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# SENATOR LOREN LEMAN

Northwest Anchorage

716 W 4th Ave, Ste 540, Anchorage AK 99501 258-8189

Session: State Capitol, Juneau AK 99801 465-2095

## SPONSOR STATEMENT

CSSB33 (STA): An Act relating to emergency planning and response; transferring the Hazardous Substance Spill Technology Review Council to the Department of Environmental Conservation; transferring the State Emergency Response Commission, including its duty to designate local emergency planning districts and appoint local emergency planning committees, to the Department of Military and Veterans' Affairs; and eliminating a requirement that the state and regional oil discharge prevention and contingency plans be revised annually."

## WHY SB 33?

SB 33 is introduced at the request of the departments of Environmental Conservation and Military and Veterans' Affairs. The intent of this legislation is to facilitate a better working relationship between the Local Emergency Planning Committees and local governments; to more efficiently accomplish the goals of emergency planning and planning for oil and hazardous substance discharges by reducing opportunities for duplication of effort at the state level; and to enhance the abilities of local communities to plan for disasters.

## HISTORY

The Emergency Planning and Community Right-to-Know Act of 1986, 42 U.S.C.A. ss 11001-11050 (1991) (Title III of the Superfund Amendments and Reauthorization Act of 1986), commonly known as SARA Title III, was passed largely in response to the chemical accident in 1984 at Bhopal, India.

SARA Title III has two distinct parts: an emergency planning mechanism and community right-to-know provisions. The emergency planning provisions require each state's governor to establish an emergency planning commission. The commission sets up emergency planning districts and appoints an emergency planning committee for each district. The committees are required to prepare emergency plans.

In 1990, the Legislature created the State Emergency Response Commission. The SERC has appointed to date 18 emergency planning committees.

#### WHERE WE ARE NOW

In 1990, SB 503 and HB 566 provided ample opportunity for the Legislature to discuss where the response corps and depots ought to be located, how the SERC should operate and where the Hazardous Substance Technology Review Council fit in to the statewide picture.

Moving the SERC and the LEPCs into DMVA/DES should not be construed as legislative pingpong. In the aftermath of a disaster there is always a debriefing - a session where the participants review how well the response system works and what could be done to make it work more efficiently.

Soon it will be five years since the Exxon Valdez oil spill. It's time to review the process and make adjustments for a more streamlined, more efficient planning and response system. The departments have reviewed their responsibilities and have made recommendations to improve the process, the State Emergency Response Commission has reviewed the process, the local emergency planning committees have reviewed the process as have local governments. They all feel improvements can be made to the system and that is why Senate Bill 33 is before you now. I appreciate the efforts of the volunteers at the local level and the local governments to plan for their fellow citizens. I want to make their jobs less difficult as I'm sure you do, too.

DEPARTMENT OF ENVIRONMENTAL CONSERVATION  
and  
DEPARTMENT OF MILITARY AND VETERANS AFFAIRS

JOINT POSITION PAPER FOR CSSB 33 (STA)

**BACKGROUND:**

In 1990, the Alaska Legislature established the State Emergency Response Commission (SERC). In the Department of Environmental Conservation (DEC) (SLA 1990, Ch 190), under AS 46.13, the SERC is responsible for designating the boundaries of Local Emergency Planning Districts (LEPDs), and appointing Local Emergency Planning Committees (LEPCs) to develop local emergency plans for responding to the accidental release of hazardous substances that may or may not be of disaster proportions. AS 46.13 complements federal contingency planning under Title III of the Superfund Amendments and Reauthorization Act (PL 99-499; also known as SARA Title III) which requires states to establish a SERC to ensure communities are aware of hazardous substance threats within their borders.

To date, the SERC has established 26 LEPDs and 18 LEPCs have been appointed. None of the LEPCs have approved local emergency plans.

Under the Alaska Disaster Act (AS 26.23) the Department of Military and Veterans Affairs, Division of Emergency Services (DMVA/DES) is responsible for disaster emergency planning for the State of Alaska and to service all of its political subdivisions through local or interjurisdictional disaster planning agencies or the liaison officials of local governments. To date, DMVA/DES has assisted several municipalities in developing disaster emergency operations plans which address multiple hazards. AS 26.23.060(e) requires each local or interjurisdictional disaster agency in the State to prepare and keep current a disaster emergency plan for its area.

Both DEC and DMVA recognize the existing overlap of responsibilities related to disaster emergency planning and response for oil and hazardous substance releases. The departments have worked jointly to establish Memorandums of Agreement (MOAs) to clarify duties in responding to disasters which involve an oil or hazardous substance release.

**PROBLEMS WITH CURRENT STATUTES:**

1. Duplication of planning efforts under AS 46.13 and AS 26.23.

The majority of emergencies or disasters which result from natural events such as earthquakes or flooding pose a greater public health threat than oil or hazardous substance releases. As proposed in CSSB 33, consolidating the local planning requirements for oil and hazardous substances releases with the local disaster planning requirements under AS 26.23 would simplify coordination and integration of local emergency planning efforts, and would improve overall preparedness of Alaskan communities to respond to all potential disasters.

- Department Position -

2. Duplicative and inefficient disaster planning for oil and hazardous substance response.

Following the Exxon Valdez release in 1989, the legislature amended AS 48.04 to require the DEC to develop a statewide master plan and regional master plans for responding to all potential types and sizes of oil or hazardous substance releases. Under AS 26.23, the Department of Military and Veterans Affairs, Division of Emergency Services (DMVA/DES) is responsible for preparing a statewide plan for all potential disasters, including technological disasters such as a disaster-scale oil or hazardous substance release.

Between June 1977 and January 1994, 166 disaster emergencies were declared by the Governor. Only two declarations - approximately 2% of all declared disasters during that period - resulted solely from the release of oil or a hazardous substance (the EXXON Valdez oil spill and formaldehyde release at Crown Point).

Non-disaster oil and hazardous substance response is managed on a day-to-day, routine basis by DEC by overseeing the responsible party's cleanup of a spill, or employing contractors or local governments to cleanup a spill if the responsible party refuses or can't be found. Most, if not all, oil and hazardous substance spills in any one year are not declared disasters.

CSSB 33 would amend Alaska statutes to clarify DMVA's interagency planning responsibilities for all disasters including catastrophic oil and hazardous substance releases. CSSB 33 would also clarify all state agencies' responsibilities for planning and response to all disasters declared by the Governor.

**EFFECTS OF CSSB 33:**

CSSB 33 would transfer the State Emergency Response Commission from DEC to DMVA. The SERC's planning responsibilities for non disaster emergency oil and hazardous substance releases would be repealed and replaced with the responsibility for disaster and emergency planning for all natural and man-made hazards. DMVA would also assume responsibility for administering State funding awarded to LEPCs, and all State agencies on SERC would be required to provide technical planning assistance to LEPCs as it pertains to their programs and responsibilities.

The proposed legislative changes will enable DMVA to systematically facilitate local disaster emergency plan development and maintenance. In Alaska, much of the unorganized boroughs and some less populated boroughs have no local municipal or interjurisdictional disaster agencies. In these cases, DMVA will service the communities directly with planning, training, and other preparedness activities in accordance with AS 26.23.060.

**FISCAL IMPACT OF PROPOSED BILL:**

Fiscal notes for both DEC and DMVA are attached.


**BENEFITS OF PROPOSED BILL:**

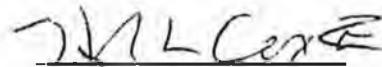
This bill substantially contributes to improved preparedness for all Alaskans when faced with a disaster emergency, regardless of the type.

By making the SERC an all-hazards disaster preparedness Commission, the bill integrates the federal SARA Title III requirements for oil and hazardous substance release planning with the other local disaster planning requirements of AS 26.23.060. This will reduce the duplicative demand now faced by communities and consolidate all State disaster planning functions within the DMVA/DES to improve overall preparedness.

**CONCLUSION:**

The Commissioners of DEC and DMVA support this bill and conclude that the safety and welfare of the people of Alaska and Alaska's environment will be greatly enhanced by its passage.

  
John A. Sandor  
Commissioner  
Department of Environmental  
Conservation

  
Hugh L. Cox III  
Commissioner  
Department of Military  
and Veterans Affairs

SPONSOR SECTIONAL ANALYSIS  
Senate Bill 33

FOR WORK DRAFT: 1/6/94  
DISTRIBUTION: 1/8/94 by mail

BY: Annette Kreitzer, Aide

Title

Transfers SERC and its responsibilities from DEC to DMVA; transfers the Hazardous Substance Spill Technology Review Council to DEC; and it eliminates the annual revision requirement for the state and regional oil discharge prevention plans (annual REVIEW still necessary).

Section 1:

\*Amends DES duties to include granting authority (to the extent that money is available) for:

1. Forming LEPCs,
2. Awarding federal Hazardous Materials Transportation Uniform Safety Act (HMTUSA) funds to LEPCs for developing and maintaining emergency plans,
3. Making funds available to comply with Community Right-to-Know criteria (including Tier II information); and
4. Awarding grants for training LEPCs, training and equipping emergency response organizations and for executing the plans developed by the LEPCs.

Sections 2, 5, and 6:

These sections result from repealing AS 26.23.215 which says that all related plans must mesh. New language is inserted in AS 26.23.040 to ensure cohesion in all plans prepared within the duties of ADES and in those plan's relationship to DEC's state and regional master plans. New language is inserted under AS 26.23.060 and AS 26.23.070 for the same purpose.

Section 3:

Adds response corps and depots into the explicit responsibilities of DMVA.

Section 4:

Amends AS 26.23.060(a) to reflect coordination of LEPCs with interjurisdictional disaster agencies/services established under DMVA/DES.

Section 7:

(a) \*Establishes the SERC under the Department of Military and Veterans' Affairs;

(b) \*Defines SERC membership, specifies 4 LEPC members to be on SERC, two from rural LEPC and two from urban LEPC; specifies two seats for political subdivisions; leaves one unspecified public seat.

(c) \*Removes the requirement for the oil and hazardous substance response office (AS 46.08.100) to serve as staff for the commission. DMVA shall provide staff support. The proposed fiscal note shows three positions from DEC would transfer to DMVA/ADES, with DMVA/ADES asking for two additional planners.

(d) Keeps requirement that SERC is co-chaired by DMVA and DEC. Keeps the current staggered terms, per diem and travel.

(e) Commission duties -

(1) Meets SARA Title III requirement;

(2) \*References the ALL HAZARDS clause (8), maintains the SERC's responsibility for hazardous substance discharge and prevention contingency state and regional master plans (46.04.200-210) and ALL plans prepared under AS 26.23.;

(3) SERC should consider incident command system, and integration of LEPC plan with related plans; removes SERC approval authority for these plans, retains review and recommendation authority. Local governments found the approval authority of the SERC to be a stumbling block. Emphasis is on planning at the local level, local governments have an approval process with public input. SERC approval/disapproval complicates that local planning and approval process.

(4) Designate LEPC boundaries; the SERC retains the ability to mandate boundaries IF political subdivisions CANNOT come to agreement on boundaries; removes previous requirement that the boundaries be based on DEC's oil and hazardous substance regions (of which there are 10).

(5) Same as current law - SERC must create an LEPC for each LEPC (SARA Title II);

(6) Same as current law (wording comes from SARA Title III 11001(a));

(7) Same as current law; may need to define how DEC and DMVA will coordinate Tier II information and other reporting requirements. DEC has CAMEO and TOMES Plus software.

(8) \*SERC presently does not review reports about responses, if it is to make appropriate recommendations, it should review how the plan worked in a disaster.

(9) \*Makes the SERC an ALL HAZARDS COMMISSION;

(10) Integration of federal planning with state plan.

(11) Same as current law; and

(12) ADOPT REGULATIONS TO CARRY OUT THESE DUTIES.

**\*Sec. 26.27.073: EMERGENCY PLANNING DISTRICTS AND COMMITTEES**

(a) \*Commission sets boundaries of LEPCs; (current law). Intent is to make boroughs the LEPCs, but if the Commission wants to set boundaries other than borough lines, it must consult the

local emergency response organizations and any governing body of political subdivisions in the proposed district.

(b) \*Creates one single LEPD out of what is left.

(c) \*If political subdivisions are combined into one LEPD, the Commission shall recommend the governor designate the area an interjurisdictional disaster planning and service area, also. This facilitates the all hazards planning concept. The LEPCs are only responsible for oil and hazardous substance planning, so although the LEPC could elect to also plan for other disasters/emergencies, it doesn't have to take on that burden. The coextensive interjurisdictional disaster planning and service area allows ADES to assist in disaster/emergency planning for the same area served by the LEPC. This should result in a ordered planning approach.

(d) \*SERC APPOINTS members of LEPCs. SERC SHALL follow recommendations of the governing body of the political subdivision for the LEPD. In the case of an LEPD made up of several political subdivisions, the SERC will consider the recommendations of each political subdivision to the extent that the political subdivisions are in agreement and the recommendations would constitute a legal committee. Also, the political subdivisions must devise a process of working together to coordinate their recommendations. IF the LEPD is not affiliated with a political subdivision, the SERC will consider recommendations of emergency response organizations in the district. For the single, rest-of-state LEPD, the SERC will strive for equitable geographic representation on the LEPC.

\*COMMITTEE MEMBERSHIP: 7 categories (Meets Sara Title III requirements) No state elected officials in Alaska may constitutionally hold a seat on an LEPC; added categories six and seven;

(e) Media position has been the most difficult to fill, this allows the LEPCs to continue operating.

(f) Allows for individual petitions to the SERC over membership (SARA Title III).

(g) LEPCs shall -

(1). Same as current law.

(2). \*ADDS "public advertising of positions available on the committee".

(3). \*ADDS "...in a manner that includes coordination with the political subdivisions covered by the plan", to ensure cooperation between the LEPCs and the local governments.

(4). \*REWRITTEN to reflect that evaluating the need for resources necessary to the plan doesn't necessarily mean ADDING resources - it could mean scaling down response if there aren't sufficient responders - but this is and should be a LOCAL decision to be made with all parties knowing the cost of the decision.

(5). Same as current law (delete [and])

(6). \*Allows LEPCs to not have to become all hazards, they can participate in community planning to the extent they are capable.

(7). \*NEW LANGUAGE: puts in statute the cooperation

between the LEPC and the political subdivision. Makes the LEPC an "advisory committee" to the benefit of the political subdivisions and the LEPCs.

(h) \*All agencies represented on the SERC shall provide technical assistance to LEPCs if requested by the LEPC. There is no additional funding for this section, but it is anticipated that the primary agencies requested to provide assistance would be DEC/DMVA-DES.

**Section 26.23.075: EMERGENCY PLANS**

Same as current law (46.13.090), except the cite for 42 U.S.C. 11002(a) is corrected from 42 U.S.C. 302(a); and in (3) the designation of emergency coordinator as required under 26.23.060(d), is added. 26.23.075(b) references the coordination of hazardous substance planning with disaster planning.

**Section 26.23.077 PLAN REVIEW; INCIDENT COMMAND SYSTEMS.**

(a) \*Reflects the change from a commission charged only with hazardous substance release planning to an ALL HAZARDS SERC. Current law (46.13.045) stipulates the commission reviews and exercises approval authority over plans for "hazardous substance discharge response". \*Changes SERC's authority to review and recommend instead of "approve".

(c) Changes ADES to DMVA, assures DMVA/DES role in a[n imminent or actual hazardous substance discharge] disaster or other emergency.

**Section 8.** AS 26.23.150 is amended to substitute environmental for [air].

**Section 9.** AS 26.23.900 is amended to define the SERC, interjurisdictional planning and disaster agency and hazardous substance in DMVA statutes. RECOMMEND delete reference to [hazardous waste] under definition of hazardous substance.

**Section 10.** AS 46.03.865(a) The incident command system no longer exists under 46.13.

**Section 11.** AS 46.03.865(c) The incident command system no longer exists under 46.13.

**Section 12.** AS 46.04.200 - (a) State Master Plan -Deletes the requirement to annually revise the master plan. Intent is to annually review and revise if necessary. In 46.04.200(F), ICS identifies other state agencies' responsibilities only if the release involves a declared disaster; removes requirement for DEC to designate in the state master plan where oil and hazardous substance emergency response depots and corps should be located.

(a)(5)(c)(1) \*ADDS LOCAL EMERGENCY PLANNING COMMITTEE officials to those the Commissioner will consult if plan is revised.

**Section 13.** Criteria for deciding plan revision.

**Section 14.** AS 46.04.210(a) is amended -Same changes to the

Regional master plan - revise as necessary instead of revise annually.

**Section 15.** AS 46.04.210(c)

\*ADDS NEW SECTION - giving the department latitude to group communities which likely would work together in responding to a discharge.

**Section 16.** AS 46.08.040 - Amendments:

2) \*Adds the costs incurred under current statutes for depots and corps set up by DEC in cooperation with DMVA.

3) \*Pay the expenses incurred by ADES for "SERC activities, including staff support, and for the costs of being prepared for and responding to a request by the DEC for support in response and restoration activities; EXCEPT the costs of the response corps and emergency response depots".

**Section 17.** AS 46.08.150

Deletes DEC's authority to enter into contractual agreements to establish depots and corps, notwithstanding AS 46.04.090 and 46.09.040.

**Section 18.** AS 46.09.040

This parallels the language in AS 46.04.090 which calls for coordination with DMVA to avoid duplication of effort.

**Sections 19 and 20.** AS 46.13.100-110

Refers to the Hazardous Substance Spill Technology Review Council and establishing it within DEC.

**Section 21.**

Repeal: 26.23.190(b) - Emergency powers dealing with actual or imminent discharge of oil or hazardous substance.

Repeal: 26.23.195(a)-

Repeal: 26.23.195(c)-

Repeal: 26.23.215 - Relationship to other planning statutes, relationship has been further defined in 26.23.040, 26.23.060 and 26.23.070.

Repeal: 46.04.200(b)(5) - 46.04.200 is amended in the bill; **this repealor can be deleted.**

Repeal: 46.08.110, 46.08.120, 46.08.190(1), (2) and (3): Deletes reference of response corp and depots and takes DES out of definitions section of DEC statutes.

Repeal: 46.13.010 - 46.13.090 - Repeals establishment of SERC and LEPCs under DEC.

Repeal: 46.13.120(6) - Repeals responsibility for the Hazardous Substance Technology Review Council to accept assignments from SERC.

Repeal: 46.13.900(1) - Removes SERC from definitions section of DEC statute.

**Section 22.** TRANSITION:

DEC should explain what litigation, hearings, investigations and other proceedings are pending under law.

What contracts, liabilities, obligations are outstanding?

**VIA FAX**

Fax # 465-3810

DATE: January 17, 1994

TO: Annette Kreitzer

FROM: Keith Laurie

SUBJECT: SB-33 Hearing

I am unable to participate in the Senate State Affairs Committee's hearing on SB-33, scheduled for January 19, 1994, but I wanted to offer a few comments for the Committee's consideration. As you know, I have been Chairman of the Kenai Peninsula Borough Emergency Planning Committee (KPBEPC) since its formation in 1988. I have worked with DEC and DMVA staffs and attended most of the SERC meetings, in order to clarify and fine-tune the relationships with our LEPC. I have discussed the issues surrounding SB-33 with our LEPC, and most of the members generally agree with my positions, but because I have not had the opportunity to review the following comments with them, they should be viewed as my own, and not representing a formal position of the KPBEPC.

I fully support SB-33 in its direction and scope. A lot of time and effort has been invested in this bill by yourself, DEC and DMVA staff, and by the LEPCs. Most of the concerns that have been raised over the past year have been resolved by this current draft.

There are just two remaining issues that I am concerned about, one of which can be resolved with a minor change to this bill.

Section 7 (AS 26.23.073(d)) [Page 6, Line 31]

The requirement that "... each committee must include, at a minimum, an equal number of representatives from each of the following seven categories: ..." poses some problems. Our LEPC currently has almost ten people who fall into category "(2) law enforcement, civil defense..." etc. Under this wording, we would need to have a total of 70 members to achieve an equal number for each category, or we would have to remove up to ten current members from our committee. Neither of these alternatives is acceptable.

As long as the committee includes members from each category, the statute should allow for flexibility as to the total number of members, depending upon the local situation.

I recommend deleting the words, "an equal number of" from the bill.

Section 3 (AS 26.23.045(a)) [Page 2, Lines 20-26]; Section 16 (AS 46.08.040(a)(3)) [Page 14, Lines 28-30]; and Section 18 (AS 46.090.040) [Page 16, Lines 3-6]

These Sections all deal with the Response Corps and Depots issue. As I understand it, DMVA will establish general disaster Response Corps and Depots, but they will not cover oil and hazardous materials response, and thus will not be funded through the 470 Fund. Instead DEC will retain responsibility for establishing and funding oil and hazardous materials Corps and Depots (hopefully in cooperation with DMVA).

My main concern is that HazMat response does not get lost in the shuffle. Oil response Corps and Depots can easily be accomplished through contracts with existing Co-operatives, such as CISPRI, where the response is usually containment and cleanup for environmental protection.

On the other hand, HazMat often presents Life/Safety issues, where a rapid and effective response is required. The reliance on contractors or upon a centralized team will not work. When Life/Safety is at issue, local residents expect a response by their local government, typically by the Fire Department. If there is a significant potential for HazMat incidents in an area, that area's local government should develop a local response capability.

It is important that legislation and regulations recognize and support local governments' attempts to develop this capability. To date, little has been accomplished by the state in developing an actual response capacity for HazMat incidents. Several local governments have begun developing the programs and training needed. It is important, at this juncture, where the entire concept of response corps and equipment is under debate, to recognize the local plans and needs and make sure that any state program is consistent with this.

While I have no specific language recommendations for SB-33 on this issue, I do believe these concepts should be addressed sometime during the debate.

# Public Opinion Message

Mr	Doug		Welde	
Title	First Name	Middle Name	Last Name	Suffix
Mailing Address				Zip
Home Address				Zip
Petersburg / Wrangell LEPC			Petersburg	
			City	

FAX TO: Sen. STATE Affairs  
 in Lieu of Testimony  
 for TC 40095

TC # 40095 | WED. 9:00 AM

Subject

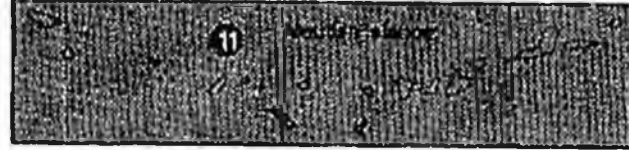
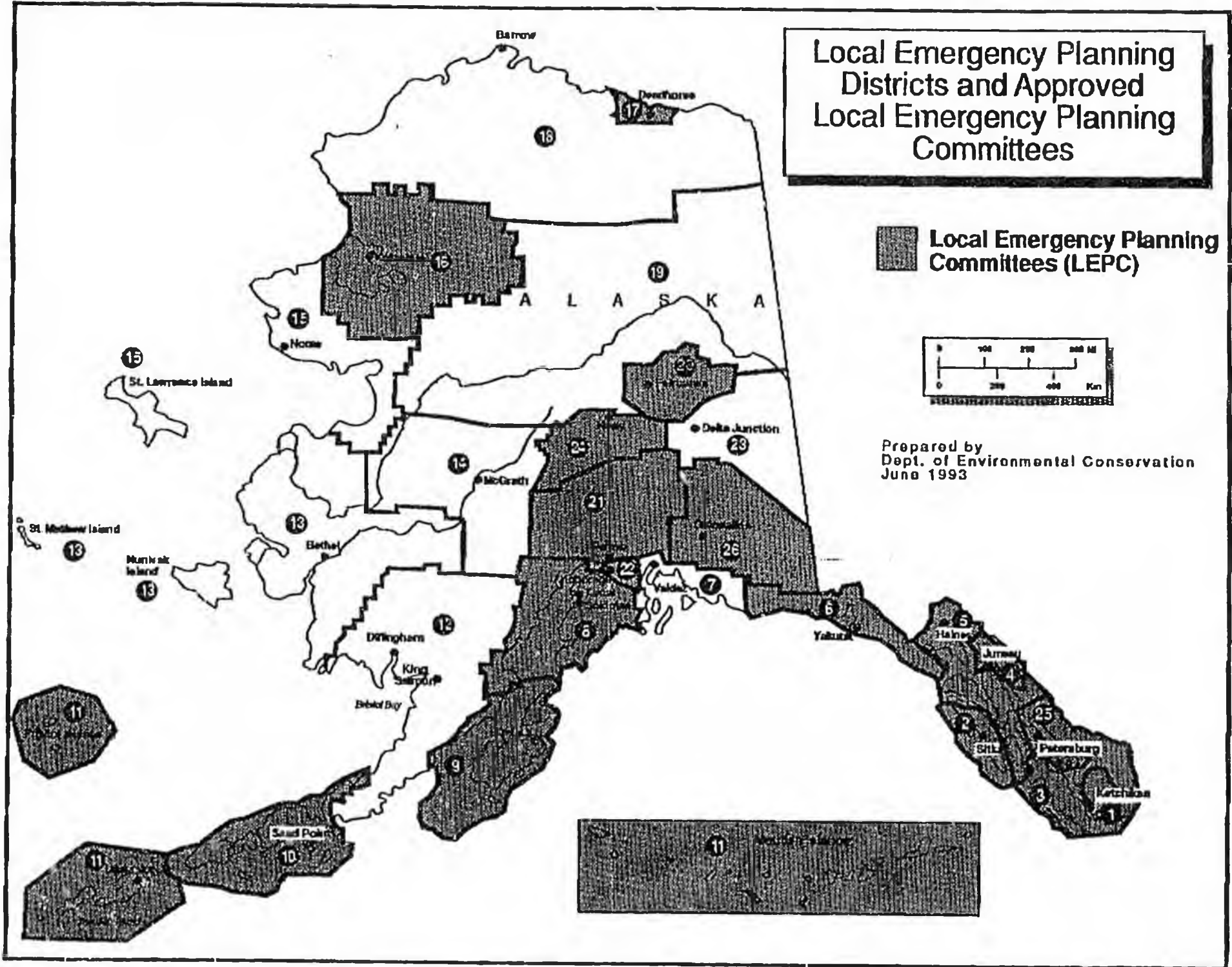
1-19-94

50 Word Maximum Message

The Petersburg/Wrangell LEPC supports  
 S.B. 33, and we urge your support for  
 same.

Sincerely,  
 Douglas Welde, Chairman  
 Petersburg/Wrangell LEPC

# Local Emergency Planning Districts and Approved Local Emergency Planning Committees



Map Key	Local Emergency Planning District (LEPD)	Date LEPC Approved
1	Ketchikan Gateway Borough	4/4/90
2	City and Borough of Sitka	5/14/90
3	Southern Southeast	1/13/93
4	City and Borough of Juneau	1/29/92
5	North. m Southeast	1/13/93
6	Yakutat Borough	9/18/89
7	Prince William Sound	
8	Kenai Peninsula Borough	6/9/89
9	Kodiak Island Borough	6/9/89
10	Aleutians East Borough	1/13/93
11	Aleutians and Pribilof Islands	1/13/93
12	Bristol Bay	
13	Yukon Delta	
14	Southwestern Interior	
15	Northwestern	
16	Northwest Arctic Borough	6/14/91
17	Prudhoe Bay	6/14/91
18	North Slope Borough	
19	Interior Alaska	
20	Fairbanks North Star Borough	6/9/89
21	Matanuska Susitna Borough	6/14/91
22	Municipality of Anchorage	6/14/91
23	Southeastern Interior	
24	Denali Borough	6/24/93
25	Petersburg/Wrangell	9/25/92
26	Copper River	6/18/92

Prepared by the Department of Environmental Conservation  
revised June 1993

Post-it™ brand fax transmittal memo 7671		# of pages	2
To	Annette Kreifay	From	Camille Stephens
Co.	Sen. Lemay	Co.	
Dept.		Phone #	465-5220
Fax #	258-3768	Fax #	

DEPARTMENT OF ENVIRONMENTAL CONSERVATION  
Division of Spill Prevention and Response

Comments on CSSB 33(STA) (1/6/94 Work Draft)

January 19, 1994

- State laws passed after the Exxon Valdez spill in 1989 focused the State's attention on local, regional and state preparedness for potential oil and hazardous substance releases. The State Emergency Response Commission (SERC) was established to ensure that government plans for oil and hazardous substance response are coordinated and integrated.
- Oil and hazardous substance releases do happen in the state, and DEC is the lead agency for oil and hazardous substance pollution control and response. During FY 93, approximately 2,200 oil spills and 400 hazardous substance releases were reported to the Department.
- The vast majority of releases are not "disasters emergencies" as defined in Alaska Statutes. The Department's "response actions" usually consist of overseeing the responsible party to ensure that adequate cleanup is completed or hiring a contractor to conduct the cleanup.
- Other state agencies are rarely are involved in a response to a "typical" oil or hazardous substance release.
- Preliminary results from studies analyzing the oil and hazardous substance threats in the state indicate that the threat is manageable. In fact, the risk associated with many of the most serious potential releases can be significantly reduced -- or even eliminated -- through prevention.
- Natural disasters pose a much greater threat to communities in Alaska than do oil and hazardous substance releases. Alaska faces a broad spectrum of possible disaster emergencies: earthquakes, fires, floods, storms, electrical power outages, water and sewer failure, and bridge failure. Overall, potential oil and hazardous substances releases pose less threat to Alaskans than do other potential disaster emergencies. Since 1977, two of the 166 declared disasters (1.2%) resulted solely from an an oil or hazardous substance release (Exxon Valdez and the Crown Point formaldehyde release).
- Current statutes contain duplicative or unclear provisions regarding the roles of state and local planning agencies. The Department hopes proposed legislation will improve the State's preparedness for all potential disasters by:
  1. clarifying state agency responsibilities for planning for potential disasters and non-disasters; and,
  2. integrating (consolidating) local planning requirements.

## **General Comments and Recommendations on CSSB 33 (1/6/94 Work Draft)**

- 1. Define the responsibilities of state agencies or the SERC in disaster planning and preparedness.**

As detailed in the State Emergency Plan, each State agency is responsible for certain aspect(s) of the State's response to a declared disaster. One of the limitations cited in the plan is the failure of State agencies to prepare for carrying out their assigned duties. DEC, and probably most other agencies are not fully prepared to carry out their responsibilities in the event of a disaster.

By establishing the SERC as an all-hazards commission, CSSB 33 would institute changes that raise the profile of disaster preparedness issues and increase the perception that State agencies are meeting their disaster planning responsibilities. However, the bill falls short of giving the mandates to State agencies that are needed to accomplish one of the bill's primary goals -- to improve preparedness for disasters.

**Recommendation:** To the extent that this legislation is intended to improve the State's preparedness for disaster response -- i.e., that all State agencies are prepared individually and collectively -- the bill's language needs to explicitly require State agencies to develop agency-specific plans that coordinate with the State Emergency Plan and ensure that staff are designated and trained for carrying out those agencies responsibilities.

- 2. Describe the relationship between local disaster plans prepared under AS 26.23 and local plans prepared under the federal law, SARA Title III.**

Potential emergencies or disasters which result from natural events such as earthquakes or flooding pose a greater public health threat than potential oil or hazardous substance releases. DEC and DMVA have agreed that consolidating the local planning requirements for oil and hazardous substance releases with the local disaster planning requirements under AS 26.23 would simplify coordination and integration of local emergency planning efforts, and would improve overall preparedness of Alaskan communities to respond to all potential disasters.

CSSB 33 would partially accomplish that goal by transferring LEPC planning requirements to AS 26.23 and amending State law to authorize LEPCs to serve as the local or interjurisdictional disaster agency, and establishing them as advisors to local government. However, the proposed amendments still leave the option for maintaining a planning group for local response to oil and hazardous substance releases, the LEPC, which is essentially separate from the local or interjurisdictional disaster planning agency (usually local government).

**Recommendation:** Include language which would clearly consolidate local disaster planning and local planning under SARA Title III. Do not restate federal law. Additional sections or subsections could be added to define or clarify requirements

for specific types of disasters (eg, fires, floods, earthquakes, volcanoes).

### **3. Define "emergency"**

As opposed to the term "disaster", "emergency", "emergency response organization" and "emergency planning" are not clearly defined in CSSB 33 (1/6/94 Work Draft).

Non-disaster oil and hazardous substance response is managed on a day-to-day, routine basis by DEC by overseeing the responsible party's cleanup of a spill, or employing contractors or local governments to cleanup a spill if the responsible party refuses or can't be found. Most responses do not involve another state agency or local responders. Without specific definition in the bill, the term "emergency" suggests, for example, that the SERC would be required to facilitate the preparation and implementation of state agency response plans such as DEC's oil and hazardous substance response plans or DNR's fire suppression plans.

**Recommendation:** Include a clear and specific definition of "emergency", "emergency response organization", and specify which "emergency plans" are subject to the provisions in the law.

### **4. Include authorization for direct appropriations from the Response Fund to DMVA.**

The Department has transferred response funds to DMVA via an RSA. Directly appropriating the funds would considerably reduce staff time spent developing and managing the RSA and paying bills. DEC will have no oversight role over DMVA and it will be inappropriate for DEC to manage the funds through an RSA for this purpose.

**Recommendation:** Include language which authorizes direct appropriation of response funds to DMVA.

### **5. Emphasize disaster emergencies, putting oil and hazardous substance responses in context with other disaster emergencies.**

The current work draft language places most of the emphasis on oil and hazardous substance planning and preparedness. Many other potential disasters pose a greater threat to Alaskans and planning and preparedness for these events should be balanced.

**Recommendation:** Include additional provisions that give appropriate emphasis to all types of disasters (e.g., earthquakes).

## DIVISION OF SPILL PREVENTION AND RESPONSE

### CS FOR SENATE BILL NO. 33(STA)

#### MAJOR ISSUES AND SECTIONAL COMMENTS ON 1/6/94 WORK DRAFT

##### MAJOR ISSUES

1. The primary purpose of the bill should be to enhance State and local preparedness for all declared disasters due to natural or man-made causes. Specific references to oil and hazardous substance disasters should be balanced in perspective with other types of disasters.
2. The Alaska Disasters Act clearly defines what a disaster emergency is and how it is declared. A comparable definition for an "emergency" independent of a disaster does not exist and the term should not be included in the preparedness amendments proposed in CSSB 33 unless when used in the full context of disaster emergency.
3. Staffing an interagency SERC and coordinating the development of interagency response plans is not necessary for the majority of oil and hazardous response plans. Directing limited staff resources to prepare for a disaster level oil and hazardous substance release limits the Department of Environmental Conservation's (DEC) ability to prepare for more frequent oil and hazardous substance releases. DEC needs to be relieved of the responsibility for interagency disaster planning so that it can focus its limited resources on the daily threat of oil and hazardous substance releases.

##### SECTIONAL COMMENTS AND RECOMMENDATIONS

###### SECTION 1:

**p 2 line 7-8:** The term "emergency response organizations" is not defined. CSSB needs to add a definition or reference a definition in the bill to identify what organizations would be eligible.

**SECTION 2:** No comment

###### SECTION 3:

**p 2 line 19-30:** The term "emergency" is used throughout the bill amendments and is not defined. Since the amendments are intended to enhance state and local preparedness and response to all disasters, references to "emergency" should be

deleted. However, if the term is retained it should be defined in terms of the circumstances it applies to and the procedures for how it is declared (see AS 26.23.900).

Section 4: No comment

Section 5: No comment

Section 5: No comment

Section 7:

**p 4 line 24-26:** Delete the requirement for "emergency" plans and rely on current requirements for disaster emergency plans under AS 26.23.060. "All emergency plans" is not defined to specify which State, interjurisdictional or local plans the SERC would facilitate. As noted above, "emergency" must be defined for State and local agencies to know the response circumstances they are required to plan. The specific reference to plans prepared under AS 46.04.200 - 46.04.210 should be deleted unless the statutory authorities of all State and local emergency response plans are referenced. By only referencing oil and hazardous substance release authorities, the importance of other State and local emergency authorities is diminished.

**p 5 line 12-13:** Delete "or management of hazardous substances;". This provision is unnecessarily broad and too focused on oil and hazardous substances. Revise to read, "emergency planning, preparedness and prevention"

**p 6 line 30-31, p 7 line 1-17:** Revise to read, " (e) If advertisement and commission's own initiative do not result in the nomination of an eligible [acceptance of] appointment to the commission..." The requirement for equal representation should only be suspended if an eligible person can not be found for a particular category.

**p 8 line 9-16:** These two provisions are redundant in that they both reference LEPC advisory roles. Revise (6) to read, "...local, state, and interjurisdictional plans; and training, and response."; With this revision, all of (7) should be deleted.

**p 8 line 20-31, p 9 line 1-19:** Delete the specific requirements under subsections (a) (1), (2), (4), and (5) for oil and hazardous substance plans. Since local plans would be required to address preparedness for all disasters, oil and hazardous substance releases should be balanced with other hazards warranting special attention. The bill should clearly consolidate local emergency planning requirements for all hazards and, if necessary, sections or subsections could be added to define or clarify requirements for specific types of emergency disasters (e.g., fires, floods, earthquakes, volcanoes, or hazardous substance releases).

**p 10 line 6-10:** Current statutory language ("a major role") does not clearly convey DMVA's responsibility for logistics and communications in a state response to a disaster. Suggest revising to read: "...lead responsibility for". Also, suggest deleting "or other emergency" on line 10 since many state agencies respond to "emergencies" on a daily basis that do not require DMVA/DES to provide logistical support.

**p 10 line 27-30:** This definition excludes RCRA hazardous wastes. While many hazardous wastes are of relatively less concern for purposes of emergency planning, others are serious. The definition of this term essentially establishes the scope of substances that local plans must consider--currently very broad under AS 46.03.826. Suggest that if a definition for hazardous substance is included under AS 26.23, that the definition match the federal definition of "extremely hazardous substance" in SARA Title III. The Federal list of extremely hazardous substances (EHS) includes certain RCRA substances. This would also help focus LEPC planning on the most critical hazardous substances in terms of human health and safety. The EHS list includes the substances that pose most of the threat in Alaska (i.e., chlorine and ammonia).

Section 8: No comment

Section 9:

**p 11 line 1:** Insert definition for "local response organization" and "emergency"

Section 10: No comment

Section 11: No comment

Section 12:

**p 12 line 10-14:** Delete proposed amendment to (F) which would direct DEC to prepare a State Master Plan that would specify the respective duties of all state agencies involving a declared oil and hazardous substance release disaster. DMVA/DES is currently responsible for including disaster provisions in the State Disaster Plan for all state agencies (AS 26.23.040). DMVA should continue to be responsible for interagency disaster planning and response coordination regardless of the circumstance necessitating the disaster declaration.

Section 13:

**p 13 line 13-18:** Suggest minor revision as follows to clarify that drill exercises serve two basic purposes, 1) training for responders to maintain readiness to respond, and 2) determine the sufficiency of response plan and the need for revisions.

"(d) the commissioner may require or schedule unannounced oil or

hazardous substance release drills to ensure preparedness to respond to potential oil or hazardous substance releases and to test the sufficiency of the state master plan prepared under this section, an oil discharge prevention and contingency plan approved under AS 46.04.030 or of the cleanup plans of a party identified under (b)(2) of this section."

Section 14: No comment

Section 15:

**p 13 line 27-29:** Recommend deleting proposed amendment. This provision is not needed since the Department recognizes the need to coordinate local and regional planning boundaries as reflected in the current regional boundaries. In establishing the existing boundaries in regulation (18 AAC 75.495), the Department took into consideration the boundaries of existing LEPDs, local political subdivisions, native corporations, disaster emergency planning areas and coastal management districts. Most importantly, the Department set the boundaries such that facility contingency plan holders who are required to maintain response equipment within their "region of operation" [AS 46.04.030(q)(4)] have equipment immediately available in the areas threatened by a release.

Section 16:

**p 13 line 31, p 14 line 1-3:** Revise as follows to allow for direct appropriation of response funds to DMVA. In addition, the reference to the costs of being prepared for and responding to a request from DEC for support in response activities is unnecessary since existing law allows the costs a state agency incurs for response to be paid from the spill reserve (AS 46.08.040).

46.08.040(a) is amended to read: In addition to money in the fund that is transferred to the commissioner of the department of community and regional affairs to make grants under AS 29.60.510 and to pay for impact assessments under AS 29.60.560 or the funding directly allocated by the legislature to the commissioner of the department of military and veterans affairs to pay the expenses incurred for Alaska State Emergency Response Commission activities, including staff support, the commissioner of environmental conservation may use money from the fund to...

**p 14, line 23-31:** Delete (3) and include at 46.08.040(a) -- see proposed revision above.

Sections 17-22: No comment

G:/SPAR/MAC/CSSB33/COMMENTS

# FISCAL NOTE

STATE OF ALASKA  
1994 LEGISLATIVE SESSION

BILL NO. CSS833 (STA)

Revision Date:	<u>January 12, 1994</u>	Dept. Affected:	<u>Military and Veterans Affairs</u>
Title:	<u>An Act relating to emergency planning and response</u>	BRU:	<u>Disaster Planning and Control</u>
Sponsor:	<u>Senator Leman</u>	Component:	<u>Disaster Planning and Control</u>
Requestor:	<u>Senator Leman</u>	COMPONENT SERIAL NO.	<u>1808</u>

**Expenditures/Revenues**

(Thousands of Dollars)

	FY 95	FY 98	FY 97	FY 98	FY 99	FY 00
<b>OPERATING EXPENDITURES</b>						
PERSONAL SERVICES	240.0					(111.8)
TRAVEL	85.3					
CONTRACTUAL	423.2					
SUPPLIES	10.0					
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
<b>TOTAL OPERATING</b>	<b>758.5</b>					<b>(111.8)</b>

CAPITAL EXPENDITURES						
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CHANGE IN REVENUES ( )						
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**FUND SOURCE**

(Thousands of Dollars)

	FY 95	FY 98	FY 97	FY 98	FY 99	FY 00
1002 Federal Receipts						
1003 GF Match						
1004 GF	111.8					(111.8)
1005 GF/Program Receipts						
1006 GF/MHTIA						
Other: 1052 470 Fund	646.7					
<b>TOTAL</b>	<b>758.5</b>					<b>(111.8)</b>

Estimate of any current year (FY94) cost: \$ not applicable

**POSITIONS**

	FY 95	FY 98	FY 97	FY 98	FY 99	FY 00
FULL-TIME	5.0					(2.0)
PART-TIME						
TEMPORARY						

ANALYSIS: (Attach a separate page if necessary)  
See attached pages for analysis

Prepared by: Jeff Morrison, Director  
Division: Administrative Support Services Division  
Approved by Commissioner: *Morrison for* Hugh L. Cox III  
Agency: Military and Veterans Affairs

Phone: 465-4730  
Date: January 14, 1994  
Date: January 14, 1994

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ATTACHMENT TO FISCAL NOTE TO CSSB 33 (STA)  
DEPARTMENT OF MILITARY AND VETERANS AFFAIRS  
Division of Emergency Services  
Disaster Planning and Control Component

**Fiscal Summary:** This fiscal note combines the following: 1) the transfer of three positions and funding (\$241.9) from DEC to provide support to the State Emergency Response Committee (SERC); 2) the transfer in of 400.0 from DEC to fund Local Emergency Planning Committee (LEPC) direct assistance; and 3) the establishment of two new general funded positions to accomplish the additional work assisting LEPCs required by this legislation. This totals a transfer of 641.9 from DEC, with an additional 111.8 in state general funds. The funding being transferred from DEC comes from the Oil and Hazardous Substance Release Response Fund ("470 Fund"). The net result on this component of the fiscal actions required by this legislation is as follows:

Expenditure Account	SERC Support	LEPC Assistance	LEPC Staff	Total
Pers Svcs	128.2		111.8	240.0
Travel	85.3			85.3
Contractual	23.2	400.0		423.2
Supplies	10.0			10.0
<b>Total</b>	<b>246.7</b>	<b>400.0</b>	<b>111.8</b>	<b>758.5</b>
<b>Positions</b>	<b>3</b>		<b>2</b>	<b>5</b>

Please refer to the DEC fiscal notes for an explanation of the fiscal impact on DEC. There is a net zero effect on the 470 fund compared to the FY95 operating budget request; and a net savings of 396.6 in 470 funds compared to FY94 due to a 396.6 decrease in the DES operating budget funding from 470 Fund from FY94 to FY95. The following paragraphs explain in more detail each of the areas summarized above:

**SERC Support:** Three staff positions within DEC which provide support to the SERC will be transferred into this component. These positions are located in the Spill Prevention and Response BRU, Government Preparedness component. The DEC fiscal note identifies the separate projects in which these positions are budgeted (DEC uses project budgeting). The total amount of funds to be transferred from DEC for this function is \$241,900. The line-item breakout within the DMVA/DES budget has been adjusted in this fiscal note to show how the funds are projected to be needed.

The three transferred positions would continue to support the SERC through coordinating regularly scheduled meetings, implementing SERC decisions and directions, and staff review and preparation of agenda items. They would also work with the current DES staff to ensure integration of local (LEPC) plans with the state emergency operations plan. The remainder of the funding for SERC support is used for public members' travel, advertising, room rentals, and other meeting costs. Some of the funds transferred in for SERC support will also be used to support the two LEPC staff positions also created by this fiscal note (e.g. travel, communications).

The three transferred positions would be reclassified as needed in order to provide the best overall support to the SERC. The needed support can best be provided by a restructuring of the support staff to have one professional planner II (range 17, \$54,468), one administrative assistant III (range 14, \$45,241), and one clerk typist III (range 8, \$33,773). A 4% vacancy rate is built into the budgeted personal services costs of these positions for purposes of the fiscal note, for a total personal services budget of \$128,200.

**LEPC Assistance:** DMVA will assume responsibility for providing planning assistance to the LEPCs. This will be met by a combination of contracts with LEPCs and staff support to work directly with the LEPCs.

Contracts with LEPCs have been a major element of previous budget submissions from DEC. \$400,000 for LEPC contracts is currently included in the FY95 DEC budget (SPAR BRU, Government preparedness component). This money will be transferred to DMVA and administered by the Division of Emergency Services.

These contracts will be used by local groups to train community responders to respond to releases of hazardous substances and oil spills, and to provide for administrative support of local planning efforts related to disaster emergencies. The additional staff to be added to DES in this fiscal note will reduce or eliminate the need for local entities to contract for planning services.

**LEPC Staff:** The direct staff support to LEPCs will be accomplished by the addition of two new general funded planner positions: one range 17 planner II (\$54,468 annual salary cost), and one range 19 planner III (\$61,953 annual salary cost). A 4% vacancy rate is built into the budgeted personal services costs of these positions for purposes of the fiscal note, for a total personal services budget of \$111,800. The planners will work with LEPCs to perform on-site surveys to analyze local hazards and assess capabilities, write disaster response and mitigation plans, assist in local review, and promulgate the finished plans. The hazards included in the plans will include oil spills, hazardous substances, and all other types of natural and man-caused disasters. Travel and other support costs for the LEPC planners will be reallocated from the SERC support funds as needed.

With the staffing to be added by this fiscal note, combined with the technical staff currently in DEC and the current staff of DES, we project that the initial plans for the Local Emergency Planning Districts (LEPDs) established by the SERC will be completed by the end of FY99. The LEPDs will cover the entire state of Alaska. Developing the required plans will involve working closely with the political subdivisions of all sizes located throughout Alaska. There will be an ongoing need to periodically review and revise the plans, and to train and drill to test the adequacy of the plans. Annual local reviews are a federal requirement (SARA Title III).

It is likely that after the initial plans for the LEPDs are completed (FY99), the amount needed for state-provided planning support to LEPCs will decrease. DES staff will be reduced proportionately as the formalization of emergency planning capabilities is achieved in the anticipated 25-30 LEPCs by FY99. This fiscal note reflects that reduction by the elimination of two positions and 111.8 in general funds starting in FY 2000.

# FISCAL NOTE

STATE OF ALASKA  
1994 LEGISLATIVE SESSION

BILL NO. CSSB33 (STA)

Revision Date:		Dept. Affected: <u>Environmental Conservation</u>
Title:	<u>An Act relating to disaster emergency planning and response.</u>	BRU: <u>Spill Prevention and Response</u>
Sponsor:	<u>Senator Leman</u>	Component: <u>Government Preparedness and Response</u>
Requestor:	<u>Sonator Leman</u>	COMPONENT SERIAL NO. <u>1923</u>

**Expenditures/Revenues**

(Thousands of Dollars)

OPERATING EXPENDITURES	FY 95	FY 96	FY 97	FY 98	FY 99	FY 00
PERSONAL SERVICES	(181.3)	0.0	0.0	0.0	0.0	0.0
TRAVEL	(24.4)	0.0	0.0	0.0	0.0	0.0
CONTRACTUAL	(435.2)	0.0	0.0	0.0	0.0	0.0
SUPPLIES	(4.0)	0.0	0.0	0.0	0.0	0.0
EQUIPMENT	(1.8)	0.0	0.0	0.0	0.0	0.0
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
<b>TOTAL OPERATING</b>	<b>(646.7)</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

CAPITAL EXPENDITURES						
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CHANGE IN REVENUES ( )						
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**FUND SOURCE**

(Thousands of Dollars)

FUND SOURCE	FY 95	FY 96	FY 97	FY 98	FY 99	FY 00
1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1006 GF/MHTIA						
Other: 1052 Oil/Haz "470" Fund	(646.7)	0.0	0.0	0.0	0.0	0.0
<b>TOTAL</b>	<b>(646.7)</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

Estimate of any current year (FY94) cost: \$ not applicable

**POSITIONS**

POSITIONS	FY 95	FY 96	FY 97	FY 98	FY 99	FY 00
FULL-TIME	(3.0)	0.0	0.0	0.0	0.0	0.0
PART-TIME						
TEMPORARY						

**ANALYSIS:** (Attach a separate page if necessary)

See attached pages for analysis

Prepared by:	<u>Robert Poe, Director</u> <span style="float: right;"><i>RGP</i></span>	
Division:	<u>Information and Administrative Services</u>	Phone: <u>465-5010</u>
Approved by:	<u>John Sandor, Commissioner</u> <span style="float: right;"><i>RGP</i></span>	Date: <u>1/13/94</u>
Agency:	<u>Environmental Conservation</u>	Date: <u>1/13/94</u>

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ATTACHMENT TO FISCAL NOTES TO CSSB 33 (STA)

DEPARTMENT OF ENVIRONMENTAL CONSERVATION  
Division of Spill Prevention and Response (SPAR)

By amending the Alaska Disaster Act, CSSB 33 (STA) will expand the responsibility of the State Emergency Response Commission (SERC), and Local Emergency Planning Committees (LEPC) to prepare plans for local and State government response to declared disasters or emergencies. Staff support for the SERC would be transferred from the Department of Environmental Conservation (DEC) to the Department of Military and Veterans Affairs (DMVA). CSSB 33 would additionally direct DMVA to provide financial assistance to LEPCs and require all State agencies to provide technical planning assistance to the LEPCs.

CSSB 33 would reduce DEC staff assistance to the SERC and administrative assistance to LEPC on behalf of the SERC. This workload reduction would also reduce the level of funding proposed for the State Emergency Response Commission project (PJ # 5503), and the Local Planning Project (PJ #5502) proposed in DEC's FY 95 budget under the Government Preparedness and Response Component. The following briefly describes the proposed FY 95 project tasks that DEC would no longer be required to perform under CSSB 33, the corresponding reduction in funding and staff positions budgeted for that work, and the associated work and resources retained by DEC.

**SERC Project**

DEC's FY 95 budget request includes \$105,800 and 1.1 FTE to provide staff support to the State Emergency Response Commission (SERC), public member travel costs, and SERC meeting expenses. Since CSSB 33 would eliminate DEC's staff responsibility for the SERC, DEC's FY 95 SERC project request would be eliminated.

**Local Planning Project**

DEC's FY 95 local planning project budget request includes \$1,107,900 and 4.9 FTE to provide technical and financial assistance to LEPCs established by the SERC for preparing plans in compliance with State and federal requirements.

Of this request, \$400,000 is for LEPCs to develop plans, and \$140,900 with 1.9 FTE is for DEC to administer the funds awarded to LEPCs by the SERC, and to assist communities wishing to form LEPCs. Since CSSB 33 would eliminate DEC's administrative assistance to LEPC's on behalf of the SERC, DEC's FY 95 request would be reduced by \$540,900 and 1.9 FTE.

The remaining budget request for the local planning project (\$567,000 and 3.0 FTE) is for DEC to provide technical assistance to LEPCs and local governments in identifying local, State and federal response resources necessary to implement a local response plan. DEC also assists local communities in designing spill response drills to test local response readiness and provides communities with information regarding local oil and hazardous risks, and ways to prevent or reduce identified risks. CSSB 33 would not affect DEC's current responsibilities or budget request for this element of the local planning project.

8-LS0324D  
Lauterbach  
1/6/94

CS FOR SENATE BILL NO. 33(STA)

IN THE LEGISLATURE OF THE STATE OF ALASKA

EIGHTEENTH LEGISLATURE - SECOND SESSION

BY THE SENATE STATE AFFAIRS COMMITTEE

Offered:  
Referred:

Sponsor(s): SENATOR LE. IAN

A BILL

FOR AN ACT ENTITLED

1 "An Act relating to emergency planning and response; transferring the Hazardous  
2 Substance Spill Technology Review Council to the Department of Environmental  
3 Conservation; transferring the Alaska State Emergency Response Commission,  
4 including its duty to designate local emergency planning districts and appoint local  
5 emergency planning committees, to the Department of Military and Veterans'  
6 Affairs; and eliminating a requirement that the state and regional oil discharge  
7 prevention and contingency plans be revised annually."

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

9 \* Section 1. AS 26.23.040(e) is amended by adding a new paragraph to read:

10 (12) to the extent that money is available from an appropriation for the  
11 purposes of this paragraph,

12 (A) award grants for the purpose of forming local emergency  
13 planning committees under AS 26.23.073;

1 (B) in order to comply with 49 U.S.C. Appx. 1815(a)(3), make  
2 funds available to local emergency planning committees for developing and  
3 maintaining emergency plans under AS 26.23.073 and 26.23.075;

4 (C) make funds available to local emergency planning  
5 committees to implement 42 U.S.C. 11022(e) and 42 U.S.C. 11044; and

6 (D) award grants for training local emergency planning  
7 committees and for training and equipping the emergency response  
8 organizations that execute the plans developed by the committees under  
9 AS 26.23.073 and 26.23.075.

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

11 (f) To the extent that the plan prepared under this section relates to action  
12 required to avert human injury or other damage from a release of a hazardous  
13 substance, the plan must be substantially equivalent in relevant respect to the local  
14 emergency plans prepared under AS 26.23.073 and 26.23.075 and the state and  
15 regional master plans prepared by the Department of Environmental Conservation  
16 under AS 46.04.200 - 46.04.210. The plan must use an incident command system  
17 comparable to the system used in those plans and must be reviewed by the Alaska  
18 State Emergency Response Commission under AS 26.23.077.

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

20 Sec. 26.23.045. RESPONSE CORPS; DEPOTS. (a) The department shall  
21 establish a response corps. The corps consists of volunteers who register with the  
22 department and agree to be trained in techniques for emergency and disaster response  
23 and to be available on short notice to carry out responsibilities of the corps under an  
24 applicable incident command system. Members of the corps are entitled to per diem  
25 and expenses as determined by the department for training and for days spent in  
26 service to the state.

27 (b) The department shall maintain emergency response depots in areas of the  
28 state identified for that purpose in the state emergency plan developed under  
29 AS 26.23.040. The depots shall be equipped and staffed in a manner that ensures  
30 prompt response to emergencies and disasters.

31 \* Sec. 4. AS 26.23.060(a) is amended to read:

1 (a) Each political subdivision in the state is within the jurisdiction of, and shall  
2 be served by, the Alaska division of emergency services. A municipality also may be  
3 served by a local or interjurisdictional agency that is responsible for disaster  
4 preparedness and coordination of response or by a local emergency planning  
5 committee created under AS 26.23.071 that is responsible for oil and hazardous  
6 substance release response planning.

7 \* Sec. 5. AS 26.23.060 is amended by adding a new subsection to read:

8 (g) To the extent that a plan prepared under this section relates to action  
9 required to avert human injury or other damage from a release of a hazardous  
10 substance, the plan must be substantially equivalent in relevant respect to the local  
11 emergency plans prepared under AS 26.23.073 and 26.23.075 and the state and  
12 regional master plans prepared by the Department of Environmental Conservation  
13 under AS 46.04.200 - 46.04.210. The plan must use an incident command system  
14 comparable to the system used in those plans and must be reviewed by the Alaska  
15 State Emergency Response Commission under AS 26.23.077.

16 \* Sec. 6. AS 26.23.070 is amended by adding a new subsection to read:

17 (d) To the extent that a plan prepared under this section relates to action  
18 required to avert human injury or other damage from a release of a hazardous  
19 substance, the plan must be substantially equivalent in relevant respect to the local  
20 emergency plans prepared under AS 26.23.073 and 26.23.075 and the state and  
21 regional master plans prepared by the Department of Environmental Conservation  
22 under AS 46.04.200 - 46.04.210. The plan must use an incident command system  
23 comparable to the system used in those plans and must be reviewed by the Alaska  
24 State Emergency Response Commission under AS 26.23.077.

25 \* Sec. 7. AS 26.23 is amended by adding new sections to read:

26 Sec. 26.23.071. ALASKA STATE EMERGENCY RESPONSE  
27 COMMISSION. (a) There is established in the Department of Military and Veterans'  
28 Affairs the Alaska State Emergency Response Commission.

29 (b) The commission consists of the commissioners of community and regional  
30 affairs, environmental conservation, fish and game, health and social services, labor,  
31 natural resources, public safety, and transportation and public facilities, or the

1 designees of the commissioners, the adjutant general of the Department of Military and  
2 Veterans' Affairs or a designee, and seven members of the public appointed by the  
3 governor, two of whom must be members of a local emergency planning committee  
4 for an emergency planning district that is predominantly rural in character and two of  
5 whom must be members of a local emergency planning committee for an emergency  
6 planning district that is predominantly urban in character. Two of the other three  
7 members of the public who are appointed to the commission must be members of the  
8 governing body of a political subdivision that has a local emergency planning  
9 committee. To the extent practicable, the commission must include members with  
10 expertise in the emergency response field.

11 (c) The adjutant general of the Department of Military and Veterans' Affairs,  
12 or the adjutant general's designee, and the commissioner of environmental  
13 conservation, or the commissioner's designee, shall co-chair the commission. The  
14 Department of Military and Veterans' Affairs shall provide staff support to the  
15 commission.

16 (d) Members of the commission other than those from the designated state  
17 departments serve at the pleasure of the governor for staggered terms of three years.  
18 Members of the commission serve without compensation but are entitled to per diem  
19 and travel expenses authorized for members of boards and commissions under  
20 AS 39.20.180.

21 (e) The commission shall

22 (1) serve as the state emergency response commission required under  
23 42 U.S.C. 11001 - 11005;

24 (2) facilitate the preparation and implementation of all emergency  
25 plans, including the statewide, interjurisdictional, and local plans prepared under this  
26 chapter and the state and regional plans prepared under AS 46.04.200 - 46.04.210;

27 (3) review the plans described in (2) of this subsection according to the  
28 criteria established in AS 26.23.077;

29 (4) designate, and revise as necessary, the boundaries of emergency  
30 planning districts under AS 26.23.073;

31 (5) establish a local emergency planning committee under

1 AS 26.23.073(d) for each emergency planning district;

2 (6) supervise and coordinate the activities of local emergency planning  
3 committees;

4 (7) establish procedures for receiving and processing requests from the  
5 public for information under 42 U.S.C. 11044, including tier II information under 42  
6 U.S.C. 11022;

7 (8) review reports about responses to disaster emergencies and make  
8 recommendations to the appropriate parties involved in the response concerning  
9 improved prevention and preparedness;

10 (9) perform other coordinating, advisory, or planning tasks related to  
11 emergency planning and preparedness for all types of hazards, community  
12 right-to-know reporting, toxic chemical release reporting, or management of hazardous  
13 substances;

14 (10) recommend procedures to integrate, as appropriate, hazardous  
15 substance response planning under 42 U.S.C. 11001 - 11005, federal contingency  
16 planning under 33 U.S.C. 1321 and other federal laws applicable to hazardous  
17 substance discharges, and state, regional, and local planning under this chapter and  
18 AS 46.04.200 - 46.04.210;

19 (11) to the extent consistent with the constitution and law of the state,  
20 perform all other functions prescribed for state emergency response commissions under  
21 42 U.S.C. 11001 - 11005; and

22 (12) adopt regulations necessary to carry out the purposes of  
23 AS 26.23.071 - 26.23.077 and 42 U.S.C. 11001 - 11005.

24 Sec. 26.23.073. EMERGENCY PLANNING DISTRICTS AND  
25 COMMITTEES. (a) The commission shall set the boundaries of local emergency  
26 planning districts. The commission shall set the boundaries of a district so that they  
27 are ccontensive with the boundaries of a single political subdivision except when it  
28 would be more appropriate, based on findings of the commission, for the district to  
29 include more than one political subdivision or some area that is not contained within  
30 a political subdivision. Before the commission sets the boundaries for a district under  
31 this subsection so that it includes more than one political subdivision or some area that

1 is not within a political subdivision, the commission shall consult the emergency  
2 response organizations and the governing body of the political subdivisions in the  
3 proposed district.

4 (b) If, after the commission sets boundaries for districts under (a) of this  
5 section, there remain areas of the state that are not included in any district, those areas  
6 constitute a local emergency planning district.

7 (c) If the commission sets boundaries for a district under this section that  
8 includes more than one political subdivision, the commission shall recommend to the  
9 governor the designation of an interjurisdictional disaster planning and service area  
10 under AS 26.23.070 whose boundaries are coextensive with the boundaries of the local  
11 emergency planning district established under this section.

12 (d) The commission shall appoint the members of a local emergency planning  
13 committee for each emergency planning district established under (a) and (b) of this  
14 section. In making appointments for a district that contains only one political  
15 subdivision, the commission shall follow the recommendations of the governing body  
16 of the political subdivision if those recommendations would constitute a committee that  
17 meets the requirements of this subsection. In making appointments for a district that  
18 contains more than one political subdivision, the commission shall consider the  
19 recommendations of the governing body of each political subdivision and follow the  
20 recommendations to the extent that the governing bodies are in agreement and their  
21 recommendations would constitute a committee that meets the requirements of this  
22 subsection. To the extent required under regulations that may be adopted by the  
23 commission, the political subdivisions in a district that includes more than one political  
24 subdivision shall follow a process under which they develop coordinated  
25 recommendations to submit to the commission under this subsection. In making  
26 appointments for a district that includes some area that is not contained within a  
27 political subdivision, the commission shall consider the recommendations of emergency  
28 response organizations in the district. In making appointments for the district formed  
29 under (b) of this section, the commission shall attempt to achieve equitable  
30 geographical representation on the committee. Except as provided in (e) of this  
31 section, each committee must include, at a minimum, an equal number of

1 representatives of each of the following seven categories:

2 (1) elected local officials;

3 (2) law enforcement, civil defense, fire fighting, first aid, health, local  
4 environmental, hospital, and transportation personnel;

5 (3) broadcast or print media;

6 (4) community groups;

7 (5) owners and operators of facilities subject to the requirements of 42  
8 U.S.C. 11001 - 11005;

9 (6) members of a local or interjurisdictional planning and disaster  
10 agency if one has been established that includes part of the district; and

11 (7) members of the public that are not described in (1) - (6) of this  
12 subsection.

13 (e) If advertisement and the commission's own initiative do not result in the  
14 acceptance of appointment to the commission by the number of people required in a  
15 category under (d)(1) - (7) of this section, the requirement of (d) of this section that  
16 there be equal representation of that category is suspended until sufficient willing  
17 appointees become available.

18 (f) A person may request the commission to change the membership of a local  
19 emergency planning committee.

20 (g) Each local emergency planning committee shall

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

24 (2) appoint a chair and establish rules by which the committee shall  
25 function, including provisions for public notification of committee activities, public  
26 advertising of positions available on the committee, public meetings to discuss the  
27 emergency plan, public comments, response to the comments by the committee,  
28 distribution of the emergency plan, and designation of an official to serve as  
29 coordinator for information;

30 (3) prepare and periodically review an emergency plan in accordance  
31 with 42 U.S.C. 11003(a) in a manner that includes coordination with the political

1 subdivisions covered by the plan;

2 (4) evaluate the need for resources necessary to develop, implement,  
3 and exercise the emergency plan, and submit recommendations to the political  
4 subdivisions in the emergency planning district with respect to the resources that may  
5 be required and the means for providing the resources;

6 (5) to the extent consistent with the constitution and law of the state,  
7 perform all other functions prescribed for emergency planning committees in 42 U.S.C.  
8 11001 - 11005;

9 (6) to the extent considered advisable by the committee, make  
10 recommendations to political subdivisions, interjurisdictional planning and disaster  
11 agencies, and state agencies about the preparation of local, state, and interjurisdictional  
12 plans; and

13 (7) serve as an advisory committee to the political subdivisions within  
14 the emergency planning district or the interjurisdictional planning and service area  
15 established under AS 26.23.070 with respect to emergency planning, training, and  
16 response.

17 (h) A state agency represented on the commission shall, upon request, provide  
18 technical assistance to a local emergency planning committee in the performance of  
19 its duties under this section.

20 Sec. 26.23.075. EMERGENCY PLANS. (a) An emergency plan prepared  
21 under AS 26.23.073 must include

22 (1) identification of facilities subject to the requirements of 42 U.S.C.  
23 11001 - 11005 that are within the emergency planning district, identification of routes  
24 likely to be used for the transportation of substances on the list of extremely hazardous  
25 substances referred to in 42 U.S.C. 11002(a), and identification of additional facilities  
26 contributing or subjected to additional risk due to their proximity to facilities subject  
27 to the requirements of 42 U.S.C. 11001 - 11005 such as hospitals or natural gas  
28 facilities;

29 (2) methods and procedures to be followed by facility owners and  
30 operators and local emergency and medical personnel to respond to a release of  
31 hazardous substances or a release of substances on the list of extremely hazardous

1 substances referred to in 42 U.S.C. 11002(a);

2 (3) designation of an emergency coordinator, as required under  
3 AS 26.23.060(d), and facility emergency coordinators, who shall make determinations  
4 necessary to implement the emergency plan;

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

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

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

15 (7) evacuation plans, including provisions for a precautionary  
16 evacuation and alternative traffic routes;

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

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

20 (b) An emergency plan prepared under AS 26.23.073 may include descriptions,  
21 procedures, and programs related to disasters other than those caused by releases of  
22 hazardous substances.

23 (c) Each emergency plan prepared under AS 26.23.073 must incorporate within  
24 it an incident command system. The incident command system must be substantially  
25 equivalent in relevant respects to the incident command systems established under  
26 AS 46.04.200 - 46.04.210 and meet the requirements of AS 26.23.077.

27 Sec. 26.23.077. PLAN REVIEW; INCIDENT COMMAND SYSTEMS. (a)  
28 The commission shall review and make recommendations about local,  
29 interjurisdictional, regional, and state emergency plans, including plans prepared under  
30 this chapter and AS 46.04.200 - 46.04.210.

31 (b) When making recommendations about a plan, the commission shall suggest

1 changes that ensure that the plan includes an incident command system that describes  
2 the respective roles of affected persons and agencies in a clear and specific manner and  
3 that the respective roles of state agencies are consistent with their statutory duties. The  
4 commission shall also suggest changes that ensure that the plans are well-integrated  
5 with related plans.

6 (c) To the extent consistent with other law, an incident command system  
7 recommended under this section or included in a plan reviewed under this section must  
8 provide that the Department of Military and Veterans' Affairs has a major role in  
9 mobilization of personnel and resources, communications, transportation planning, and  
10 other logistics involved in a state response to a disaster or other emergency.

11 \* Sec. 8. AS 26.23.150(a) is amended to read:

12 (a) In addition to disaster prevention measures as included in the state, local,  
13 and interjurisdictional disaster plans, the governor shall consider, on a continuing basis,  
14 steps that could be taken to prevent or reduce the harmful consequences of disasters.  
15 At the governor's direction, and under any other authority and competence they have,  
16 state agencies, including but not limited to those charged with responsibilities in  
17 connection with flood plain management, stream encroachment and flow regulation,  
18 weather modification, fire prevention and control, environmental [AIR] quality, public  
19 works, land use and land use planning, and construction standards, shall make studies  
20 of disaster-prevention-related matters. The governor, from time to time, shall make  
21 recommendations to the legislature, local governments, and other appropriate public  
22 and private entities as may facilitate measures for the prevention or reduction of the  
23 harmful consequences of disasters.

24 \* Sec. 9. AS 26.23.900 is amended by adding new paragraphs to read:

25 (8) "commission" means the Alaska State Emergency Response  
26 Commission;

27 (9) "hazardous substance" has the meaning given in AS 46.03.826  
28 except that it does not include a hazardous waste identified by the Environmental  
29 Protection Agency under 40 C.F.R. Part 261;

30 (10) "interjurisdictional planning and disaster agency" means an  
31 interjurisdictional agency authorized under AS 26.23.060 or an interjurisdictional

1 relationship created by order of the governor under AS 26.23.070(a).

2 \* Sec. 10. AS 46.03.865(a) is amended to read:

3 (a) When the department finds that an actual or imminent discharge of oil, a  
4 hazardous substance, or low level radioactive materials to the air, water, land, or  
5 subsurface land of the state poses an immediate threat to the public health or welfare  
6 or the environment of the state, it may issue an order declaring an emergency and  
7 directing a person or persons to take action the department believes necessary to meet  
8 the emergency, and protect the public health, welfare, or environment. If there is an  
9 incident command system established under AS 26.23 or [,] AS 46.04.200 - 46.04.210  
10 [, OR AS 46.13] that is applicable to the situation for which the department issues an  
11 order under this subsection, the department's exercise of authority under this  
12 subsection shall be guided by the relevant provisions of the incident command system.

13 \* Sec. 11. AS 46.03.865(c) is amended to read:

14 (c) During a period of emergency declared under (a) of this section, each state  
15 agency shall take whatever action the department finds necessary to meet the  
16 emergency and to protect the public health, welfare, or environment, consistent with  
17 the responsibilities assigned to them under an incident command system established  
18 under AS 26.23 or [,] AS 46.04.200 - 46.04.210 [, OR AS 46.13] if one is applicable  
19 to the situation.

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

21 Sec. 46.04.200. STATE MASTER PLAN. (a) The department shall prepare,  
22 [AND] annually review, and revise as necessary a statewide master oil and hazardous  
23 substance discharge prevention and contingency plan.

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

25 (1) take into consideration the elements of an oil discharge prevention  
26 and contingency plan approved or submitted for approval under AS 46.04.030;

27 (2) include incident command systems that clarify and specify the  
28 respective responsibilities of each of the following in the assessment, containment, and  
29 cleanup of various types and sizes of discharges of oil or a hazardous substance into  
30 the environment of the state:

31 (A) the Department of Environmental Conservation [, THE

1 DIVISION OF EMERGENCY SERVICES IN THE DEPARTMENT OF  
2 MILITARY AND VETERANS' AFFAIRS, AND OTHER AGENCIES OF  
3 THE STATE; RESPONSIBILITIES ASSIGNED TO EACH AGENCY MUST  
4 BE CONSISTENT WITH ITS STATUTORY AUTHORITY];

5 (B) municipalities of the state;

6 (C) appropriate federal agencies;

7 (D) operators of facilities;

8 (E) private parties whose land and other property may be  
9 affected by the oil or hazardous substance discharge; and

10 (F) if the release involves a disaster declared by a state or  
11 local official, the duties of all appropriate state agencies [OTHER PARTIES  
12 IDENTIFIED BY THE COMMISSION AS HAVING AN INTEREST IN OR  
13 THE RESOURCES TO ASSIST IN THE CONTAINMENT AND CLEANUP  
14 OF AN OIL OR HAZARDOUS SUBSTANCE DISCHARGE];

15 (3) include incident command systems that specify the respective  
16 responsibilities of parties identified in (2) of this subsection in an emergency response  
17 under AS 26.23, AS 46.03.865, [OR] AS 46.04.080, or AS 46.09.030; responsibilities  
18 assigned to each state agency must be consistent with its statutory authority; and

19 (4) identify actions necessary to reduce the likelihood of  
20 [CATASTROPHIC OIL DISCHARGES AND SIGNIFICANT] discharges of oil or  
21 hazardous substances [; AND

22 (5) DESIGNATE THE LOCATIONS WHERE OIL AND  
23 HAZARDOUS SUBSTANCE EMERGENCY RESPONSE DEPOTS SHOULD BE  
24 ESTABLISHED IN THE STATE AND WHERE EMERGENCY RESPONSE CORPS  
25 PERSONNEL SHOULD BE AVAILABLE].

26 (c) If the commissioner determines that [IN PREPARING AND  
27 ANNUALLY REVIEWING] the state master plan should be revised, the  
28 commissioner shall

29 (1) consult with municipal, [AND] community, and local emergency  
30 planning committee officials, and with representatives of affected regional  
31 organizations;

1 (2) submit the draft plan with revisions to the public for review and  
2 comment; and

3 (3) submit to the legislature for review, not later than the 10th day  
4 following the convening of each regular session, [THE PLAN AND] any [ANNUAL]  
5 revision of the plan;

6 (4) [REQUIRE OR SCHEDULE UNANNOUNCED OIL SPILL  
7 DRILLS TO TEST THE SUFFICIENCY OF AN OIL DISCHARGE PREVENTION  
8 AND CONTINGENCY PLAN APPROVED UNDER AS 46.04.030 OR OF THE  
9 CLEANUP PLANS OF A PARTY IDENTIFIED UNDER (b)(2) OF THIS SECTION;

10 (5)] submit [THE PLAN AND] any revision of the plan to the Alaska  
11 State Emergency Response Commission for its review [AND APPROVAL] under  
12 AS 26.23.077 [AS 46.13.045].

13 \* Sec. 13. AS 46.04.200 is amended by adding a new subsection to read:

14 (d) In order to determine whether the state master plan should be revised, or  
15 at any other time, the commissioner may require or schedule unannounced oil spill  
16 drills to test the sufficiency of an oil discharge prevention and contingency plan  
17 approved under AS 46.04.030 or of the cleanup plans of a party identified under (b)(2)  
18 of this section.

19 \* Sec. 14. AS 46.04.210(a) is amended to read:

20 (a) For any region of the state, the boundaries of which are determined by the  
21 commissioner by regulation, in which the department is required to review and approve  
22 an oil discharge prevention and contingency plan submitted by a person under  
23 AS 46.04.030, the department shall prepare<sub>2</sub> [AND] annually review<sub>2</sub> and revise as  
24 necessary a regional master oil and hazardous substance discharge prevention and  
25 contingency plan.

26 \* Sec. 15. AS 46.04.210 is amended by adding a new subsection to read:

27 (c) In setting boundaries under (a) of this section, the department shall, when  
28 possible, group together communities that are likely to require coordination of their  
29 efforts to respond effectively to a discharge.

30 \* Sec. 16. AS 46.08.040(a) is amended to read:

31 (a) In addition to money in the fund that is transferred to the commissioner of

1 community and regional affairs to make grants under AS 29.60.510 and to pay for  
2 impact assessments under AS 29.60.560, the commissioner of environmental  
3 conservation may use money from the fund to

4 (1) investigate and evaluate the release or threatened release of oil or  
5 a hazardous substance, and contain, clean up, and take other necessary action, such as  
6 monitoring and assessing, to address a release or threatened release of oil or a  
7 hazardous substance that poses an imminent and substantial threat to the public health  
8 or welfare, or to the environment;

9 (2) pay all costs incurred to

10 (A) establish and maintain the oil and hazardous substance  
11 response office, including costs incurred under an agreement entered into  
12 under AS 46.04.090 or AS 46.09.040;

13 (B) review oil discharge prevention and contingency plans  
14 submitted under AS 46.04.030;

15 (C) conduct training, response exercises, inspections, and tests,  
16 in order to verify equipment inventories and ability to prevent and respond to  
17 oil and hazardous substance release emergencies, and to undertake other  
18 activities intended to verify or establish the preparedness of the state, a  
19 municipality, or a party required by AS 46.04.030 to have an approved  
20 contingency plan to act in accordance with that plan; and

21 (D) verify or establish proof of financial responsibility required  
22 by AS 46.04.040;

23 (3) pay the expenses incurred by the Department of Military and  
24 Veterans' Affairs [ALASKA DIVISION OF EMERGENCY SERVICES] for Alaska  
25 State Emergency Response Commission activities, including staff support, and for  
26 the costs of being prepared for and responding to a request by the Department  
27 of Environmental Conservation for support in response and restoration activities,  
28 but not including the costs of maintaining the [OIL AND HAZARDOUS  
29 SUBSTANCE] response corps and the emergency [OIL AND HAZARDOUS  
30 SUBSTANCE] response depots under AS 26.23.045, when presented with appropriate  
31 documentation by the Department of Military and Veterans' Affairs [DIVISION];

1 (4) provide matching funds for participation in federal oil discharge  
2 cleanup activities and under 42 U.S.C. 9601 - 9657 (Comprehensive Environmental  
3 Response, Compensation, and Liability Act of 1980);

4 (5) recover the costs to the state, a municipality, or a village of a  
5 containment and cleanup resulting from the release or the threatened release of oil or  
6 a hazardous substance;

7 (6) prepare, review, and revise

8 (A) the state's master oil and hazardous substance discharge  
9 prevention and contingency plan required by AS 46.04.200; and

10 (B) a regional master oil and hazardous substance discharge  
11 prevention and contingency plan required by AS 46.04.210; and

12 (7) restore the environment by addressing the effects of an oil or  
13 hazardous substance release.

14 \* Sec. 17. AS 46.08.150 is amended to read:

15 Sec. 46.08.150. CONTRACTS. The department [OFFICE OR THE  
16 DIVISION, AS APPLICABLE,] may enter into agreements with agencies of the state  
17 and federal government, political subdivisions, the University of Alaska, or private  
18 persons or entities to

19 [(1) PROVIDE THE PERSONNEL, EQUIPMENT, OR OTHER  
20 SERVICES OR SUPPLIES NECESSARY TO ESTABLISH AND MAINTAIN  
21 REGIONAL OIL AND HAZARDOUS SUBSTANCES DEPOTS AND  
22 AS NECESSARY FOR RESPONSE READINESS;

23 (2) TRAIN MEMBERS OF RESPONSE CORPS; AND

24 (3)] conduct research into oil and hazardous substances spill  
25 technology; the department [OFFICE] shall include in the research topics for which  
26 it conducts or contracts for research, the research topics recommended to it by the  
27 Hazardous Substance Spill Technology Review Council under AS 46.13.120.

28 \* Sec. 18. AS 46.09.040 is amended to read:

29 Sec. 46.09.040. HAZARDOUS SUBSTANCES CONTAINMENT AND  
30 CLEANUP. The department [COMMISSIONER] may contract with a person or a  
31 municipality for personnel, equipment, or services that may be useful to carry out the

1 requirements of this chapter. If the department [COMMISSIONER] determines that  
2 it is infeasible to contract with a person or a municipality, the department  
3 [COMMISSIONER] may establish and maintain containment and cleanup personnel,  
4 equipment, and supplies necessary to carry out the requirements of this chapter. When  
5 exercising its authority under this section, the department shall coordinate with  
6 the Department of Military and Veterans' Affairs to avoid duplication of efforts.

7 \* Sec. 19. AS 46.13.100 is amended to read:

8 Sec. 46.13.100. FINDINGS AND PURPOSE. The legislature

9 (1) finds and declares that there exists a lack of scientific knowledge  
10 concerning the availability, properties, and effectiveness of various hazardous substance  
11 containment and cleanup technologies; and

12 (2) concludes that it is in the best interest of the state and its citizens  
13 to establish a Hazardous Substance Spill Technology Review Council [IN THE  
14 ALASKA STATE EMERGENCY RESPONSE COMMISSION] to assist in the  
15 identification of containment and cleanup products and procedures for arctic and  
16 sub-arctic hazardous substance releases and make recommendations to the departments  
17 and agencies of the state regarding their use and deployment.

18 \* Sec. 20. AS 46.13.110(a) is amended to read:

19 (a) There is established in the Department of Environmental Conservation  
20 [ALASKA STATE EMERGENCY RESPONSE COMMISSION] the Hazardous  
21 Substance Spill Technology Review Council.

22 \* Sec. 21. AS 26.23.190(b), 26.23.195(a), 26.23.195(c); 26.23.215; AS 46.04.200(b)(5);  
23 AS 46.08.110, 46.08.120, 46.08.190(1), 46.08.190(2), 46.08.190(3); AS 46.13.010, 46.13.020,  
24 46.13.030, 46.13.040, 46.13.045, 46.13.050, 46.13.060, 46.13.070, 46.13.080, 46.13.090,  
25 46.13.120(6), and 46.13.900(1) are repealed.

26 \* Sec. 22. TRANSITION. (a) Litigation, hearings, investigations, and other proceedings  
27 pending under a law amended or repealed by this Act, or in connection with functions  
28 transferred by this Act, continue in effect and may be continued and completed  
29 notwithstanding a transfer or amendment or repeal provided for in this Act.

30 (b) Contracts, rights, liabilities, and obligations created by or under a law amended  
31 or repealed by this Act, and in effect on the effective date of this Act, remain in effect

1 notwithstanding this Act's taking effect.

2 (c) Regulations adopted under sections amended or repealed by this Act remain in  
3 effect until superseded by new regulations adopted under sections amended or enacted by this  
4 Act.



8-LS0324ND  
Lauterbach  
1/20/94

CS FOR SENATE BILL NO. 33(STA)  
IN THE LEGISLATURE OF THE STATE OF ALASKA  
EIGHTEENTH LEGISLATURE - SECOND SESSION

BY THE SENATE STATE AFFAIRS COMMITTEE

Offered:  
Referred:

Sponsor(s): SENATOR LEMAN

A BILL  
FOR AN ACT ENTITLED

1 "An Act relating to emergency planning and response; transferring the Hazardous  
2 Substance Spill Technology Review Council to the Department of Environmental  
3 Conservation; transferring the Alaska State Emergency Response Commission,  
4 including its duty to designate local emergency planning districts and appoint local  
5 emergency planning committees, to the Department of Military and Veterans'  
6 Affairs; and eliminating a requirement that the state and regional oil discharge  
7 prevention and contingency plans be revised annually."

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

9 \* Section 1. AS 26.23.040(e) is amended by adding a new paragraph to read:  
10 (12) to the extent that money is available from an appropriation for the  
11 purposes of this paragraph,  
12 (A) award grants for the purpose of forming local emergency  
13 planning committees under AS 26.23.073;

1 (B) in order to comply with 49 U.S.C. Appx. 1815(a)(3), make  
2 funds available to local emergency planning committees for developing and  
3 maintaining emergency plans under AS 26.23.073 and 26.23.075;

4 (C) make funds available to local emergency planning  
5 committees to implement 42 U.S.C. 11022(e) and 42 U.S.C. 11044; and

6 (D) award grants for training local emergency planning  
7 committees and for training and equipping the emergency response  
8 organizations that execute the plans developed by the committees under  
9 AS 26.23.073 and 26.23.075.

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

11 (f) To the extent that the plan prepared under this section relates to action  
12 required to avert human injury or other damage from a release of a hazardous  
13 substance, the plan must be substantially equivalent in relevant respect to the local  
14 emergency plans prepared under AS 26.23.073 and 26.23.075 and the state and  
15 regional master plans prepared by the Department of Environmental Conservation  
16 under AS 46.04.200 - 46.04.210. The plan must use an incident command system  
17 comparable to the system used in those plans and must be reviewed by the Alaska  
18 State Emergency Response Commission under AS 26.23.077.

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

20 Sec. 26.23.045. RESPONSE CORPS; DEPOTS. (a) The department shall  
21 establish a response corps. The corps consists of volunteers who register with the  
22 department and agree to be trained in techniques for emergency and disaster response  
23 and to be available on short notice to carry out responsibilities of the corps under an  
24 applicable incident command system. Members of the corps are entitled to per diem  
25 and expenses as determined by the department for training and for days spent in  
26 service to the state.

27 (b) The department shall maintain emergency response depots in areas of the  
28 state identified for that purpose in the state emergency plan developed under  
29 AS 26.23.040. The depots shall be equipped and staffed in a manner that ensures  
30 prompt response to emergencies and disasters.

31 \* Sec. 4. AS 26.23.060(a) is amended to read:

1 (a) Each political subdivision in the state is within the jurisdiction of, and shall  
2 be served by, the Alaska division of emergency services. A municipality also may be  
3 served by a local or interjurisdictional agency that is responsible for disaster  
4 preparedness and coordination of response or by a local emergency planning  
5 committee created under AS 26.23.071 that is responsible for oil and hazardous  
6 substance release response planning.

7 \* Sec. 5. AS 26.23.060 is amended by adding a new subsection to read:

8 (g) To the extent that a plan prepared under this section relates to action  
9 required to avert human injury or other damage from a release of a hazardous  
10 substance, the plan must be substantially equivalent in relevant respect to the local  
11 emergency plans prepared under AS 26.23.073 and 26.23.075 and the state and  
12 regional master plans prepared by the Department of Environmental Conservation  
13 under AS 46.04.200 - 46.04.210. The plan must use an incident command system  
14 comparable to the system used in those plans and must be reviewed by the Alaska  
15 State Emergency Response Commission under AS 26.23.077.

16 \* Sec. 6. AS 26.23.070 is amended by adding a new subsection to read:

17 (d) To the extent that a plan prepared under this section relates to action  
18 required to avert human injury or other damage from a release of a hazardous  
19 substance, the plan must be substantially equivalent in relevant respect to the local  
20 emergency plans prepared under AS 26.23.073 and 26.23.075 and the state and  
21 regional master plans prepared by the Department of Environmental Conservation  
22 under AS 46.04.200 - 46.04.210. The plan must use an incident command system  
23 comparable to the system used in those plans and must be reviewed by the Alaska  
24 State Emergency Response Commission under AS 26.23.077.

25 \* Sec. 7. AS 26.23 is amended by adding new sections to read:

26 Sec. 26.23.071. ALASKA STATE EMERGENCY RESPONSE  
27 COMMISSION. (a) There is established in the Department of Military and Veterans'  
28 Affairs the Alaska State Emergency Response Commission.

29 (b) The commission consists of the commissioners of community and regional  
30 affairs, environmental conservation, fish and game, health and social services, labor,  
31 natural resources, public safety, and transportation and public facilities, or the

1 designees of the commissioners, the adjutant general of the Department of Military and  
2 Veterans' Affairs or a designee, and seven members of the public appointed by the  
3 governor, two of whom must be members of a local emergency planning committee  
4 for an emergency planning district that is predominantly rural in character and two of  
5 whom must be members of a local emergency planning committee for an emergency  
6 planning district that is predominantly urban in character. Two of the other three  
7 members of the public who are appointed to the commission must be members of the  
8 governing body of a political subdivision that has a local emergency planning  
9 committee. To the extent practicable, the commission must include members with  
10 expertise in the emergency response field.

11 (c) The adjutant general of the Department of Military and Veterans' Affairs,  
12 or the adjutant general's designee, and the commissioner of environmental  
13 conservation, or the commissioner's designee, shall co-chair the commission. The  
14 Department of Military and Veterans' Affairs shall provide staff support to the  
15 commission.

16 (d) Members of the commission other than those from the designated state  
17 departments serve at the pleasure of the governor for staggered terms of three years.  
18 Members of the commission serve without compensation but are entitled to per diem  
19 and travel expenses authorized for members of boards and commissions under  
20 AS 39.20.180.

21 (e) The commission shall

22 (1) serve as the state emergency response commission required under  
23 42 U.S.C. 11001 - 11005;

24 (2) facilitate the preparation and implementation of all emergency  
25 plans, including the statewide, interjurisdictional, and local plans prepared under this  
26 chapter and the state and regional plans prepared under AS 46.04.200 - 46.04.210;

27 (3) review the plans described in (2) of this subsection according to the  
28 criteria established in AS 26.23.077;

29 (4) designate, and revise as necessary, the boundaries of emergency  
30 planning districts under AS 26.23.073;

31 (5) establish a local emergency planning committee under

1 AS 26.23.073(d) for each emergency planning district;

2 (6) supervise and coordinate the activities of local emergency planning  
3 committees;

4 (7) establish procedures for receiving and processing requests from the  
5 public for information under 42 U.S.C. 11044, including tier II information under 42  
6 U.S.C. 11022;

7 (8) review reports about responses to disaster emergencies and make  
8 recommendations to the appropriate parties involved in the response concerning  
9 improved prevention and preparedness;

10 (9) perform other coordinating, advisory, or planning tasks related to  
11 emergency planning and preparedness for all types of hazards, community  
12 right-to-know reporting, toxic chemical release reporting, or management of hazardous  
13 substances;

14 (10) recommend procedures to integrate, as appropriate, hazardous  
15 substance response planning under 42 U.S.C. 11001 - 11005, federal contingency  
16 planning under 33 U.S.C. 1321 and other federal laws applicable to hazardous  
17 substance discharges, and state, regional, and local planning under this chapter and  
18 AS 46.04.200 - 46.04.210;

19 (11) to the extent consistent with the constitution and law of the state,  
20 perform all other functions prescribed for state emergency response commissions under  
21 42 U.S.C. 11001 - 11005; and

22 (12) adopt regulations necessary to carry out the purposes of  
23 AS 26.23.071 - 26.23.077 and 42 U.S.C. 11001 - 11005.

24 Sec. 26.23.073. EMERGENCY PLANNING DISTRICTS AND  
25 COMMITTEES. (a) The commission shall set the boundaries of local emergency  
26 planning districts. The commission shall set the boundaries of a district so that they  
27 are coextensive with the boundaries of a single political subdivision except when it  
28 would be more appropriate, based on findings of the commission, for the district to  
29 include more than one political subdivision or some area that is not contained within  
30 a political subdivision. Before the commission sets the boundaries for a district under  
31 this subsection so that it includes more than one political subdivision or some area that

1 is not within a political subdivision, the commission shall consult the emergency  
2 response organizations and the governing body of the political subdivisions in the  
3 proposed district.

4 (b) If, after the commission sets boundaries for districts under (a) of this  
5 section, there remain areas of the state that are not included in any district, those areas  
6 constitute a local emergency planning district.

7 (c) If the commission sets boundaries for a district under this section that  
8 includes more than one political subdivision, the commission shall recommend to the  
9 governor the designation of an interjurisdictional disaster planning and service area  
10 under AS 26.23.070 whose boundaries are coextensive with the boundaries of the local  
11 emergency planning district established under this section.

12 (d) The commission shall appoint the members of a local emergency planning  
13 committee for each emergency planning district established under (a) and (b) of this  
14 section. In making appointments for a district that contains only one political  
15 subdivision, the commission shall follow the recommendations of the governing body  
16 of the political subdivision if those recommendations would constitute a committee that  
17 meets the requirements of this subsection. In making appointments for a district that  
18 contains more than one political subdivision, the commission shall consider the  
19 recommendations of the governing body of each political subdivision and follow the  
20 recommendations to the extent that the governing bodies are in agreement and their  
21 recommendations would constitute a committee that meets the requirements of this  
22 subsection. To the extent required under regulations that may be adopted by the  
23 commission, the political subdivisions in a district that includes more than one political  
24 subdivision shall follow a process under which they develop coordinated  
25 recommendations to submit to the commission under this subsection. In making  
26 appointments for a district that includes some area that is not contained within a  
27 political subdivision, the commission shall consider the recommendations of emergency  
28 response organizations in the district. In making appointments for the district formed  
29 under (b) of this section, the commission shall attempt to achieve equitable  
30 geographical representation on the committee. Except as provided in (e) of this  
31 section, each committee must include, at a minimum, representatives of each of the

1 following seven categories:

- 2 (1) elected local officials;
- 3 (2) law enforcement, civil defense, fire fighting, first aid, health, local  
4 environmental, hospital, and transportation personnel;
- 5 (3) broadcast or print media;
- 6 (4) community groups;
- 7 (5) owners and operators of facilities subject to the requirements of 42  
8 U.S.C. 11001 - 11005;
- 9 (6) members of a local or interjurisdictional planning and disaster  
10 agency if one has been established that includes part of the district; and
- 11 (7) members of the public that are not described in (1) - (6) of this  
12 subsection.

13 (e) If advertisement and the commission's own initiative do not result in the  
14 acceptance of appointment to a committee by at least one person from a category  
15 under (d)(1) - (7) of this section, the requirement of (d) of this section that there be  
16 representation of that category on that committee is suspended until sufficient willing  
17 appointees become available.

18 (f) A person may request the commission to change the membership of a local  
19 emergency planning committee.

20 (g) Each local emergency planning committee shall

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

24 (2) appoint a chair and establish rules by which the committee shall  
25 function, including provisions for public notification of committee activities, public  
26 advertising of positions available on the committee, public meetings to discuss the  
27 emergency plan, public comments, response to the comments by the committee,  
28 distribution of the emergency plan, and designation of an official to serve as  
29 coordinator for information;

30 (3) prepare and periodically review an emergency plan in accordance  
31 with 42 U.S.C. 11003(a) in a manner that includes coordination with the political

1 subdivisions covered by the plan;

2 (4) evaluate the need for resources necessary to develop, implement,  
3 and exercise the emergency plan, and submit recommendations to the political  
4 subdivisions in the emergency planning district with respect to the resources that may  
5 be required and the means for providing the resources;

6 (5) to the extent consistent with the constitution and law of the state,  
7 perform all other functions prescribed for emergency planning committees in 42 U.S.C.  
8 11001 - 11005;

9 (6) to the extent considered advisable by the committee, make  
10 recommendations to political subdivisions, interjurisdictional planning and disaster  
11 agencies, and state agencies about the preparation of local, state, and interjurisdictional  
12 plans; and

13 (7) serve as an advisory committee to the political subdivisions within  
14 the emergency planning district or the interjurisdictional planning and service area  
15 established under AS 26.23.070 with respect to emergency planning, training, and  
16 response.

17 (h) A state agency represented on the commission shall, upon request, provide  
18 technical assistance to a local emergency planning committee in the performance of  
19 its duties under this section.

20 Sec. 26.23.075. EMERGENCY PLANS. (a) An emergency plan prepared  
21 under AS 26.23.073 must include

22 (1) identification of facilities subject to the requirements of 42 U.S.C.  
23 11001 - 11005 that are within the emergency planning district, identification of routes  
24 likely to be used for the transportation of substances on the list of extremely hazardous  
25 substances referred to in 42 U.S.C. 11002(a), and identification of additional facilities  
26 contributing or subjected to additional risk due to their proximity to facilities subject  
27 to the requirements of 42 U.S.C. 11001 - 11005 such as hospitals or natural gas  
28 facilities;

29 (2) methods and procedures to be followed by facility owners and  
30 operators and local emergency and medical personnel to respond to a release of  
31 hazardous substances or a release of substances on the list of extremely hazardous

1 substances referred to in 42 U.S.C. 11002(a);

2 (3) designation of an emergency coordinator, as required under  
3 AS 26.23.060(d), and facility emergency coordinators, who shall make determinations  
4 necessary to implement the emergency plan;

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

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

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

15 (7) evacuation plans, including provisions for a precautionary  
16 evacuation and alternative traffic routes;

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

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

20 (b) An emergency plan prepared under AS 26.23.073 may include descriptions,  
21 procedures, and programs related to disasters other than those caused by releases of  
22 hazardous substances.

23 (c) Each emergency plan prepared under AS 26.23.073 must incorporate within  
24 it an incident command system. The incident command system must be substantially  
25 equivalent in relevant respects to the incident command systems established under  
26 AS 46.04.200 - 46.04.210 and meet the requirements of AS 26.23.077.

27 Sec. 26.23.077. PLAN REVIEW; INCIDENT COMMAND SYSTEMS. (a)  
28 The commission shall review and make recommendations about local,  
29 interjurisdictional, regional, and state emergency plans, including plans prepared under  
30 this chapter and AS 46.04.200 - 46.04.210.

31 (b) When making recommendations about a plan, the commission shall suggest

1 changes that ensure that the plan includes an incident command system that describes  
2 the respective roles of affected persons and agencies in a clear and specific manner and  
3 that the respective roles of state agencies are consistent with their statutory duties. The  
4 commission shall also suggest changes that ensure that the plans are well-integrated  
5 with related plans.

6 (c) To the extent consistent with other law, an incident command system  
7 recommended under this section or included in a plan reviewed under this section must  
8 provide that the Department of Military and Veterans' Affairs has a major role in  
9 mobilization of personnel and resources, communications, transportation planning, and  
10 other logistics involved in a state response to a disaster or other emergency.

11 \* Sec. 8. AS 26.23.150(a) is amended to read:

12 (a) In addition to disaster prevention measures as included in the state, local,  
13 and interjurisdictional disaster plans, the governor shall consider, on a continuing basis,  
14 steps that could be taken to prevent or reduce the harmful consequences of disasters.  
15 At the governor's direction, and under any other authority and competence they have,  
16 state agencies, including but not limited to those charged with responsibilities in  
17 connection with flood plain management, stream encroachment and flow regulation,  
18 weather modification, fire prevention and control, environmental [AIR] quality, public  
19 works, land use and land use planning, and construction standards, shall make studies  
20 of disaster-prevention-related matters. The governor, from time to time, shall make  
21 recommendations to the legislature, local governments, and other appropriate public  
22 and private entities as may facilitate measures for the prevention or reduction of the  
23 harmful consequences of disasters.

24 \* Sec. 9. AS 26.23.900 is amended by adding new paragraphs to read:

25 (8) "commission" means the Alaska State Emergency Response  
26 Commission;

27 (9) "hazardous substance" has the meaning given in AS 46.03.826;

28 (10) "interjurisdictional planning and disaster agency" means an  
29 interjurisdictional agency authorized under AS 26.23.060 or an interjurisdictional  
30 relationship created by order of the governor under AS 26.23.070(a).

31 \* Sec. 10. AS 46.03.865(a) is amended to read:

1 (a) When the department finds that an actual or imminent discharge of oil, a  
2 hazardous substance, or low level radioactive materials to the air, water, land, or  
3 subsurface land of the state poses an immediate threat to the public health or welfare  
4 or the environment of the state, it may issue an order declaring an emergency and  
5 directing a person or persons to take action the department believes necessary to meet  
6 the emergency, and protect the public health, welfare, or environment. If there is an  
7 incident command system established under AS 26.23 or [,] AS 46.04.200 - 46.04.210  
8 [, OR AS 46.13] that is applicable to the situation for which the department issues an  
9 order under this subsection, the department's exercise of authority under this  
10 subsection shall be guided by the relevant provisions of the incident command system.

11 \* Sec. 11. AS 46.03.865(c) is amended to read:

12 (c) During a period of emergency declared under (a) of this section, each state  
13 agency shall take whatever action the department finds necessary to meet the  
14 emergency and to protect the public health, welfare, or environment, consistent with  
15 the responsibilities assigned to them under an incident command system established  
16 under AS 26.23 or [,] AS 46.04.200 - 46.04.210 [, OR AS 46.13] if one is applicable  
17 to the situation.

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

19 Sec. 46.04.200. STATE MASTER PLAN. (a) The department shall prepare,  
20 [AND] annually review, and revise as necessary a statewide master oil and hazardous  
21 substance discharge prevention and contingency plan.

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

23 (1) take into consideration the elements of an oil discharge prevention  
24 and contingency plan approved or submitted for approval under AS 46.04.030;

25 (2) include incident command systems that clarify and specify the  
26 respective responsibilities of each of the following in the assessment, containment, and  
27 cleanup of various types and sizes of discharges of oil or a hazardous substance into  
28 the environment of the state:

29 (A) the Department of Environmental Conservation [, THE  
30 DIVISION OF EMERGENCY SERVICES IN THE DEPARTMENT OF  
31 MILITARY AND VETERANS' AFFAIRS, AND OTHER AGENCIES OF

1 THE STATE; RESPONSIBILITIES ASSIGNED TO EACH AGENCY MUST  
2 BE CONSISTENT WITH ITS STATUTORY AUTHORITY];

3 (B) municipalities of the state;

4 (C) appropriate federal agencies;

5 (D) operators of facilities;

6 (E) private parties whose land and other property may be  
7 affected by the oil or hazardous substance discharge; and

8 (F) if the release involves a disaster declared by a state or  
9 local official, the duties of all appropriate state agencies [OTHER PARTIES  
10 IDENTIFIED BY THE COMMISSION AS HAVING AN INTEREST IN OR  
11 THE RESOURCES TO ASSIST IN THE CONTAINMENT AND CLEANUP  
12 OF AN OIL OR HAZARDOUS SUBSTANCE DISCHARGE];

13 (3) include incident command systems that specify the respective  
14 responsibilities of parties identified in (2) of this subsection in an emergency response  
15 under AS 26.23, AS 46.03.865, [OR] AS 46.04.080, or AS 46.09.030; responsibilities  
16 assigned to each state agency must be consistent with its statutory authority; and

17 (4) identify actions necessary to reduce the likelihood of  
18 [CATASTROPHIC OIL DISCHARGES AND SIGNIFICANT] discharges of oil or  
19 hazardous substances [; AND

20 (5) DESIGNATE THE LOCATIONS WHERE OIL AND  
21 HAZARDOUS SUBSTANCE EMERGENCY RESPONSE DEPOTS SHOULD BE  
22 ESTABLISHED IN THE STATE AND WHERE EMERGENCY RESPONSE CORPS  
23 PERSONNEL SHOULD BE AVAILABLE].

24 (c) If the commissioner determines that [IN PREPARING AND  
25 ANNUALLY REVIEWING] the state master plan should be revised, the  
26 commissioner shall

27 (1) consult with municipal, [AND] community, and local emergency  
28 planning committee officials, and with representatives of affected regional  
29 organizations;

30 (2) submit the draft plan with revisions to the public for review and  
31 comment; and

1 (3) submit to the legislature for review, not later than the 10th day  
2 following the convening of each regular session, [THE PLAN AND] any [ANNUAL]  
3 revision of the plan;

4 (4) [REQUIRE OR SCHEDULE UNANNOUNCED OIL SPILL  
5 DRILLS TO TEST THE SUFFICIENCY OF AN OIL DISCHARGE PREVENTION  
6 AND CONTINGENCY PLAN APPROVED UNDER AS 46.04.030 OR OF THE  
7 CLEANUP PLANS OF A PARTY IDENTIFIED UNDER (b)(2) OF THIS SECTION;

8 (5)] submit [THE PLAN AND] any revision of the plan to the Alaska  
9 State Emergency Response Commission for its review [AND APPROVAL] under  
10 AS 26.23.077 [AS 46.13.045].

11 \* Sec. 13. AS 46.04.200 is amended by adding a new subsection to read:

12 (d) In order to determine whether the state master plan should be revised, or  
13 at any other time, the commissioner may require or schedule unannounced oil spill  
14 drills to test the sufficiency of an oil discharge prevention and contingency plan  
15 approved under AS 46.04.030 or of the cleanup plans of a party identified under (b)(2)  
16 of this section.

17 \* Sec. 14. AS 46.04.210(a) is amended to read:

18 (a) For any region of the state, the boundaries of which are determined by the  
19 commissioner by regulation, in which the department is required to review and approve  
20 an oil discharge prevention and contingency plan submitted by a person under  
21 AS 46.04.030, the department shall prepare, [AND] annually review, and revise as  
22 necessary a regional master oil and hazardous substance discharge prevention and  
23 contingency plan.

24 \* Sec. 15. AS 46.04.210 is amended by adding a new subsection to read:

25 (c) In setting boundaries under (a) of this section, the department shall, when  
26 possible, group together communities that are likely to require coordination of their  
27 efforts to respond effectively to a discharge.

28 \* Sec. 16. AS 46.08.040(a) is amended to read:

29 (a) In addition to money in the fund that is transferred to the commissioner of  
30 community and regional affairs to make grants under AS 29.60.510 and to pay for  
31 impact assessments under AS 29.60.560, the commissioner of environmental

1 conservation may use money from the fund to

2 (1) investigate and evaluate the release or threatened release of oil or  
3 a hazardous substance, and contain, clean up, and take other necessary action, such as  
4 monitoring and assessing, to address a release or threatened release of oil or a  
5 hazardous substance that poses an imminent and substantial threat to the public health  
6 or welfare, or to the environment;

7 (2) pay all costs incurred to

8 (A) establish and maintain the oil and hazardous substance  
9 response office, including costs incurred under an agreement entered into  
10 under AS 46.04.090 or AS 46.09.040;

11 (B) review oil discharge prevention and contingency plans  
12 submitted under AS 46.04.030;

13 (C) conduct training, response exercises, inspections, and tests,  
14 in order to verify equipment inventories and ability to prevent and respond to  
15 oil and hazardous substance release emergencies, and to undertake other  
16 activities intended to verify or establish the preparedness of the state, a  
17 municipality, or a party required by AS 46.04.030 to have an approved  
18 contingency plan to act in accordance with that plan; and

19 (D) verify or establish proof of financial responsibility required  
20 by AS 46.04.040;

21 (3) pay the expenses incurred by the Department of Military and  
22 Veterans' Affairs [ALASKA DIVISION OF EMERGENCY SERVICES] for Alaska  
23 State Emergency Response Commission activities, including staff support, and for  
24 the costs of being prepared for and responding to a request by the Department  
25 of Environmental Conservation for support in response and restoration activities,  
26 but not including the costs of maintaining the [OIL AND HAZARDOUS  
27 SUBSTANCE] response corps and the emergency [OIL AND HAZARDOUS  
28 SUBSTANCE] response depots under AS 26.23.045, when presented with appropriate  
29 documentation by the Department of Military and Veterans' Affairs [DIVISION];

30 (4) provide matching funds for participation in federal oil discharge  
31 cleanup activities and under 42 U.S.C. 9601 - 9657 (Comprehensive Environmental

1 Response, Compensation, and Liability Act of 1980);

2 (5) recover the costs to the state, a municipality, or a village of a  
3 containment and cleanup resulting from the release or the threatened release of oil or  
4 a hazardous substance;

5 (6) prepare, review, and revise

6 (A) the state's master oil and hazardous substance discharge  
7 prevention and contingency plan required by AS 46.04.200; and

8 (B) a regional master oil and hazardous substance discharge  
9 prevention and contingency plan required by AS 46.04.210; and

10 (7) restore the environment by addressing the effects of an oil or  
11 hazardous substance release.

12 \* Sec. 17. AS 46.08.150 is amended to read:

13 Sec. 46.08.150. CONTRACTS. The department [OFFICE OR THE  
14 DIVISION, AS APPLICABLE,] may enter into agreements with agencies of the state  
15 and federal government, political subdivisions, the University of Alaska, or private  
16 persons or entities to

17 [(1) PROVIDE THE PERSONNEL, EQUIPMENT, OR OTHER  
18 SERVICES OR SUPPLIES NECESSARY TO ESTABLISH AND MAINTAIN  
19 REGIONAL OIL AND HAZARDOUS SUBSTANCES DEPOTS AND  
20 AS NECESSARY FOR RESPONSE READINESS;

21 (2) TRAIN MEMBERS OF RESPONSE CORPS; AND

22 (3)] conduct research into oil and hazardous substances spill  
23 technology; the department [OFFICE] shall include in the research topics for which  
24 it conducts or contracts for research, the research topics recommended to it by the  
25 Hazardous Substance Spill Technology Review Council under AS 46.13.120.

26 \* Sec. 18. AS 46.09.040 is amended to read:

27 Sec. 46.09.040. HAZARDOUS SUBSTANCES CONTAINMENT AND  
28 CLEANUP. The department [COMMISSIONER] may contract with a person or a  
29 municipality for personnel, equipment, or services that may be useful to carry out the  
30 requirements of this chapter. If the department [COMMISSIONER] determines that  
31 it is infeasible to contract with a person or a municipality, the department

1 [COMMISSIONER] may establish and maintain containment and cleanup personnel,  
2 equipment, and supplies necessary to carry out the requirements of this chapter. When  
3 exercising its authority under this section, the department shall coordinate with  
4 the Department of Military and Veterans' Affairs to avoid duplication of efforts.

5 \* Sec. 19. AS 46.13.100 is amended to read:

6 Sec. 46.13.100. FINDINGS AND PURPOSE. The legislature

7 (1) finds and declares that there exists a lack of scientific knowledge  
8 concerning the availability, properties, and effectiveness of various hazardous substance  
9 containment and cleanup technologies; and

10 (2) concludes that it is in the best interest of the state and its citizens  
11 to establish a Hazardous Substance Spill Technology Review Council [IT' THE  
12 ALASKA STATE EMERGENCY RESPONSE COMMISSION] to assist in the  
13 identification of containment and cleanup products and procedures for arctic and  
14 sub-arctic hazardous substance releases and make recommendations to the departments  
15 and agencies of the state regarding their use and deployment.

16 \* Sec. 20. AS 46.13.110(a) is amended to read:

17 (a) There is established in the Department of Environmental Conservation  
18 [ALASKA STATE EMERGENCY RESPONSE COMMISSION] the Hazardous  
19 Substance Spill Technology Review Council.

20 \* Sec. 21. AS 26.23.190(b), 26.23.195(a), 26.23.195(c), 26.23.215; AS 46.08.110,  
21 46.08.120, 46.08.190(1), 46.08.190(2), 46.08.190(3); AS 46.13.010, 46.13.020, 46.13.030,  
22 46.13.040, 46.13.045, 46.13.050, 46.13.060, 46.13.070, 46.13.080, 46.13.090, 46.13.120(6),  
23 and 46.13.900(1) are repealed.

24 \* Sec. 22. TRANSITION. (a) Litigation, hearings, investigations, and other proceedings  
25 pending under a law amended or repealed by this Act, or in connection with functions  
26 transferred by this Act, continue in effect and may be continued and completed  
27 notwithstanding a transfer or amendment or repeal provided for in this Act.

28 (b) Contracts, rights, liabilities, and obligations created by or under a law amended  
29 or repealed by this Act, and in effect on the effective date of this Act, remain in effect  
30 notwithstanding this Act's taking effect.

31 (c) Regulations adopted under sections amended or repealed by this Act remain in

1 effect until superseded by new regulations adopted under sections amended or enacted by this  
2 Act.