-
8 MISSIONER] as having an interest in or the resources to assist in
9 the containment and cleanup of an oil or hazardous substance
10 discharge;
11 (3) include an incident command system consistent with the
12 requirements of AS 46.13.090(b) that specifies [SPECIFY] the respec-
13 tive responsibilities of parties identified in (2) of this subsection
14 in an emergency response under AS 26.23, AS 46.03.865, or AS 46.04.-
15 080; and
16 (4) identify actions necessary to reduce the likelihood of
17 catastrophic oil discharges and significant discharges of hazardous
18 substances.
19 (c) In preparing and annually reviewing the state master plan,
20 the commission [COMMISSIONER] shall
21 (1) consult with municipal and community officials, and
22 with representatives of affected regional organizations;
23 (2) submit the draft plan to the public for review and
24 comment;
25 (3) submit to the legislature for review, not later than
26 the 10th day following the convening of each regular session, the plan
27 and any annual revision of the plan; and
28 (4) require or schedule unannounced oil spill drills to
29 test the sufficiency of an oil discharge contingency plan approved

1 under AS 46.04.030 or of the cleanup plans of a party identified under
2 (b)(2) of this section.

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

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

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

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

16 * Sec. 15. AS 46.08.040 is amended by adding new subsections to read:

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

21 (c) The adjutant general of the Department of Military and
22 Veterans' Affairs may use money from the fund to pay costs incurred by
23 the division of emergency services, Department of Military and Veter-
24 ans' Affairs, to

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

29 (2) contain, clean up, and take other necessary action to

1 address a release or threatened release of oil or a hazardous sub-
2 stance.

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

7 * Sec. 16. AS 46.08.060(a) is amended to read:

8 (a) The commissioner shall submit a report to the legislature
9 not later than the 10th day following the convening of each regular
10 session of the legislature. The report may include information con-
11 sidered significant by the commissioner but must include:

12 (1) the amount of money expended by the department under
13 AS 46.08.040(a) [AS 46.08.040] during the preceding fiscal year;

14 (2) the amount and source of money received and money
15 recovered by or on behalf of the department during the preceding
16 fiscal year as specified in AS 46.08.020;

17 (3) a summary of municipal participation in the depart-
18 ment's responses that were funded by the fund;

19 (4) a detailed summary of department activities in respon-
20 ses funded by the fund during the preceding fiscal year, including
21 response descriptions and statements outlining the nature of the
22 threat; and

23 (5) the projected cost to the department for the next
24 fiscal year of monitoring, operating, and maintaining sites where
25 response has been completed or is expected to be continued during the
26 fiscal year.

27 * Sec. 17. AS 46.08.060 is amended by adding a new subsection to read:

28 (c) In addition to the department's report required under (a) of
29 this section, the governor, the Department of Military and Veterans'

1 Affairs, and the Alaska State Emergency Response Commission shall each
2 submit a report about their use of the fund during the previous fiscal
3 year to the legislature not later than the 10th day following the
4 convening of each regular session of the legislature. The report by
5 the Department of Military and Veterans' Affairs must include informa-
6 tion about its activities that is the same as the information required
7 under (a) of this section for activities of the Department of Environ-
8 mental Conservation as well as a detailed explanation of its use of
9 the fund for the oil and hazardous substance response office, corps,
10 and depots under AS 46.08.040(c)(1). In the governor's report, the
11 governor shall describe in detail the governor's use of money from the
12 fund, with separate explanations, by agency, of the activities that
13 were funded under the authority of AS 46.08.040(b). The commission's
14 report must include an explanation of its expenditures under the
15 authority of AS 46.08.040(d).

16 * Sec. 18. AS 46.08.070(a) is amended to read:

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

21 * Sec. 19. AS 46.08.070(b) is amended to read:

22 (b) The attorney general, at the request of the commissioner or
23 the adjutant general, shall immediately seek to recover money expended
24 by the department or the division of emergency services under AS 46.-
25 08.005 - 46.08.080 or other law to contain and clean up oil or a
26 hazardous substance that has been released or to control the threaten-
27 ed release of oil or a hazardous substance.

28 * Sec. 20. AS 46.08.100 is amended to read:

29 Sec. 46.08.100. OFFICE ESTABLISHED. There is established in the

1 division of emergency services, Department of Military and Veterans'
2 Affairs, [DEPARTMENT] the oil and hazardous substance response office.
3 The office shall include a director and employees who are specially
4 trained in programs and technologies related to the containment and
5 cleanup of releases or threatened releases of oil and hazardous sub-
6 stances.

7 * Sec. 21. AS 46.08.110(c) is amended to read:

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

11 * Sec. 22. AS 46.08.130(b) is amended to read:

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

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

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

18 (3) the governor declares the discharge an emergency under
19 AS 26.23; or

20 (4) the division director or the commissioner of environ-
21 mental conservation reasonably believes that there has been a dis-
22 charge of oil or a hazardous substance, or that there is a potential
23 discharge of oil or a hazardous substance, and the discharge may
24 qualify under (1) - (3) of this subsection; or

25 (5) the office is requested by the commissioner of environ-
26 mental conservation to assist the department because the commissioner
27 reasonably believes that the discharge or potential discharge poses an
28 imminent and substantial threat to public health or welfare or to the
29 environment.

1 * Sec. 23. AS 46.08.130 is amended by adding a new subsection to read:
2 (c) When the office responds to an oil or hazardous substance
3 discharge under this section, its activities are governed by the
4 incident command system applicable to the type of discharge to which
5 it is responding, as required under AS 46.13.090(b).

6 * Sec. 24. AS 46.08.190 is amended by adding a new paragraph to read:
7 (4) "division" means the division of emergency services,
8 Department of Military and Veterans' Affairs.

9 * Sec. 25. AS 46.08 is amended by adding new sections to read:

10 ARTICLE 3. RESPONSE TECHNOLOGIES.

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

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

25 Sec. 46.08.210. PROHIBITION. A person may not use equipment, a
26 substance, or other technology for containment or cleanup of a release
27 of oil or a hazardous substance unless the equipment, substance, or
28 other technology has been approved by the department for that use.

29 * Sec. 26. AS 46.09.030 is amended to read:

1 Sec. 46.09.030. DISASTER EMERGENCIES. The commissioner of
2 environmental conservation or the director of the division of emer-
3 gency services, Department of Military and Veterans' Affairs, may
4 request the governor to determine that an actual or imminent release
5 of a hazardous substance constitutes a disaster emergency under
6 AS 26.23. If the governor declares a disaster emergency under AS 26.-
7 23, the commissioner shall [MAY] assist the division of emergency
8 services, Department of Military and Veterans' Affairs, [ADJUTANT
9 GENERAL] in the relief of the emergency.

10 * Sec. 27. AS 46 is amended by adding a new chapter to read:

11 CHAPTER 13. ALASKA STATE EMERGENCY RESPONSE COMMISSION.

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

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

17 Sec. 46.13.020. COMPOSITION OF THE COMMISSION. The commission
18 consists of the commissioners of community and regional affairs,
19 environmental conservation, fish and game, health and social services,
20 labor, natural resources, public safety, and transportation and public
21 facilities, or the designees of the commissioners, the adjutant gen-
22 eral of the Department of Military and Veterans' Affairs or a desig-
23 nee, and seven public members to be appointed by the governor. To the
24 extent practicable, the commission must include members with expertise
25 in the emergency response field.

26 Sec. 46.13.030. OFFICERS, TERMS, AND COMPENSATION. The adjutant
27 general of the Department of Military and Veterans' Affairs, or the
28 adjutant general's designee, shall chair the commission. The commis-
29 sioner of environmental conservation, or the commissioner's designee,

1 shall serve as vice-chair. Members of the commission other than those
2 from the designated state departments serve at the pleasure of the
3 governor for staggered terms of three years. Members of the commis-
4 sion serve without compensation but are entitled to per diem and
5 travel expenses authorized for members of boards and commissions under
6 AS 39.20.180.

7 Sec. 46.13.040. 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 the statewide and local plans prepared under AS 26.23;

17 (4) prepare, review, and revise the statewide and regional
18 master oil and hazardous substance discharge and prevention contingen-
19 cy plans required under AS 46.04.200 - 46.04.210;

20 (5) establish a local emergency planning committee for each
21 emergency planning district, and appoint, and revise as necessary, the
22 membership of each committee;

23 (6) supervise and coordinate the activities of local emer-
24 gency planning committees;

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

28 (8) perform other coordinating, advisory, or planning tasks
29 related to hazardous substance emergency planning and preparedness,

1 community right-to-know reporting, toxic chemical release reporting,
2 or management of hazardous substances;

3 (9) provide procedures and oversight to integrate, as
4 appropriate, hazardous substance response planning under 42 U.S.C.
5 11001 - 11005, federal contingency planning under 33 U.S.C. 1321 and
6 other federal laws applicable to hazardous substance discharges, and
7 state, regional, and local hazardous substance contingency planning
8 under AS 26.23 and AS 46.04.200 - 46.04.210;

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

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

14 Sec. 46.13.050. AGENCY COOPERATION. The commission may request
15 data, reports, or other information from a state agency. To the
16 extent feasible and not otherwise prohibited by laws making specific
17 information confidential and nondisclosable, a state agency shall
18 cooperate with the commission and furnish the commission with the
19 information and assistance necessary to accomplish the purposes of 42
20 U.S.C. 11001 - 11005 and this chapter.

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

25 Sec. 46.13.070. LOCAL EMERGENCY PLANNING COMMITTEES. The com-
26 mission shall establish and appoint the members of a local emergency
27 planning committee for each emergency planning district. Each commit-
28 tee must include, at a minimum, representatives from each of the
29 following groups or organizations: elected state and local officials;

1 law enforcement; civil defense; fire fighting; first aid; health;
2 local environmental, hospital, and transportation personnel; broadcast
3 and print media; community groups; and owners and operators of facili-
4 ties subject to the requirements of 42 U.S.C. 11001 - 11005.

5 Sec. 46.13.080. DUTIES OF LOCAL EMERGENCY PLANNING COMMITTEES.
6 Each local emergency planning committee shall

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

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

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

18 (4) evaluate the need for resources necessary to develop,
19 implement, and exercise the emergency plan, and make recommendations
20 with respect to additional resources that may be required and the
21 means for providing the additional resources;

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

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

27 Sec. 46.13.090. EMERGENCY PLANS. (a) Each emergency plan must
28 include

29 (1) identification of facilities subject to the

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

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

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

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

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

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

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

29 (8) training programs, including schedules for training of

1 local emergency response and medical personnel; and

2 (9) methods and schedules for exercising the emergency
3 plan.

4 (b) Each emergency plan must incorporate within it an incident
5 command system. The incident command system must provide that final
6 state decision-making authority in situations involving a response to
7 a release of a hazardous substance lies with the Department of Envi-
8 ronmental Conservation unless the release is a declared disaster
9 emergency under AS 26.23 or a catastrophic oil discharge under AS 46.-
10 04.080, in which case the incident command system must provide that
11 final state decision-making authority lies with the division of emer-
12 gency services, Department of Military and Veterans' Affairs.

13 Sec. 46.13.100. FINDINGS AND PURPOSE. The legislature

14 (1) finds and declares that there exists a lack of scien-
15 tific knowledge concerning the availability, properties, and effec-
16 tiveness of various hazardous substance containment and cleanup tech-
17 nologies; and

18 (2) concludes that it is in the best interest of the state
19 and its citizens to establish a Hazardous Substance Spill Technology
20 Review Council in the Alaska State Emergency Response Commission to
21 assist in the identification of containment and cleanup products and
22 procedures for arctic and sub-arctic hazardous substance releases and
23 make recommendations to the departments and agencies of the state
24 regarding their use and deployment.

25 Sec. 46.13.110. HAZARDOUS SUBSTANCE SPILL TECHNOLOGY REVIEW
26 COUNCIL. (a) There is established in the Alaska State Emergency
27 Response Commission the Hazardous Substance Spill Technology Review
28 Council.

29 (b) The council consists of the adjutant general of the

1 Department of Military and Veterans' Affairs, the commissioner of
2 environmental conservation, a representative of the University of
3 Alaska appointed by the governor, the governor's senior science advi-
4 sor, a representative of the Prince William Sound Science Center in
5 Cordova appointed by the governor, and four other members, one from
6 each judicial district of the state, appointed by the governor, with
7 broad experience or expertise in one or more of the following areas:
8 physical or biological science; oil technology, transportation, or
9 management; fisheries; economics; environmental engineering; or law.
10 The U.S. Coast Guard and the Environmental Protection Agency may each
11 appoint a federal employee to the council to represent their agencies
12 as nonvoting members. Appointed state members of the council serve
13 overlapping three-year terms.

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

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

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

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

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

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

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

28 (2) establish testing protocols to be used by the Depart-
29 ment of Environmental Conservation to evaluate the effectiveness of

1 hazardous substance spill technologies for use in the state;

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

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

7 (5) compile and maintain information relating to

8 (A) containment and cleanup technology that is avail-
9 able in the event of a hazardous substance discharge, the extent
10 to which current containment and cleanup technology is available
11 and may be applied in the state, and ways to improve hazardous
12 substance spill response technology and procedures;

13 (B) steps that should be taken by government and
14 industry to ensure proper management, handling, and transporta-
15 tion of hazardous substances and to improve the statewide ability
16 of industry and governmental agencies to respond to discharges of
17 hazardous substances;

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

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

23 (6) perform other functions as may be requested by the
24 commission.

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

28 (b) The council may compel the attendance of witnesses and
29 production of papers, books, records, accounts, documents, and

1 testimony, and may have the deposition of witnesses taken in a manner
2 prescribed by court rule or law for the taking of depositions in civil
3 actions when consistent with the duties assigned to the council.

4 (c) On a majority vote of the council, subpoenas and subpoenas
5 duces tecum may be issued and served in the manner prescribed by
6 AS 44.62.430(b) and (c) and court rule. The failure, refusal, or
7 neglect to obey a subpoena is punishable as contempt in the manner
8 prescribed by law or court rule. The superior court may compel obedi-
9 ence to the council's subpoena in the same manner as prescribed for
10 obedience to a subpoena issued by the court.

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

14 Sec. 46.13.900. DEFINITIONS. In this chapter,

15 (1) "commission" means the Alaska State Emergency Response
16 Commission;

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

19 (3) "hazardous substance" has the meaning given in AS 46.-
20 03.826.

21 * Sec. 28. TRANSITIONAL PROVISION. The Alaska State Emergency Response
22 Commission established under AS 46.13, enacted by sec. 27 of this Act, is a
23 continuation of the Alaska State Emergency Response Commission established
24 by Administrative Order No. 103. The terms of the public members of the
25 commission who are serving terms on the effective date of this section
26 continue until the date that was scheduled for their expiration before the
27 effective date of this section.

28 * Sec. 29. TESTING PROCEDURES. (a) The Hazardous Substance Spill
29 Technology Review Council shall establish the initial testing protocols

1 required under AS 46.13.120(2), enacted by sec. 27 of this Act, by
2 January 1, 1991.

3 (b) The Department of Environmental Conservation shall adopt the
4 initial regulations required under AS 46.08.200(a), enacted by sec. 25 of
5 this Act, by July 1, 1991.

6 * Sec. 30. AS 46.08.040(2), 46.08.040(5), and 46.08.150(3) are re-
7 pealed.

8 * Sec. 31. AS 46.08.210, enacted by sec. 25 of this Act, takes effect
9 July 1, 1992.

10 * Sec. 32. Except as provided in sec. 31 of this Act, this Act takes
11 effect July 1, 1990.