

ALASKA LEGISLATURE

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1 comparable to the system used in those plans and must be reviewed by the Alaska
2 State Emergency Response Commission under AS 26.23.077.

3 * Sec. 5. AS 26.23 is amended by adding a new section to read:

4 Sec. 26.23.045. RESPONSE CORPS; DEPOTS. (a) The department may
5 establish a response corps. The corps consists of volunteers who register with the
6 department and agree to be trained in techniques for emergency and disaster response
7 and to be available on short notice to carry out responsibilities of the corps under an
8 applicable incident command system. Members of the corps are entitled to per diem
9 and expenses as determined by the department for training and for days spent in
10 service to the state.

11 (b) The department may maintain emergency response depots in areas of the
12 state identified for that purpose in the state emergency plan developed under
13 AS 26.23.040. The depots shall be equipped in a manner that enables prompt response
14 to emergencies and disasters.

15 * Sec. 6. AS 26.23.060(a) is amended to read:

16 (a) Each political subdivision in the state is within the jurisdiction of, and shall
17 be served by, the Alaska division of emergency services. [A MUNICIPALITY ALSO
18 MAY BE SERVED BY A LOCAL OR INTERJURISDICTIONAL AGENCY
19 RESPONSIBLE FOR DISASTER PREPAREDNESS AND COORDINATION OF
20 RESPONSE].

21 * Sec. 7. AS 26.23.060(b) is amended to read:

22 (b) Each political subdivision is responsible for disaster preparedness and
23 coordination of response

24 (1) by itself;

25 (2) in conjunction with other political subdivisions by establishing
26 an [BOROUGH MAY MAINTAIN A DISASTER AGENCY, OR PARTICIPATE IN
27 A LOCAL OR] interjurisdictional planning and service area under AS 26.23.070;
28 or

29 (3) in conjunction with the Alaska division of emergency services
30 [DISASTER AGENCY THAT, EXCEPT AS OTHERWISE PROVIDED IN THIS
31 CHAPTER, HAS JURISDICTION OVER AND SERVES THE ENTIRE BOROUGH].

1 * Sec. 8. AS 26.23.060(c) is amended to read:

2 (c) Each political subdivision that has not established the ability to mitigate,
3 prepare for, respond to, and recover from disasters [DOES NOT HAVE A
4 DISASTER AGENCY AND HAS NOT MADE ARRANGEMENTS TO SECURE OR
5 PARTICIPATE IN THE SERVICES OF A DISASTER AGENCY] shall designate,
6 and provide to the Alaska division of emergency services the name of, a liaison
7 officer to facilitate the cooperation and protection of that political subdivision in the
8 work of disaster prevention, preparedness, response, and recovery.

9 * Sec. 9. AS 26.23.060(e) is amended to read:

10 (e) Each political subdivision [LOCAL AND INTERJURISDICTIONAL
11 AGENCY] shall ensure that [PREPARE AND KEEP CURRENT] a written local or
12 interjurisdictional disaster emergency plan for its area is prepared, maintained, and
13 distributed to all appropriate officials. The disaster emergency plan must include
14 a clear and complete statement of the emergency responsibilities of all local
15 agencies and officials.

16 * Sec. 10. AS 26.23.060 is amended by adding new subsections to :

17 (g) 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 respects, including the
20 use of a comparable incident command system, to the local emergency plans prepared
21 under AS 26.23.073 and 26.23.075 and the state and regional master plans prepared
22 by the Department of Environmental Conservation under AS 46.04.200 - 46.04.210.
23 The plan must use an incident command system comparable to the system used in
24 those plans and must be reviewed by the Alaska State Emergency Response
25 Commission under AS 26.23.077.

26 (h) Notwithstanding the definition of "political subdivision" in AS 26.23.900,
27 this section does not empower a political subdivision to perform responsibilities that
28 it is not otherwise empowered to perform. In this section, "political subdivision"
29 includes only a political subdivision that is otherwise empowered to perform the
30 responsibilities assigned under this section.

31 * Sec. 11. AS 26.23.070 is amended by adding a new subsection to read:

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

9 * Sec. 12. AS 26.23 is amended by adding new sections to read:

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

13 (b) The commission consists of the commissioners of community and regional
14 affairs, environmental conservation, fish and game, health and social services, labor,
15 natural resources, public safety, and transportation and public facilities, or the
16 designees of the commissioners, the adjutant general of the Department of Military and
17 Veterans' Affairs or a designee, and seven members of the public appointed by the
18 governor, two of whom must be members of a local emergency planning committee
19 for an emergency planning district that is predominantly rural in character and two of
20 whom must be members of a local emergency planning committee for an emergency
21 planning district that is predominantly urban in character. Two of the other three
22 members of the public who are appointed to the commission must be members of the
23 governing body of, or the mayor of, a political subdivision that has a local emergency
24 planning committee or a person who, in the opinion of the governor, is otherwise
25 appropriate to represent the political subdivision. The United States Department of
26 Defense - Alaska Command, the Federal Emergency Management Agency, the United
27 States Environmental Protection Agency, and the United States Coast Guard may each
28 appoint a representative to serve on the commission in an ex-officio, nonvoting
29 capacity. To the extent practicable, the commission must include members with
30 expertise in the emergency response field.

31 (c) The adjutant general of the Department of Military and Veterans' Affairs,

1 or the adjutant general's designee, and the commissioner of environmental
2 conservation, or the commissioner's designee, shall co-chair the commission. The
3 Department of Military and Veterans' Affairs shall provide staff support to the
4 commission.

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

10 (e) The commission shall

11 (1) serve as the state emergency response commission required under
12 42 U.S.C. 11001 - 11005;

13 (2) facilitate the preparation and implementation of all emergency
14 plans, ^{including the statewide, interjurisdictional, and local plans prepared under this}
15 chapter and the state and regional plans prepared under AS 46.04.200 - 46.04.210;

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

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

20 (5) establish a local emergency planning committee under
21 AS 26.23.073(d) for each emergency planning district;

22 (6) supervise and coordinate the activities of local emergency planning
23 committees;

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

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

30 (9) perform other coordinating, advisory, or planning tasks related to
31 emergency planning and preparedness for all types of hazards, community

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

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

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

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

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

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

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

(d) The commission shall appoint the members of a local emergency planning

1 committee for each emergency planning district established under (a) and (b) of this
2 section. In making appointments for a district that contains only one political
3 subdivision, the commission shall follow the recommendations of the political
4 subdivision if those recommendations would constitute a committee that meets the
5 requirements of this subsection. In making appointments for a district that contains
6 more than one political subdivision, the commission shall consider the
7 recommendations of each political subdivision and follow the recommendations to the
8 extent that the political subdivisions are in agreement and their recommendations
9 would constitute a committee that meets the requirements of this subsection. To the
10 extent required under regulations that may be adopted by the commission, the political
11 subdivisions in a district that includes more than one political subdivision shall follow
12 a process under which they develop coordinated recommendations to submit to the
13 commission under this subsection. In making appointments for a district that includes
14 some area that is not contained within a political subdivision, the commission shall
15 consider the recommendations of emergency response organizations in the district. In
16 making appointments for the district formed under (b) of this section, the commission
17 shall attempt to achieve equitable geographical representation on the committee.
18 Except as provided in (e) of this section, each committee must include, at a minimum,
19 representatives of each of the following seven categories:

- 20 (1) elected local officials;
- 21 (2) law enforcement, civil defense, fire fighting, first aid, health, local
22 environmental, hospital, and transportation personnel;
- 23 (3) broadcast or print media;
- 24 (4) community groups;
- 25 (5) owners and operators of facilities subject to the requirements of 42
26 U.S.C. 11001 - 11005;
- 27 (6) representatives of a local or interjurisdictional disaster planning and
28 service area if one has been established that includes part of the district; and
- 29 (7) members of the public that are not described in (1) - (6) of this
30 subsection.

31 (e) If advertisement and the commission's own initiative do not result in the

1 acceptance of appointment to a committee by at least one person from a category
2 under (d)(1) - (7) of this section, the requirement of (d) of this section that there be
3 representation of that category on that committee is suspended until sufficient willing
4 appointees become available.

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

7 (g) Each local emergency planning committee shall

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

11 (2) appoint a chair and establish rules by which the committee shall
12 function, including provisions for public notification of committee activities, public
13 advertising of positions available on the committee, public meetings to discuss the
14 emergency plan, public comments, response to the comments by the committee,
15 distribution of the emergency plan, and designation of an official to serve as
16 coordinator for information;

17 (3) prepare and periodically review an emergency plan in accordance
18 with 42 U.S.C. 11003(a) in a manner that includes coordination with the political
19 subdivisions covered by the plan;

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

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

27 (6) to the extent considered advisable by the committee, make
28 recommendations to political subdivisions, representatives of interjurisdictional disaster
29 planning and service areas, and state agencies about the preparation of local, state, and
30 interjurisdictional plans; and

31 (7) serve as an advisory committee to the political subdivisions within

1 the emergency planning district or the interjurisdictional planning and service area
2 established under AS 26.23.070 with respect to emergency planning, training, and
3 response.

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

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

9 (1) identification of facilities subject to the requirements of 42 U.S.C.
10 11001 - 11005 that are within the emergency planning district, identification of routes
11 likely to be used for the transportation of substances on the list of extremely hazardous
12 substances referred to in 42 U.S.C. 11002(a), and identification of additional facilities
13 contributing or subjected to additional risk due to their proximity to facilities subject
14 to the requirements of 42 U.S.C. 11001 - 11005 such as hospitals or natural gas
15 facilities;

16 (2) methods and procedures to be followed by facility owners and
17 operators and local emergency and medical personnel to respond to a release of
18 hazardous substances or a release of substances on the list of extremely hazardous
19 substances referred to in 42 U.S.C. 11002(a);

20 (3) designation of an emergency coordinator, as required under
21 AS 26.23.060(d), and facility emergency coordinators, who shall make determination
22 necessary to implement the emergency plan;

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

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

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

1 equipment and facilities;

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

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

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

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

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

14 Sec. 26.23.077. PLAN REVIEW; INCIDENT COMMAND SYSTEMS. (a)
15 The commission shall review and make recommendations about local,
16 interjurisdictional, regional, and state emergency plans, ^{prepared under} including plans prepared under
17 this chapter and AS 46.04.200 - 46.04.210.

18 (b) When making recommendations about a plan, the commission shall suggest
19 changes that ensure that the plan includes an incident command system that describes
20 the respective roles of affected persons and agencies in a clear and specific manner and
21 that the respective roles of state agencies are consistent with their statutory duties. The
22 commission shall also suggest changes that ensure that the plans are well-integrated
23 with related plans.

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

29 * Sec. 13. AS 26.23.140(c) is amended to read:

30 (c) A representative of an [AN] interjurisdictional disaster planning and
31 service area [AGENCY OR OFFICIAL OF AN AGENCY] may not declare a local

1 disaster emergency unless expressly authorized by the principal executive officer of
2 each political subdivision in the emergency area [AGREEMENT UNDER WHICH
3 THE AGENCY FUNCTIONS. AN INTERJURISDICTIONAL DISASTER AGENCY
4 SHALL PROVIDE AID AND SERVICES IN ACCORDANCE WITH THE
5 AGREEMENT UNDER WHICH IT FUNCTIONS].

6 * Sec. 14. AS 26.23.150(a) is amended to read:

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

19 * Sec. 15. AS 26.23.180(c) is amended to read:

20 (c) It is a sufficient reason for the governor to require an interjurisdictional
21 agreement or arrangement under AS 26.23.07(d) that the area involved and political
22 subdivisions in it have available equipment, supplies, and forces necessary to provide
23 mutual aid on a regional basis, and that the political subdivisions have not already
24 made adequate provision for mutual aid; but in requiring an interjurisdictional
25 arrangement in order to accomplish the purpose of this section, the governor need not
26 require establishment and maintenance of an interjurisdictional disaster planning and
27 service area [AGENCY] or arrangement for any other disaster purposes.

28 * Sec. 16. AS 26.23.900 is amended by adding new paragraphs to read:

29 (8) "commission" means the Alaska State Emergency Response
30 Commission;

31 (9) "hazardous substance" has the meaning given in AS 46.03.826.

1 * Sec. 17. AS 46.03.865(a) is amended to read:

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

12 * Sec. 18. AS 46.03.865(c) is amended to read:

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

19 * Sec. 19. AS 46.04.200 is amended to read:

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

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

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

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

30 (A) the Department of Environmental Conservation, the division
31 of emergency services in the Department of Military and Veterans' Affairs, and

1 other agencies of the state; responsibilities assigned to each agency must be
2 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) other parties identified by the commission as having an
9 interest in or the resources to assist in the containment and cleanup of an oil
10 or hazardous substance discharge;

11 (3) include incident command systems that specify the respective
12 responsibilities of parties identified in (2) of this subsection in an emergency response
13 under AS 26.23, AS 46.03 865, [OR] AS 46.04.080, or AS 46.09.030; responsibilities
14 assigned to each state agency must be consistent with its statutory authority; and

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

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

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

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

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

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

1 revision of the plan;

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

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

9 * Sec. 20. AS 46.04.200 is amended by adding a new subsection to read:

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

15 * Sec. 21. AS 46.04.210(a) is amended to read:

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

22 * Sec. 22. AS 46.04.210 is amended by adding a new subsection to read:

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

26 * Sec. 23. AS 46.08.040(a) is amended to read:

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

31 (1) investigate and evaluate the release or threatened release of oil or

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

5 (2) pay all costs incurred to

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

9 (B) review oil discharge prevention and contingency plans
10 submitted under AS 46.04.030;

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

17 (D) verify or establish proof of financial responsibility required
18 by AS 46.04.040;

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

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

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

4 (6) prepare, review, and revise

5 (A) the state's master oil and hazardous substance discharge
6 prevention and contingency plan required by AS 16.04.200; and

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

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

11 * Sec. 24. AS 46.08.150 is amended to read:

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

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

20 (2) TRAIN MEMBERS OF RESPONSE CORPS; AND

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

25 * Sec. 25. AS 46.09.040 is amended to read:

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

1 equipment, and supplies necessary to carry out the requirements of this chapter. When
2 exercising its authority under this section, the department shall coordinate with
3 the Department of Military and Veterans' Affairs to avoid duplication of efforts.

4 * Sec. 26. AS 46.13.100 is amended to read:

5 Sec. 46.13.100. FINDINGS AND PURPOSE. The legislature

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

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

15 * Sec. 27. AS 46.13.110(a) is amended to read:

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

19 * Sec. 28. AS 26.23.060(f), 26.23.190(b), 26.23.195, 26.23.215; AS 46.08.110, 46.08.120,
20 46.08.190(1), 46.08.190(2), 46.08.190(3); AS 46.13.010, 46.13.020, 46.13.030, 46.13.040,
21 46.13.045, 46.13.050, 46.13.060, 46.13.070, 46.13.080, 46.13.090, 46.13.120(6), and
22 46.13.900(1) are repealed.

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

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

30 (c) Regulations adopted under sections amended or repealed by this Act remain in
31 effect until superseded by new regulations adopted under sections amended or enacted by this

1 Act.

2 (d) Notwithstanding any law to the contrary, the terms of the public members of the
3 Alaska State Emergency Response Commission who hold office on the effective date of this
4 Act are terminated on the effective date of this Act, subject to reappointment in a manner that
5 complies with this Act.

Evaluation of Alaska Spill Response Depots and Corps: A Review of Legislative Intent and Activities

Executive Summary

Background

In 1989, immediately following the *Exxon Valdez* oil spill, Alaska State Senator Tim Kelly introduced Senate Bill 264 (SB 264) which created and authorized funding for emergency response depots and corps from the Oil and Hazardous Substance Release Response Fund (Response Fund).

In 1990, House Bill 566 transferred implementation of the oil and hazardous substance response depots and corps from the Department of Environmental Conservation to the Division of Emergency Services in the Department of Military and Veterans Affairs. Other than this transfer of authority, however, HB 566 did very little to change the actual intent of the original legislation as it related to response depots and corps.

Since the passage of SB 264 and HB 566, more than \$12.5 million has been appropriated from the Response Fund to the emergency response depots and corps (hereafter referred to as depots and corps). In that four-year period, very little progress has been made in actual development and implementation of the depots and corps. Now, as part of the effort to fully implement the legislation, the Department of Environmental Conservation's (DEC) Government Preparedness and Response Program has begun preparing a strategic plan for state spill response. The strategic plan will identify all state spill response resources that DEC has available to use in responding to spills and define a strategy for implementing resources, depots and corps in particular.

This report, Evaluation of Alaska Spill Response Depots and Corps: A Review of Legislative Intent and Activities, prepared by North Coast Research Group, provides an analysis of the legislative intent regarding the response depots and corps, a review of other states' and Canada's programs similar to the response depots and corps, and a chronology of actions taken to date in Alaska regarding the response depots and corps.

Legislative Intent

As part of DEC's strategic planning process for oil and hazardous substances, the legislature's intent for implementation of the depots and corps is of primary concern. In order to determine the legislative intent, North Coast Research Group conducted a thorough review of legislative records, interviewed legislative and administrative

personnel who were most involved with the passage of either SB 264 in 1989 or HB 566 in 1990, and prepared the following findings of the key issues:

- **Funding for the depots and corps** — Committee minutes, as well as various interviews with policy makers, support the conclusion that funding for the depots and corps program would come from the Response Fund. Senator Kelly estimated it would cost \$20 million to implement the depot system in the first year, and that once the equipment is in place it would cost approximately \$3 million a year to maintain the Spill Response Office and the response corps.

The committee minutes, supported by the interview responses, clearly indicate that the Response Fund was the source of funding to capitalize the purchase of equipment as well as operating costs involved with the depots and corps, both start-up and ongoing.

- **Characteristics of the depots and corps** — The legislative history for SB 264 and HB 566 is clear that the depots and corps are to be planned through the DEC master and regional contingency planning and the State Emergency Response Committee (SERC) approval process. Although there was general legislative support for protecting the most vulnerable regions of the state with response depots and corps, the legislature left the determination of locations to the DEC and SERC planning process. The interview respondents generally agreed that the number and location of the depots would be decided by this planning process.

Also shown in the committee minutes and statutory language, the state was to pay for training volunteers in communities selected as depot sites and pay them when necessary to combat a spill or participate in training. There were several references during the committee discussions regarding fishermen and their expertise in responding to spills.

The legislative history is not clear regarding the specific quantity and type of spill containment equipment and materials which the legislature intended to be stored at depot sites. General references were made by the public, agency staff and legislators throughout the legislative history to spill response equipment, particularly "boom," without further specificity. Consistent with the legislative record, the interviews supported the purchase of smaller types of equipment with some boom, sorbents, and emergency gear.

There was no reference in either the legislative records or the interview discussions and no statutory language about relieving responsible parties of their planning or clean-up requirements.

- **Size of spills for which the depots and corps would be activated** — Although size of spill was an issue during the committee deliberations, it

became irrelevant in determining use of the depots and corps in the final version of SB 264. Rather than size, the determining factor became when the spill poses a threat to public health or welfare or to the environment.

The Commissioner of DEC has the final determination regarding when the depots and corps could be deployed — that is, when the Commissioner believes that the discharge or potential discharge poses an imminent and substantial threat to public health or welfare or to the environment.

- **Type of spills for which the depots and corps would be activated** — Clear statutory language and extensive legislative records support a broad grant of authority for response to all types of spills, including crude, non-crude oil or other hazardous substances. All versions of the legislation, including the final version, include the term “oil and hazardous substances.” All of the interview respondents agreed that the depots and corps were intended to respond to oil and hazardous substance releases.

A Review of Other States' and Canada's Programs

Also important to the strategic planning process, North Coast Research Group reviewed the status of similar programs in other states and Canada. Many coastal states have recently recognized the need to train and equip volunteer responders for oil and hazardous substance spill response. They have also recognized the problems and liabilities inherent in developing such a program. Most have taken the approach of working through an independent non-profit organization to coordinate volunteers, maintain a database of volunteers and provide training. This approach allows both industry and government access to the same response network. Volunteers are usually not paid for training but usually are paid for actual response activities. Activities of these responders vary but usually include wildlife rescue, shoreline clean-up, and support services. Some states are purchasing response equipment for use by corps, others are not. Training requirements vary considerably from one location to another. Most programs are aimed at oil spill response; few of the programs surveyed intended to become involved in hazardous substance response because of the liability involved.

Actions Taken to Date in Alaska

This section provides a chronology of actions taken to date to develop the response depots and corps program. This chronology includes reports and audits by state agencies, as well as citizens' groups and actions taken by these entities to implement a depots and corps program.

Some actions have been taken to implement SB 264. However, the process to develop the depots and corps program has been slower than anticipated when the enabling legislation was passed in 1989. This is partly due to the fact that both DEC

and DES needed more information, such as the statewide hazards analysis, before the depots and corps could be established. The most significant step toward implementing SB 264 was the request-for-proposals process and award of the Nearshore Demonstration Project contract in August 1993. The demonstration concept, promoted by the Prince William Sound Regional Citizens' Advisory Council, was funded by the legislature in May 1992.

The most significant actions taken to date include:

1) **DEC completed a study of non-crude tank vessels and barges**

July 1991 The study, prepared by Arthur D. Little, identified southeast and western Alaska as the two highest priority areas for establishing depots to address the non-crude oil transportation threat. The report also concluded that "the risk of non-crude spills greater than 1000 gallons and resultant damage to the environment, is extremely low."

2) **Portions of the hazards analyses conducted by DEC and the Local Emergency Planning Committees.**

March 1993 Hazards Analysis for Sitka completed.

May 1993 Hazards Analysis for Yakutat completed.

August 1993 Hazards Analysis for Juneau completed.

August 1993 Contract awarded for completion of the statewide hazards analysis to Easton Environmental.

June 1994 Statewide Hazards Analysis is slated to be completed.

3) **The Preliminary report to Governor Hickel on Radiological Threats and Release Response Preparedness in the State of Alaska.**

March 1993 "Preliminary report to Governor Hickel on Radiological Threats and Release Response Preparedness in the State of Alaska," prepared by the SERC. The goal of the review was to identify sources of radiation hazards, determine the level of preparedness to respond to these threats, and make recommendations for reducing risk and enhancing response. One of the objectives of the report was to recommend measures that the state could take to reduce the risks of radiological hazards, through such strategies as source control and reduction, public education, and improved monitoring and response capability (see Appendix D).

4) **Development of the State Oil and Hazardous Substance Response Master Plan and Regional/Area Plans coordinated by DEC and the U.S.C.G.**

March 1991 The State Master Plan was granted interim approval by the State Emergency Response Commission (SERC) but did not include depots and corps locations as required by AS 46.04.200(b)(5).

Sept. 1992 The new State Master Plan was revised and included a plan to establish a central depot in Anchorage. Additional central depot locations being considered prior to the completion of the regional hazards analyses were Fairbanks and Juneau.

July 1993 Southeast Area/Regional Contingency Plan draft completed.

August 1993 Cook Inlet Area/Regional Contingency Plan draft completed.

Sept. 1993 Working draft completed of the Alaska Federal/State Preparedness Plan for Response to Oil and Hazardous Substance Discharge/Releases (the "Unified Plan").

5) **DES statewide training for volunteers**

April 1993 825 people have been trained by DES in the following areas:

- 24-hour Hazwoper
- 40-hour Hazmat
- Hazmat Technician

(There is a data base of people who have been trained. However, the database is not a data base of volunteers for the response corps. It is solely a list of people who have been trained in the above listed courses.)

6) **Nearshore Demonstration Project and award of contract**

March 1992 The Prince William Sound Regional Citizens' Advisory Council drafted a proposal to the legislature for a Demonstration Project for a Nearshore Strike Team. The elements of the proposal included:

- a nearshore strike team and equipment cache,

- oil spill training for six coastal communities,
 - a statewide database of vessels,
 - development of model contracts, and
 - a public education program.
- May 1992 DES requested \$5,000,000 in funding for depots and corps with minimal informational backup. The Legislature appropriated \$800,000 for continued DES staff work in the FY 93 budget.
- May 1992 An appropriation of \$1.2 million was made to DEC for a nearshore strike team demonstration project to be done in conjunction with the response depots and corps program.
- June 1993 DEC issued a request for proposals for a Nearshore Demonstration Project, the purpose of which was to organize, procure equipment for, and conduct two Nearshore Demonstration Projects.
- August 1993 Contract awarded for completion of the statewide hazards analysis to Easton Environmental.
- Sept. 1993 DEC awarded the contract for the Nearshore Demonstration Project to HARTEC.
- 7) **Purchase of communications equipment by DES.**
- Sept. 1993 Procurement of approximately two-thirds of the \$1.6 million mobile point-to-point satellite communications equipment including: earth stations, repeaters, hand-held radios, video telecommunications, telephone and key systems for emergencies. Funded 50 percent Response Funds and 50 percent Federal Emergency Management Administration.

Summary of Expenditures to Date

According to the Alaska State Legislature, Division of Finance, the Department of Environmental Conservation has expended a total of \$2,142,705 on Spill Response Depots and Corps and the Division of Emergency Services has expended a total of \$2,298,412 on Spill Response Depots and Corps to date.

**EVALUATION OF ALASKA SPILL RESPONSE
DEPOTS AND CORPS: A REVIEW OF
LEGISLATIVE INTENT AND ACTIVITIES**

submitted to:

**Alaska Department of Environmental Conservation
Division of Spill Prevention and Response
Government Preparedness and Response**

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INTRODUCTION

The Department of Environmental Conservation's (DEC) Government Preparedness and Response Program is currently preparing a strategic plan for state spill response. The strategic plan will identify all state spill response resources that DEC has available to use in responding to spills and will define a strategy for implementing resources.

To aid in the preparation of the strategic plan, DEC contracted with North Coast Research Group to research spill response depots and corps. This report provides an analysis of the legislative intent regarding the response depots and corps, a review of other states' and Canada's programs similar to the response depots and corps, and a chronology of actions taken to date in Alaska regarding the response depots and corps.

Section I of this report provides an in-depth analysis of the legislative actions taken regarding the response depots and corps. This analysis — including a review of legislative minutes; surveys of legislators, staff and members of the administration; review of actual legislation, and review of committee records — recreates in detail the legislature's intent regarding the role and funding of the response depots and corps.

Section II of this report outlines programs in other states and Canada using state-owned or volunteer resources for spill response. Four states and several Canadian provinces were contacted to determine the types of programs each area has using volunteers and local resources for spill response.

Section III provides a chronology of actions taken to date to develop the response depots and corps program. This chronology includes reports and audits by state agencies and citizens' groups and actions taken by these entities to implement a depots and corps program.

SECTION I: LEGISLATIVE INTENT FOR RESPONSE DEPOTS AND CORPS

Background

In 1989, immediately following the *Exxon Valdez* oil spill, Alaska State Senator Tim Kelly introduced Senate Bill 264 (SB 264) (Chapter 113 SLA 1989) which created the Oil and Hazardous Substances Response Office (SRO) in the Alaska Department of Environmental Conservation. This Spill Response Office was responsible for the development of the oil and hazardous substance spill response depots and volunteer spill response corps. SB 264 authorized funding for the office, depots and corps

from the Oil and Hazardous Substance Release Response Fund (Response Fund). The legislature passed SB 264 in 1989 along with several other pieces of legislation included in what was then popularly referred to as the "Oil-Spill Package."

The original provisions of SB 264 were amended in 1990 by House Bill 566 (HB 566) (Chapter 190 SLA 1990). House Bill 566 was originally sponsored by the Governor, but the Senate substantially changed the bill. The bill transferred implementation of the oil and hazardous substance response depots and corps from DEC to the Division of Emergency Services in the Department of Military and Veterans Affairs. This was in part due to recommendations 43 and 44 of the Alaska Oil Spill Commission's Report. In recommendation 43 the Oil Spill Commission proposed that the state establish community-based response depots under the management of the Department of Military and Veterans Affairs. In recommendation 44 the Oil Spill Commission proposed that local volunteer and part-time spill response units be established, trained and equipped under the direction of the State Department of Military and Veterans Affairs. Other than this transfer of authority, however, HB 566 did very little to change the actual intent of the original legislation as it related to response depots and corps.

Overview

Senate Bill 264 was introduced on April 5, 1989. The bill was referred to the Senate Oil and Gas, Resources, and Finance Committees, and reviewed and passed the legislature in a relatively brief period of time. The Senate Finance Committee conducted the most thorough review of the bill and made significant amendments to it. The Senate Finance Committee version was passed by a fifteen-to-five floor vote and transmitted to the House on April 29, 1989.

The House Resources Committee quickly reviewed SB 264 and made only slight amendments. Senate Bill 264 passed on the House floor with little debate, and was transmitted back to the Senate on May 9, 1989. The Senate concurred on the House changes on the same date and transmitted the bill to the Governor on May 26, 1989. The final bill establishing the spill response office and the depots and corps program became law effective June 16, 1989 as HCS CSSB 264 (FIN).

In the Committee discussions on SB 264 Senator Kelly summarized the main objectives of the legislation:

- 1) To establish an oil-spill response office in DEC;
- 2) To create an oil-spill response corps composed of volunteers from around the state who would be trained to respond rapidly to oil and hazardous substance spills; and
- 3) To establish a series of depots around the state for stockpiling containment and clean-up equipment (Senate Finance Cmte. mtg. minutes, 4/22/89, p.22).

In 1990, Governor Steve Cowper introduced House Bill 566 as part of his package of oil-spill legislation. It remained basically unchanged as it passed through the House, but received major revisions during its review in the Senate. The final version set up the State Emergency Response Commission (SERC) as the primary coordinating body for spill response and planning and gave the SERC the authority to approve state and regional oil and hazardous substance contingency plans developed by DEC. House Bill 566 also provided that depots be located in areas identified in the state and regional contingency plans.

Specifically, HB 566 (Section 19) provided:

AS 46.08.120. RESPONSE DEPOTS. The division [of emergency services] shall maintain emergency response depots in areas of the state determined in the plans prepared under AS 46.04.200 to be potential sites of releases or threatened releases of oil or hazardous substances. The depots shall be equipped and staffed in a manner that ensures prompt response when containment and cleanup action are necessary.

The House Resources Committee extensively reviewed HB 566 and took significant public and agency testimony. A slightly amended House Finance Committee Substitute passed the House on April 5, 1990, after a number of failed amendments regarding who would be in charge of a spill response. The Senate Oil and Gas and Finance Committees also reviewed and amended the bill. SCS for CSHB 566 (FIN) passed the Senate on May 8, 1990, by a 19-to-one vote, and passed the House on a concurrence vote of 22-18 on the same day. The bill was signed into law on June 26, 1990.

Issues To Be Addressed

As DEC's strategic planning for oil and hazardous substances has progressed it has become important to analyze the legislature's intent in order to properly implement the depots and corps program. In planning for spill response resources, DEC is taking steps to analyze and determine the following key areas of legislative intent:

- A) Funding for the depots and corps
- B) Defining characteristics of the depots and corps
 - Location of depots and corps
 - Volunteer corps — participants and compensation
 - Depots — structure and type of equipment
 - Impact the depots and corps may have on relieving responsible parties of their planning or clean-up requirements
- C) Size of spills for which the depots and corps would be activated
- D) Type of spills for which the depots and corps would be activated

Funding for Depots and Corps

The amount and source of funding the legislature intended for the depots and corps is the determining factor in how and to what degree the depots and corps will be implemented. Use of funds from the Oil and Hazardous Substance Release Response Fund (Response Fund) continues to be a highly debated topic in legislative budget discussions and it is critical to determine the legislative intent regarding funding.

The source of funding for the original fiscal note for SB 264 was the Response Fund. In the committee discussions it was clear that future funding for the depots and corps would come from the Response Fund. Additionally, SB 264 added to the purposes of the Response Fund costs incurred to establish and maintain the oil and hazardous substance response office and depots and corps established by the office.

Senator Kelly, in his Senate Finance Committee presentation on SB 264 on April 22, 1989, estimated it would cost \$20 million to implement the depots and corps program in the first year, and stated that funding would come from the existing Response Fund. He also stated that once the equipment is in place it would cost approximately \$3 million a year to maintain the office and the response corps and that funding would come from the Response Fund. He further stated in his presentation that: "The oil industry will, in fact, in effect, pay for the establishment of this office and the upkeep."

Senate Bill 264 was accompanied in final passage by a fiscal note for FY 90 in the amount of \$3,909,900 which funded the director, employees and contractual needs of the oil and hazardous substance response office, depots and corps. The fiscal note for SB 264 estimated appropriation needs through FY 94 and also identified two million dollars in estimated capitalization costs to outfit a minimum of two depots with spill response equipment (Senate Cmte. report, 4/28/89, with 4/27/89 fiscal note). Specific statutory language and legislative history clearly identified the Response Fund as the designated funding source (AS 46.08.040(2); Senate Finance Cmte. minutes, 4/27/89, pp. 23-27; 4/28/89, pp. 7-9).

DEC planning processes would be used to calculate the exact cost of implementing the proposed system; the DEC fiscal note attached to the bill was conservative and anticipated more detailed implementation costs to be determined through the master and regional planning processes (House Finance Cmte. minutes, SB 264, 5/6/89, p.9).

The legislature clearly intended that funding for the Spill Response Office, Depots and Corps come from the Response Fund. The fiscal note for SB 264 identified two million dollars in capitalization costs to outfit a minimum of two equipment depots with spill equipment. These costs were to be paid from the Response Fund. In addition, specific statutory language in SB 264 clearly identifies the Response Fund

as the designated source of funding for the oil and hazardous substances spill response office, depots and corps.

Defining Characteristics of the Depots and Corps

In order for the department to develop a strategic plan, it is important to determine what characteristics the legislature intended for the depots and corps to include. These primary areas of interest include:

- location of depots and corps;
- compensation of corps members; and
- equipment for depots and corps.

Although some locations were identified in the hearing process, the intent of the legislature, based on the committee hearing record, shows that the location for the depots and corps was to be left up to the state and regional contingency planning process and that each region of the state threatened by oil or hazardous substance spills should have a spill response depot. In regard to compensation of the corps, the legislative record showed that the corps are intended to consist of local residents with local knowledge, specifically identifying fishermen. However, the legislative history is not clear on the type and amount of equipment that would be involved in stocking the depots, although there were general references to the need for boom.

In 1989, Senate Bill 261, which established master and regional oil and hazardous substance planning requirements in Alaska, accompanied SB 264 through the legislative process. The two bills were referred to and discussed together in many committee hearings. The legislative discussion surrounding both of these bills was that depots and corps be specifically planned through the DEC master and regional contingency planning process. (Senate Finance Cmte. mtg. minutes, SB 264, 4/22/89, pp. 25 and 4/27/89, pp. 25-26)

HB 566 set up the State Emergency Response Committee (SERC) in statute and included planning for oil spills as part of their duties. SERC was established as the coordinating body with authority to facilitate and approve state and regional plans developed by DEC (Senate Finance Cmte. minutes, HB 566, 5/6/90).

The legislative history for SB 264 and HB 566 is clear that the depots and corps are to be specifically planned through the DEC master and regional contingency planning and the SERC approval process. Legislative history describes the intent to leave determination of the depot sites to DEC and the state and regional planning processes, although specific sites were identified as potential locations for depots.

Location of Response Depots and Corps

According to SB 264, the emergency response depots shall be maintained in areas of the state determined by the director of the response office to be potential sites of releases or threatened releases of oil or hazardous substances. The depots shall be equipped and staffed in a manner that ensures prompt response when containment and clean-up actions are necessary. This language was changed with the passage of HB 566 to read, "The division [of emergency services] shall maintain emergency response depots in areas of the state determined in the plans prepared under AS 46.04.200-210 to be potential sites of releases or threatened releases of oil or hazardous substances. The depots shall be equipped and staffed in a manner that ensures prompt response when containment and clean up actions are necessary."

Location of the depots and corps was to be left up to the department and the State and Regional Contingency Planning Process which would be approved by SERC. However, the legislature recommended that DEC set up a spill response depot in every region, mentioning some potential locations. The language from the legislation provides some clear intent under 46.08.150. Although the section deals with contracts it allows the office to enter into agreements to establish and maintain regional oil and hazardous substances depots.

During Senate Finance Committee debate, Senator Kelly stated that "while possible [depot] placement lists had been prepared, the ultimate decision would be made by the department as it constructs its master plan" (Senate Finance Cmte. minutes, 4/27/89, pp. 25-26,33). Specific Alaskan communities were identified and discussed as potential depot sites, including Prudhoe Bay, Fairbanks, Valdez, Kenai, Kodiak, Sitka, Unalaska, Seward, Ketchikan, Cordova, Yakutat and Homer (Sen. Fin. Cmte. Minutes, 4/22/89, p 23-24, 26 and 4/27/89, p. 25, 33-34). DEC also identified Valdez and an unspecified location on the Kenai Peninsula as potential depot locations in their fiscal analysis accompanying SB 264 (Senate Cmte. Rpt. dated 4/28/89 with fiscal analysis).

DEC was instructed to utilize the planning process to determine where equipment would best be located. Senator Fisher concurred with committee members that depots should be established in accordance with the master plan. Senator Kelly stated that every community should not have a depot but every region should have one (Senate Finance Cmte. minutes, 4/27/89, p.33).

Although some locations were identified in the committee hearings on SB 264, the intent of the legislature, based on the committee hearing record, shows that the location for the depots and corps was to be left up to the State and Regional Contingency Planning Process developed by DEC and approved by the SERC, and that each region of the state threatened by oil or hazardous substance spills should have a spill response depot.

Volunteer Corps — Participants and Compensation

According to SB 264, the corps consists of volunteers who register with the office,

agree to be trained by the office in techniques for containment and clean-up, and agree to be available on short notice to assist the office in containment and clean-up. Members of the corps are entitled to per diem and expenses as determined by the commissioner for training and for days spent in service to the state in containment and clean-up actions.

AS 46.08.110 now reads, "The division of emergency services, Department of Military and Veterans' Affairs, shall establish an oil and hazardous substance corps. The corps consists of volunteers who register with the office and agree to be trained by the office in techniques for containment and clean up and to be available on short notice to assist the office in containment and clean up consistent with the responsibilities assigned to the corps under an applicable incident command system. Members of the corps are entitled to per diem and expenses as determined by the division for training and for days spent in service to the state in containment and clean up actions."

During the debate on SB 264, it was discussed that the Response office would identify volunteers in communities selected as depot sites, paying them when necessary to combat a spill or participate in training. According to the Senate Oil and Gas and Finance Committee minutes, the intent was to have individuals listed in each regional plan or community that would comprise the trained volunteer "strike forces." These strike forces would be made up of individuals with local expertise, such as fishermen, and be similar to fire departments. These local volunteer response teams would be trained and equipped to immediately respond and contain oil and hazardous substance spills or to mitigate potential spills and threats (Senate Oil & Gas Cmte. minutes, 4/12/89, pp. 4, 6-7; Senate Finance Cmte. mtg. minutes, SB 264, 4/27/89, pp. 28-32).

Senate Finance Committee minutes and specific statutory language in SB 264 identify many of the details envisioned for the volunteer response corps and depots. Specifically, the state would pay expenses for training volunteers in communities selected as depot sites and pay them when necessary to combat a spill or participate in training. Volunteers would be trained in programs and technology relating to the containment and clean-up of oil and hazardous substances (AS 46.08.110; Senate Finance Cmte minutes, 4/22/89, pp. 23, 25 and 4/27/89, pp. 22, 26-27).

Mike Harmon, aide to Senator Kelly, stated in committee that the intent is for volunteer members of the corps to be trained volunteers, not full-time state employees, who will only be called out and paid for training and when necessary to combat a spill. Senator Kelly pointed out that, although the corps are not state employees, if volunteers are injured while performing corps duties they would be covered by worker's compensation (AS 46.08.150 (1); Senate Finance Cmte. minutes, SB 264, 4/22/89, pp. 23-24, and 4/27/89, p.22).

There were several references during the committee discussions regarding fishermen and their expertise in responding to spills. The legislative intent

according to the hearing record is clear that the corps be made up of local residents with local knowledge, specifically identifying fishermen in coastal communities.

Depots — Structure and Type of Equipment

The legislative history is not clear regarding the specific quantity and type of spill containment equipment and materials which the legislature intended to be stored at depot sites. General references were made by the public, agency staff and legislators throughout the legislative history to spill response equipment, particularly "boom," without further specificity.

Language in SB 264 regarding contracts states: "The office may enter into agreements with agencies of the state and federal government, political subdivisions, the University of Alaska, or private entities to establish and maintain regional oil and hazardous substances depots and to acquire the supplies and equipment necessary for response readiness; train members of the response corps; and conduct research into oil and hazardous substances spill technology."

House Bill 566 amended AS 46.08.150 only slightly. The legislative intent remained the same regarding the Spill Response Office's or DES's ability to contract for the depots.

Senate Finance Committee minutes and specific statutory provisions document the Legislature's intent to make private "contractual arrangements with political subdivisions, private, state or federal entities, and/or the University of Alaska to establish and maintain regional oil and hazardous substance depots." The legislature intended for the depots to be contracted according to comments made by Mike Harmon, aide to Senator Kelly, in the Senate Finance Committee record .

Relief of Liability of the Responsible Party

There was no reference in any committee discussion about relieving the responsible parties of their planning or clean-up requirements nor was any statutory language adopted.

Size of Spills for which the depots and corps would be activated

The size of spill the legislature intended the depots and corps to respond to is critical for DEC to verify and confirm while implementing the strategic plan. This was the most debated topic of this legislation. Many legislators wanted to limit the use of the response depots and corps to catastrophic spills. However, the bill was changed in Senate Finance to give the DEC Commissioner the final determination regarding when the depots and corps could be deployed. The deciding factor was finally determined to be if the Commissioner reasonably believes that the discharge or potential discharge poses an imminent and substantial threat to public health or welfare or to the environment.

From the committee minutes it can be concluded that although size of spill was an issue, after much discussion and the adoption of amendments, size becomes irrelevant in determining use of the depots and corps. Instead, the determining

factor becomes when the spill poses a threat to public health or welfare or to the environment.

There was a great deal of debate regarding the size of a spill to which the SRO would have authority to respond. The critical discussions on this topic took place in the Senate Resources Committee on April 19, 1989 and in the Senate Finance Committee on April 22 and 27, 1989.

In the original version of the bill there was no mention of the size of spill the spill response office, depots and corps would respond to. The Senate Resources version, however, put restrictions on when the response office corps and depots could respond. They could respond only if: (1) the oil discharge is a catastrophic oil discharge that constitutes an emergency under AS 46.04.08(a); (2) the discharge of oil or a hazardous substance is declared to be an emergency under AS 46.03.865; (3) the governor declares the discharge an emergency under 26.23; or (4) the commissioner reasonably believes that there has been a discharge of oil or a hazardous substance, or that there is a potential discharge of oil or a hazardous substance, and the discharge may qualify under (1) - (3) of this subsection.

The Senate Resources Committee made first reference to the size of a spill that SRO and the depots and corps would respond to. Bill Glude of the Alaska Environmental Lobby testified that he was opposed to limiting the response to a catastrophe. By not imposing this limit, the state could use the depots and corps more. However, Senator Tim Kelly responded that broadening the responsibilities might make the response team grow into more of a bureaucracy that would be hard to move in an emergency. (Senate Resources Cmte. mtg. minutes, SB 264, April 21, 1989, p.7)

Senator Kelly continued to express concern about use of the depots and corps for minor spills in both the Senate Resources and Finance Committees (Senate Resource Cmte. minutes, SB 264, 4/21/89, p.7; Senate Finance Cmte. minutes, SB 264, 4/22/89, p.24).

Later in the Senate Finance Committee, Senator Kelly showed that he was more concerned about the type of emergency rather than the size of the spill that the depots and corps should respond to. He stressed that the Legislature was relying on DEC's assurances that, "[t]he existing fund is only used for true emergencies which pose an imminent and substantial threat to the public health and welfare or the environment." (Senate Finance Cmte. mtg. minutes, SB 264, April 22, 1989, p.23)

Senator Kelly stated that there must be broad-based authority within the state to respond to spills and hazardous substances and that efforts in this regard should not be inhibited at this time. Senator Kelly advised the committee that the intent was to "give the Department of Environmental Conservation as much latitude as they feel they need to be able to respond to a potential danger to public health or welfare or the environment as opposed to an imminent danger or [an] already catastrophic spill" (Senate Finance Cmte. mtg. minutes, SB 264, April 27, 1989, pp. 27- 28).

Language changes were discussed in the Senate Finance Committee that would allow SRO and the depots and corps to be used when the "commissioner reasonably believes that the discharge or potential discharge poses an imminent and substantial threat to public health or welfare or to the environment" (A.S. 46.08.130(a)(5)). Senator Pearce was concerned that this language was too broad.

Amy Kyle, Deputy Commissioner of DEC, explained that the language set the same standard for response as the existing federal and state law. (Senate Finance Cmte. mtg. minutes, SB 264, April 27, 1989, p.27)

There were a few more questions regarding the Department's authority with the new language. Senator Pearce suggested that the language could be interpreted by the department to apply to underground storage tank releases, and stated that this was not the intent of the bill. Amy Kyle explained that the Department needed flexibility to allow the team to respond to something which posed a "real threat." She pointed out past problems such as Crown Point, Peters Creek and the *Exxon Valdez* oil spill. She also stated that there is no way to know what tomorrow's catastrophe will be.

Senator Duncan further allayed concerns when he referred to language in the Response Fund that required the Legislature to appropriate funds every year for the response office, depots and corps and therefore did not set up a "never ending funnel of money that we never have control over again" (Senate Finance Cmte. mtg. minutes, SB 264, April 27, 1989, p. 28 - 32).

The Senate Finance Committee approved the language giving the Commissioner of DEC broad discretion regarding when the depots and corps could be used. The version of the bill that passed the Senate Finance Committee and later passed the legislature added a fifth condition under which the depots and corps could be deployed. The fifth condition reads, "(5) the commissioner reasonably believes that the discharge or potential discharge poses an imminent and substantial threat to public health or welfare or to the environment" (A.S. 46.08.130(a)(5); Senate Finance Cmte. mtg. minutes, April 27, 1989, p.32).

The legislative history of SB 264 supports use of the response office, depots and corps for virtually all sizes of oil and hazardous-substance spills that could potentially pose an imminent and substantial threat to public health or welfare or the environment. Although certain senators expressed concerns about the depots and corps being used for small spills such as underground storage tank spills, they clearly agreed in Senate Finance that the Department should be given as much latitude as they feel they need to respond to a potential danger to the public health, welfare or the environment. In addition the language adopted in the Senate Finance Committee was the language that remained in the bill through final passage.

Type of Spills for which the depots and corps would be activated

The type of spill the depots and corps should respond to is important for determining the type of training the corps should have and equipment the depots

should contain. The statutory authority regarding the type of spill the depots and corps should be deployed for is clear and includes all types of oil and hazardous substances.

It is clear that it was the intent of the legislation is to use the response office, depots and corps for hazardous substances as well as oil. All versions of the legislation, including the final version, include the words "oil and hazardous substances" throughout the bills.

Clear statutory language and extensive legislative history support a broad grant of authority for response to all types of spills, including crude and non-crude oil and other hazardous substances. Deputy Commissioner Kyle successfully argued to the Senate Finance Committee that the state must respond in the event of a "problem" rather than be limited to specific types of releases. The state should not be precluded from response in the event of "some other kind of emergency" calling for trained people to help protect the public or contain possible damage (Senate Finance Cmte. minutes, SB 264, 4/22/89, p.26). The critical test of state response is "imminent and substantial threat to public health or welfare or to the environment" (Senate Finance Cmte. minutes, SB 264, 4/27/89, p.28).

On April 22, 1989, in the Senate Finance Committee, Senator Paul Fisher raised a question concerning "oil and hazardous substances" terminology. He was concerned that the oil industry not pay for spills of battery acid. Amy Kyle explained that a hazardous substance may cause a serious problem and therefore should not be precluded from being covered by the depots and corps.

On April 27, 1989, in the Senate Finance Committee, Deputy Commissioner Kyle was asked to define "hazardous substance." She stated the definition as "any kind of a substance, element, or compound when it enters into or on the surface or subsurface of the land or water of the state." The Committee did not change the title nor the language in the bill referring to hazardous substances after these discussions; the final version of the bill included hazardous substances (Senate Finance Cmte. minutes, SB 264, 4/22/89, p.26, and 4/27/89, p.7)

Senate Bill 264 passed the House without discussion or debate regarding size and types of releases.

Summary Of Interviews On Legislative Intent

Interviews were conducted with legislative and administrative personnel who were most involved with the passage of either SB 264 in 1989 or HB 566 in 1990.

Senator Tim Kelly; Senator Drue Pearce; Representative Kay Brown; Deputy Commissioner Amy Kyle; David Rogers, aide to Senator Pearce, and Mike Harmon, aide to Senator Kelly were the six people interviewed. Each of these individuals played a major role in the development of either SB 264 or HB 566.

Although some of the responses in the interviews were different from the legislative record, there were some themes that the interviewees generally agreed with. All of the respondents agreed that the depots and corps were intended to respond to oil and hazardous substance releases.

The respondents all generally agreed that the number and location of the depots would be decided by the state and regional contingency planning process.

There was less consensus on the size of the spill the depots and corps should respond to. Senator Kelly, Representative Brown, and Mike Harmon (former aide to Senator Kelly) recalled that they would be used for catastrophic/major spills but Amy Kyle (former deputy commissioner of DEC) and Senator Pearce thought that the use of the depots and corps was more dependent on the situation, the threat it was posing, and if the responsible party failed to clean it up.

It was agreed by all the interviewees that the Response Fund was the source of funding to capitalize the purchase of equipment and also for operating costs involved with the depots and corps both start up and ongoing. Those that could remember the first year's costs stated it was approximately \$3-4 million.

The equipment purchased would be mostly smaller types of equipment that was easily transportable, including some boom and sorbents, small vessels, and emergency gear.

Interviews with legislative and administrative personnel involved with the passage of SB 264 and HB 566 are included in Appendix A.

SECTION II: APPROACHES USED BY OTHER STATES AND CANADA

Introduction

This section provides the information required under Task 2 of the contract: to research, identify, describe, and summarize approaches being used in other states and Canada for the development of oil and hazardous substance spill response corps and depots. The method used was telephone interviews with agencies and groups involved in oil spill response in Canada and other coastal states.

The following question set was developed to standardize the information gathered from each interview:

1. What is the name, phone number, address and position of a contact person in your organization?
2. Does there exist any government-sponsored and/or -operated oil or hazardous substance response capability in your state/country? Does this response capability include either depots (equipment) or volunteer or paid corps (responders)?
3. How are volunteer/citizen responders handled? Is there a database or call-out list for volunteers? Are they compensated in any way?
4. What is the source of training and what type of training is provided for responders?
5. What spill response equipment do you have (including personal protection gear)? What is the source of equipment for responders? How is it stored?
6. What types of spills (catastrophic, normal, crude, refined oil, hazardous substances) are responded to by your organization? Is this project involved in wildlife rescue operations?
7. How is your organization funded?
8. Can you send us any written information about your organization, i.e., mission statement, charter/bylaws, number of members, past experience in hazardous materials or oil spill response?
9. Do you know of any other groups or government-sponsored programs that provide similar services? If so, please list them.

Interviews were conducted with officials from the following agencies and organizations:

State of Washington

Department of Wildlife

Islands Oil Spill Association (IOSA)

Pacific Lake Environmental

Department of Ecology

State of Oregon

Department of Environmental Quality

Stop Oregon Litter and Vandalism (SOLV)

State of Maine

Department of Environmental Protection
Department of Inland Fisheries and Wildlife
Quoddy Spill Prevention Group

State of California

Department of Wildlife, Oil Spill Division
Fishermen's Oil Response Team (FORT)

British Columbia, Canada, Ministry of Environment

New Brunswick, Canada, West Isles Clean Environment Association

Marine Spill Response Corporation (MSRC)

Appendix B contains the answers given by each interviewee along with any other information provided by the interviewee. The following is a summary and analysis of the information by state.

State of Washington

The State of Washington does not own oil or hazardous substance spill response equipment or depots. The Department of Wildlife has created the Washington Wildlife Rescue Coalition to develop the use of volunteers for wildlife rescue and treatment. The Department of Ecology and Office of Marine Safety use pre-approved oil spill response contractors if a state response is necessary. Two contractors are fishermen-based organizations, the Islands Oil Spill Association based in the San Juan Islands and Pacific Lake Environmental based in Bellingham. Some discussion is underway now at the Department of Ecology about developing volunteer response corps in the future.

The Island Oil Spill Association (IOSA) is a non-profit organization which brings local volunteer resources into oil spill response. IOSA is not government-sponsored but works closely with county, state, and federal agencies dealing with spill response. Government support includes depot space, dispatching, training, insurance, and spill response contracts. IOSA has 350 trained volunteers and about 40 vessels which can be called upon during an oil spill. Their services include oil spill assessment, primary and secondary oil spill response (on water and shorelines), wildlife rescue, response training, prevention education, and local contingency planning. IOSA owns and maintains four equipment depots and has agreements to access other private spill response equipment. IOSA responders volunteer all training time and respond whenever they are called. They may be paid for actual response time by the responsible party or by an agency, but they respond to all spills regardless of pay.

Pacific Lake Environmental is a new for-profit corporation which intends to offer response services in shallow water environments based from seiner fishing vessels. They are not oriented towards volunteerism.

The Wildlife Rescue Coalition was established by the Washington State Legislature (RCW 90.56.100) and is developing a network of trained volunteer responders to

provide wildlife rescue and primary response. The organization was originally funded as a provision of the legal settlement concerning the Nestucca oil spill. The Coalition is chaired by the Department of Wildlife and they hire a wildlife rescue coordinator which runs the program. The Coalition works as part of the incident command system during a spill. Volunteers must meet minimum requirements and complete eight hours of training before they are allowed to participate in rescue operations. There is a 1-800 number used by the volunteers during an actual spill to determine assignments.

The Department of Ecology is just beginning to put together a volunteer program for oil spills. They held a meeting in September of 1993 to develop a volunteer management plan and organize a volunteer management plan work group.

State of Oregon

The State of Oregon established a steering committee to set up a volunteer program after receiving several hundred phone calls from volunteers during the 1991 Tenyo Maru spill. The committee included state and federal agencies and the non-profit organization Stop Oregon Litter and Vandalism (SOLV). SOLV carries out the program.

The program now includes a database of over 1,200 responders who may be called upon to assist in beach cleanup, wildlife rescue and rehabilitation, and other support services. SOLV does not conduct any on-water activities. The state provides worker's compensation insurance coverage, personal protective equipment, and staff time for training and supervision. The state also manages the database of volunteers, but the state does not provide any direct funding to SOLV or the volunteers.

SOLV maintains a 1-800 telephone number for class registration and information. This number would also be the main source of information in the event of an oil spill. Volunteers can call this number to obtain information on where and when they should report to respond to a spill.

Volunteers are trained by both state and federal agencies. Training consists of four hours per year of classroom training by DEQ, Oregon OSHA, and USCG, plus an additional four hours of site- and incident-specific training at the time of the event. The Oregon Department of Fish & Wildlife provides additional training to some volunteers on wildlife rescue techniques. Training sessions occur about five times per year.

The SOLV volunteers have never been called upon to respond to an actual spill. However, they will be exercised during a major drill planned for the Columbia River in early September, 1993.

Oregon does not have any state-owned equipment depots.

State of Maine

The State of Maine, Department of Environmental Protection, owns equipment depots for oil and hazardous substance response, including boom, two 5,000-barrel barges, four boats for boom deployment, skimmers, and varying sorbents. This equipment will be used by state employees, but some equipment, such as skimmers, can be lent out to companies who need it for response. In this case, the company can use the equipment itself, or the state can assist. The state also owns equipment for hazardous substance response, including personal protective gear, air sampling equipment, and a decontamination trailer.

The state does not have a program for volunteer responders, although the Department of Environmental Protection contracted with International Bird Rescue and Research to provide training to volunteers in wildlife rescue and rehabilitation. The Department of Inland Fisheries and Wildlife is in charge of implementing this program. The state will provide training free of charge, although volunteers probably will not be compensated for their actual response time. The state is working to identify facilities that would be used for wildlife rehabilitation in the event of a spill, and would like to have equipment pre-positioned at these sites before a spill occurs. The state plans to hold an exercise next year.

The Quoddy Spill Prevention Group is a non-profit group formed to find out what the role of volunteers should be in a spill. The group is also involved in the development of an area contingency plan. The group is participating in the wildlife rehabilitation training, but is not anxious to participate in response activities. However, they might provide monitoring during a spill, and they are also involved with organizing and conducting spill drills.

State of California

California's oil spill response system depends on the concept of "Best Coast-wide Protection." No contingency plans are approved until the Administrator certifies that the entire coast has adequate response resources. The spill response resources have been provided by a series of oil spill cooperatives which provide services all along the coast. This system can be activated by the state.

The Fishermen's Oil Response Team (FORT) is a fishermen-based response team in California that serves as a coordination liaison between the local spill cleanup cooperative, Clean Seas, and local fishermen. The state legislature provided liability relief for fishermen in SB 2040, clearing the way for FORT to participate in oil spill response. FORT's main activity is providing vessels with trained crews to assist industry-based response activities. Volunteers are not paid for their training time, but actual response time is paid for by a pre-arranged contract. The FORT system contains over 100 vessels and crews which may be employed for wildlife rescue, boom towing, shoreline protection, or support services.

Canada

The Canadian government has both response depots and a paid response corps. Implementation of these programs varies by province.

British Columbia, Canada

The British Columbia Oil Spill Work Force has been created to manage volunteer efforts for oil and hazardous substance response and cleanup. Three trained and equipped response teams are being assembled under the direction of the Canadian Coast Guard, Environment Canada, and the Province of British Columbia. Once trained, members of the Work Force will be paid a wage for involvement in spill response. Responder information will be tracked through a database. Training is being provided by a private contractor.

New Brunswick, Canada

West Isles Clean Environment Association, Inc., has been formed to work with the volunteer response force. They are working closely with the Canadian Coast Guard and Environment Canada to establish local response corps throughout New Brunswick. A database and call out system are being developed at this time. Thirteen people are currently taking a six-week course at the St. Andrews, New Brunswick Community College. After their training, these people will return to coastal communities where they will organize and train the volunteer response corps. Equipment depots are owned by the Canadian Coast Guard and maintained by a private contractor.

Marine Spill Response Corporation (MSRC)

The Marine Spill Response Corporation is working in each of its regions to establish relationships with vessels of opportunity such as fishing vessels. MSRC is working with existing organizations such as IOSA, SOLV, and FORT where such organizations exist. They are not working with any state or federal governments on volunteer response corps at this time.

Conclusions

Many coastal states have recently recognized the need to train and equip volunteer responders for oil and hazardous substance spill response. They have also recognized the problems and liabilities inherent in developing such a program. Most have taken the approach of working through an independent non-profit organization to coordinate volunteers, maintain a database of volunteers and provide training. This approach allows both industry and government access to the same response network. Volunteers are usually not paid for training but usually are paid for actual response activities. Activities of these responders vary but usually include wildlife rescue, shoreline clean-up, and support services. Some states are purchasing response equipment for use by corps, others are not. Training requirements vary considerably from one location to another. Most programs are

aimed at oil spill response; few of the programs surveyed intended to become involved in hazardous substance response because of the liability involved.

Interviews

Responses from the telephone interviews conducted for this report are included in Appendix B. Many states also provided written descriptions of their programs, including brochures, mission statements, and descriptions of past oil spill experience; these are attached in Appendix C.

SECTION III: ACTIONS TAKEN TO DATE IN ALASKA

Chronology

Below is a chronology of actions taken to date within Alaska to develop and implement the emergency response depots and corps, including actions taken by state agencies, the legislature, and other entities such as the Citizens Oversight Council on Oil and Other Hazardous Substances and the Prince William Sound Regional Citizens' Advisory Council.

May 1989 The Alaska Legislature passed Senate Bill 264 creating an oil spill response office, response depots and volunteer response corps.

The Legislature made the first of a series of appropriations from the response fund for implementation of the depots and corps program. The initial appropriation was \$3.9 million.

July - June 1989 DEC spent only \$349,425 and lapsed the remaining \$3.56 million. During FY 1990 DEC entered into a reimbursable services agreement (RSA) with the Division of Emergency Services to hire and train non-permanent employees to plan for depots and response corps. At the time DEC anticipated training at least 500 corps volunteers in spill response and the establishment of at least three depots by the end of FY 91.

May 1990 The 1989 legislation was amended by House Bill 566 (Chapter 190 SLA 1990). New provisions included:

- transfer of the responsibility for the depots and corps program from the Department of Environmental Conservation (DEC) to the Department of Military and Veterans Affairs (DMVA);
- a requirement that depots be located in areas identified as potential oil and hazardous substance release sites in the State Master Plan and Regional Master Plans; and,
- authorization for the Division of Emergency Services (in the DMVA) to contract for personnel, equipment, and other services necessary to establish and maintain regional oil and hazardous substance depots.

The Alaska Legislature passed House Bill 567 (Chapter 191 SLA 1990) which included authorization for DEC to conduct a study and develop recommendations by 7/1/91 concerning appropriate locations for regional response depots, based on where noncrude oil discharges were most likely to occur as well as the needs of remote areas of the state.

For FY91, the Legislature appropriated \$3,169,900 from the response fund for the depot and corps program.

August 1990 DEC signed an RSA with DES allocating \$98,000 to DES. This RSA was defined as Phase I of the project, and required DES to provide initial training and development and to draft plans for the depot and corps programs.

December 1990 The original RSA was modified and the funding increased to a total of \$494,000. The purpose of the amendment was described as for Phase II work started in October 1990 including initial equipment for depots. The actual amount spent by DES only amounted to \$203,502.

March 1991 The State Master Plan was granted interim approval by the State Emergency Response Commission (SERC) but did not include depots and corps locations as required by AS 46.04.200(b)(5).

April 1991 Internal DEC memo that established a FY 92 plan for establishing depots and corps which included establishment of a regional depot in Anchorage and a response corps providing a pool of general laborers for call out by DEC.

May 1991 For FY 92 the Legislature appropriated an additional \$2,911,400 to DEC for the depot and corps program, including \$2 million for DES.

The Department of Environmental Conservation released an internal audit titled, "Management of the Oil and Hazardous Substance Release Response Fund Needs Improvement." The report criticizes DEC for poor management of the Response Fund (see Appendix D).

June 1991 DEC signed an RSA with DES giving DES \$2,000,000 for implementation of depots and corps. Memo attached to RSA called for an integrated resource data base.

July 1991 DEC completed a study of non-crude tank vessels and barges (written by Arthur D. Little). The study identified southeast and western Alaska as the two highest priority areas for establishing depots to address the non-crude oil transportation threat.

August 1991 An RSA transferred funding from DEC to DMVA "with the restriction that funds could be used only to hire four full-time employees until a scope of work was drawn up." This restriction was soon thereafter removed.

November 1991 At a DEC budget hearing the Director of DEC's SPAR Division testified that the depots/corps program funding would be used by DES for personnel, an earth station and a hazards analysis report.

A proposed scope of work provided to DEC by DMVA describes an Anchorage Depot.

December 1991 The \$2 million RSA between DEC and DES for FY 92 for depots and corps was reduced by \$300,000, so that DEC could use the money to do the statewide hazards analysis necessary for locating the response depots and corps.

DEC made a concurrent decision to allocate the funds directly to the LEPC's to conduct the hazards analysis.

March 1992 DES submits a \$2 million request to establish the first depot, provide a list of inventory and prioritize inventory that will be purchased to equip the depot.

The Alaska Legislature's Division of Legislative Audit released an audit on the implementation of the response depots and corps program. Among the conclusions of this audit were:

- no noticeable steps were taken during FY 90 to implement the depots and corps program as envisioned in the initial \$3.9 million appropriation;
- the State Master Plan was not done by 7/1/90, the date for completion given in the legislation;
- the RSA between DEC and DMVA was basically unrestricted and without an authorized scope of work;
- insufficient accounting and documentation of expenditures was done by DES, as required by the RSA; and,
- actual spending differed drastically from the FY 92 budget request.

April 1992 DEC Commissioner John Sandor responded to the legislative audit by agreeing that:

- the conceptual agreements should be formalized by 7/1/92;
- depot sites should be designated in the State Master Plan by 7/1/92; and,
- a long-term strategic plan should be developed by DEC and DMVA by 1/1/93 (see Appendix D for audit and response).

March 1992 The Prince William Sound Regional Citizens' Advisory Council drafted a proposal to the legislature for a Demonstration Project for a Nearshore Strike Team. The elements of the proposal included:

- a nearshore strike team and equipment cache,
- oil spill training for six coastal communities,
- a statewide database of vessels,
- development of model contracts, and
- a public education program.

May 1992 DES requested \$5,000,000 in funding for depots and corps with minimal informational backup. The Legislature appropriated \$800,000 for continued DES staff work in the FY 93 budget. In addition, a separate appropriation of \$1.2 million was made to DEC for a nearshore strike team demonstration project to be done in conjunction with the response depots and corps program.

September 1992 The new State Master Plan was revised and included a plan to establish a central depot in Anchorage. Additional central depot locations being considered prior to the completion of the regional hazards analyses were Fairbanks and Juneau.

October 1992 The FY 93 RSA between DEC and DMVA provided that DES will assist DEC in preparing a three-year strategic plan for the response depots and corps

program for FY 1994 and beyond. The RSA also provided that DES will make recommendations for establishing the portion of the response corps that must be prepared to respond to a non-oil hazardous substance release.

February -May 1993 Procurement of Point to Point Satellite Communications Project

March 1993 - As of April, 1993, 825 people were trained by DES in the following areas:

- 24 hour Hazwoper
- 40 hour hazmat
- Hazmat Technician

(There is a data base of people who have been trained. However, the database is not a data base of volunteers for the corps. It is solely a list of people who have been trained in the above listed courses.) "Preliminary report to Governor Hickel on Radiological Threats and Release Response Preparedness in the State of Alaska," prepared by the SERC. The goal of the review was to identify sources of radiation hazards, determine the level of preparedness to respond to these threats, and make recommendations for reducing risk and enhancing response. One of the objectives of the report was to recommend measures that the state could take to reduce the risks of radiological hazards, through such strategies as source control and reduction, public education, and improved monitoring and response capability (see Appendix D). Hazards Analysis for Sitka completed.

April 1993 The Citizens' Oversight Council on Oil and Other Hazardous Substances issued a report entitled, "Oil Spill Prevention and Response Planning Legislation, An Assessment of Implementation." The report documents the status of implementation of certain statutory requirements pertaining to the state of Alaska's oil spill prevention and response preparedness program (see Appendix D).

May 1993 The Alaska Legislature appropriated \$600,000 in the operating budget for FY 94 for the Division of Emergency Services; \$430,000 was appropriated in the capital budget for emergency operations enhancements, furnishings, relocation of the troopers, and communications equipment. Hazards Analysis for Yakutat completed.

June 1993 DEC issued a request for proposals for a Nearshore Demonstration Project, the purpose of which was to organize, procure equipment for, and conduct two Nearshore Demonstration Projects.

July 1993 Southeast Area/Regional Contingency Plan draft completed.

August 1993 Cook Inlet Area/Regional Contingency Plan draft completed. Hazards Analysis for Juneau completed. Contract awarded for completion of the statewide hazards analysis to Easton Environmental.

September 1993 DEC awarded the contract for the Nearshore Demonstration Project to HARTEC. Working draft completed of the Alaska Federal/State Preparedness Plan for Response to Oil and Hazardous Substance Discharge/Releases. Procurement of approximately two-thirds of the \$1.6 million mobile point to point satellite communications equipment including: earth stations, repeaters, hand held radios, video telecommunications, telephone and key systems for emergencies. Funded 50% Response Funds and 50% Federal Emergency Management Administration.

Upcoming Dates:

June 1994 Hazards Analysis Statewide is slated to be completed.

Summary of Expenditures to Date

According to the Alaska State Legislature, Division of Finance, the Department of Environmental Conservation has expended a total of \$2,142,705 on Spill Response Depots and Corps and the Division of Emergency Services has expended a total of \$2,298,412 on Spill Response Depots and Corps to date.

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FILE

SENATE FINANCE COMMITTEE REPORT

DATE: 1/24/94

FURTHER:

DATE TURNED INTO OFFICE: 2-17-94

The Finance Committee considered SENATE BILL NO. 33

"An Act relating to grants for local emergency planning committees and emergency response organizations; and providing for an effective date."

and recommends:

- replace with _____ CS SB 33 (FINANCE)
- or adopt previous _____ CS _____
- attaches amendment(s)

- same title
- new title
- technical title change (HB only)

adopts _____ Letter of Intent

further referral to the _____

do pass

do not pass

no recommendation

individual recommendations

NEW FISCAL NOTES

Department	Date	Zero	Fiscal
Dm & VA (1808)	2-16-94		646.7

PREVIOUS FISCAL NOTES

Department	Date	Zero	Fiscal
DEC	1-13-94		646.7

Appropriation No Fiscal Note

DO PASS:

Tim Kelly

OTHER RECOMMENDATIONS:

John R. [Signature]
NO Rec

1. Ina Pearce, DoRec

2. John NO Rec

FISCAL NOTE

REQUEST:

Revision Date: 16-Feb-94 Affected Agency: DM&VA
 Title: An Act relating to emergency planning & response. BRU: Disaster Planning & Control
 Sponsor: Senator Leman Component: 1808
 Requestor: _____

EXPENDITURES/REVENUES: (THOUSANDS OF DOLLARS)

OPERATING	FY 95	FY 96	FY 97	FY 98	FY 99	FY 00
Personal Services	181.3					
Travel	24.4					
Contractual	435.2					
Supplies	4.0					
Equipment	1.8					
Land & Structures						
Grants, Claims						
Miscellaneous						
TOTAL OPERATING	646.7					

CAPITAL						
---------	--	--	--	--	--	--

REVENUE						
---------	--	--	--	--	--	--

FUNDING: (THOUSANDS OF DOLLARS)

General Fund						
Federal Fund						
1052 oil/haz"470" fund	646.7					
TOTAL	646.7					

Estimate of any current year (FY94) cost: \$ n/a

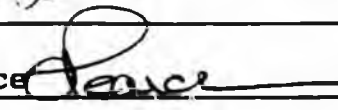
POSITIONS:

Full-Time	3.0					
Part-Time						
Temporary						

ANALYSIS: (ATTACH A SEPARATE PAGE IF NECESSARY)

Two new G.F. positions requested in DM&VA fiscal note of 1/14/94 are disallowed.

Prepared By: Co-chair Frank  Date: 2/16/94
 Senate Finance Committee Phone: x3709

Prepared By: Co-chair Pearce  Date: 2/16/94
 Senate Finance Committee Phone: x4993

DISTRIBUTION (BY PREPARER)
 LEGISLATIVE FINANCE
 LEGISLATIVE SPONSOR

REQUESTOR
 OFFICE OF MANAGEMENT AND BUDGET
 AGENCY(IES)

FISCAL NOTE

STATE OF ALASKA
1994 LEGISLATIVE SESSION

BILL NO. CSSB33 (FIN)

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

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	(135.2)	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						
TOTAL OPERATING	(346.7)	0.0	0.0	0.0	0.0	0.0

CAPITAL EXPENDITURES						
-----------------------------	--	--	--	--	--	--

CHANGE IN REVENUES ()						
-------------------------------	--	--	--	--	--	--

FUND SOURCE

(Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1006 GF/MHTIA						
Other: 1052 Oil/Haz "470" Fund	(346.7)	0.0	0.0	0.0	0.0	0.0
TOTAL	(346.7)	0.0	0.0	0.0	0.0	0.0

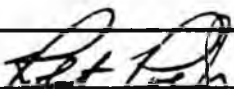
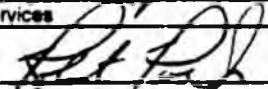
Estimate of any current year (FY94) cost: \$ not applicable

POSITIONS

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: Robert Poe, Director  Phone: 465-5010
 Division: Information and Administrative Services Date: 4/20/94
 Approved by: John Sandor, Commissioner  Date: 4/20/94
 Agency: Environmental Conservation

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ATTACHMENT TO FISCAL NOTES TO CSSB 33 (STA)¹

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 \$807,900 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, \$100,000 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 \$240,900 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.

¹This fiscal note revises the fiscal note dated January 13, 1994 to reflect cuts by the House and the Senate to the Department's request for Local Emergency Planning Committee (LEPC) funding support in FY 95. This results in an overall reduction of 346.7 to the Department's FY 95 budget request under the Government Preparedness and Response Component which includes \$100,000 for LEPC funding.



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.

Back-up

SPONSOR SECTIONAL ANALYSIS
Senate Bill 33

FOR CS SB 33 (STA): 1/24/94
DISTRIBUTION: Senate Finance Committee

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:

Amendment 2/3/94 for 26.23.040(b)(c)(e)

*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. *Amendment of 2/3/94 rewrites AS 26.23.060.*

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.

(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; *Amendment of 2/3/94 removes disaster agency.*

(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. *Amendment of 2/3/94 removes disaster agencies.*

(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.

Amendment - 2/3/94 creates new Sections 8 and 9 to delete disaster agency.

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.

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 - Amendment *470 Fund*

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 is redundant to AS 26.23.040(d).

Repeal: 26.23.195(a) - Is redundant to language in AS 26.23.070(d), as added by SB 33. **AMENDMENT 2/3/94 would repeal all of 26.23.195.**

Repeal: 26.23.195(c) - Is redundant to multiple portions of AS 26.23.040. **AMENDMENT 2/3/94 would repeal all of 26.23.195.**

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: 46.08.110, 46.08.120, 46.08.130(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?

Back-up

8-LS0324J
Lauterbach
2/16/94

*Phoned
Lauterbach
2/17/94*

*MOVED by Sen.
FRANK
REPORTED
OUT*

CS FOR SENATE BILL NO. 33(FIN)

IN THE LEGISLATURE OF THE STATE OF ALASKA

EIGHTEENTH LEGISLATURE - SECOND SESSION

BY THE SENATE FINANCE 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(b) is amended to read:

10 (b) The Alaska division of emergency services shall play an integral part in
11 the development and revision of local and interjurisdictional disaster plans prepared
12 under AS 26.23.060. To this end, it may employ or otherwise secure the services of
13 professional and technical personnel capable of providing expert assistance to political

1 subdivisions, their disaster agencies, and representatives of interjurisdictional disaster
2 planning and service areas [DISASTER AGENCIES]. These personnel shall consult
3 with political subdivisions and agencies on a regular basis and shall make field
4 examinations of the areas, circumstances, and conditions to which particular local and
5 interjurisdictional disaster plans are intended to apply and may suggest or require
6 revisions.

7 * Sec. 2. AS 26.23.040(c) is amended to read:

8 (c) In preparing and maintaining the state emergency plan, the Alaska division
9 of emergency services shall seek the advice and assistance of local government,
10 business, labor, industry, agriculture, civic and volunteer organizations and community
11 leaders. In advising local and interjurisdictional disaster planners [AGENCIES], the
12 office shall encourage them also to seek advice from these sources.

13 * Sec. 3. AS 26.23.040(e) is amended to read:

14 (e) The Alaska division of emergency services shall

15 (1) determine requirements of the state and its political subdivisions for
16 food, clothing, and other necessities in the event of a disaster emergency;

17 (2) procure and pre-position supplies, medicines, materials, and
18 equipment;

19 (3) adopt standards and requirements for local and interjurisdictional
20 disaster plans;

21 (4) periodically review local and interjurisdictional disaster plans;

22 (5) establish and operate, or assist political subdivisions, their disaster
23 agencies, and representatives of interjurisdictional disaster planning and service
24 areas [AGENCIES] to establish and operate, training programs;

25 (6) plan and make arrangements for the availability and use of any
26 private facilities, services, and property and, if necessary and if in fact used, provide
27 for payment for use under terms and conditions agreed upon by the parties;

28 (7) establish a register of persons with types of training and skills
29 important in disaster prevention, preparedness, response, and recovery;

30 (8) prepare, for issuance by the governor, orders, proclamations, and
31 regulations as necessary or appropriate in coping with disasters;

1 (9) cooperate with the federal government and any public or private
2 agency or entity in achieving any purpose of this chapter and in implementing
3 programs for disaster prevention, preparedness, response and recovery;

4 (10) develop and carry out procedures and policies to effectively
5 employ disaster relief funds made available by the governor's authority or by special
6 legislative action; these procedures shall include application and documentation by
7 disaster victims or applicants, review, verification and funding approval, and
8 processing of appeals;

9 (11) do other things necessary or proper for the implementation of this
10 chapter;

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

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

15 (B) in order to comply with 49 U.S.C. Appx. 1815(a)(3),
16 make funds available to local emergency planning committees for
17 developing and maintaining emergency plans under AS 26.23.073 and
18 26.23.075:

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

21 (D) award grants for training local emergency planning
22 committees and for training and equipping the emergency response
23 organizations that execute the plans developed by the committees under
24 AS 26.23.073 and 26.23.075.

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

26 (f) To the extent that the plan prepared under this section relates to action
27 required to avert human injury or other damage from a release of a hazardous
28 substance, the plan must be substantially equivalent in relevant respect to the local
29 emergency plans prepared under AS 26.23.073 and 26.23.075 and the state and
30 regional master plans prepared by the Department of Environmental Conservation
31 under AS 46.04.200 - 46.04.210. The plan must use an incident command system

1 comparable to the system used in those plans and must be reviewed by the Alaska
2 State Emergency Response Commission under AS 26.23.077.

3 * Sec. 5. AS 26.23 is amended by adding a new section to read:

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

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

15 * Sec. 6. AS 26.23.060(a) is amended to read:

16 (a) Each political subdivision in the state is within the jurisdiction of, and shall
17 be served by, the Alaska division of emergency services. [A MUNICIPALITY ALSO
18 MAY BE SERVED BY A LOCAL OR INTERJURISDICTIONAL AGENCY
19 RESPONSIBLE FOR DISASTER PREPAREDNESS AND COORDINATION OF
20 RESPONSE].

21 * Sec. 7. AS 26.23.060(b) is amended to read:

22 (b) Each political subdivision is responsible for disaster preparedness and
23 coordination of response

24 (1) by itself;

25 (2) in conjunction with other political subdivisions by establishing
26 an [BOROUGH MAY MAINTAIN A DISASTER AGENCY, OR PARTICIPATE IN
27 A LOCAL OR] interjurisdictional planning and service area under AS 26.23.070;
28 or

29 (3) in conjunction with the Alaska division of emergency services
30 [DISASTER AGENCY THAT, EXCEPT AS OTHERWISE PROVIDED IN THIS
31 CHAPTER, HAS JURISDICTION OVER AND SERVES THE ENTIRE BOROUGH].

1 * Sec. 8. AS 26.23.060(c) is amended to read:

2 (c) Each political subdivision that has not established the ability to mitigate,
3 prepare for, respond to, and recover from disasters [DOES NOT HAVE A
4 DISASTER AGENCY AND HAS NOT MADE ARRANGEMENTS TO SECURE OR
5 PARTICIPATE IN THE SERVICES OF A DISASTER AGENCY] shall designate,
6 and provide to the Alaska division of emergency services the name of, a liaison
7 officer to facilitate the cooperation and protection of that political subdivision in the
8 work of disaster prevention, preparedness, response, and recovery.

9 * Sec. 9. AS 26.23.060(e) is amended to read:

10 (e) Each political subdivision [LOCAL AND INTERJURISDICTIONAL
11 AGENCY] shall ensure that [PREPARE AND KEEP CURRENT] a written local or
12 interjurisdictional disaster emergency plan for its area is prepared, maintained, and
13 distributed to all appropriate officials. The disaster emergency plan must include
14 a clear and complete statement of the emergency responsibilities of all local
15 agencies and officials.

16 * Sec. 10. AS 26.23.060 is amended by adding a new subsection to read:

17 (g) 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 respects, including the
20 use of a comparable incident command system, to the local emergency plans prepared
21 under AS 26.23.073 and 26.23.075 and the state and regional master plans prepared
22 by the Department of Environmental Conservation under AS 46.04.200 - 46.04.210.
23 The plan must use an incident command system comparable to the system used in
24 those plans and must be reviewed by the Alaska State Emergency Response
25 Commission under AS 26.23.077.

26 * Sec. 11. AS 26.23.070 is amended by adding a new subsection to read:

27 (d) To the extent that a plan prepared under this section relates to action
28 required to avert human injury or other damage from a release of a hazardous
29 substance, the plan must be substantially equivalent in relevant respect to the local
30 emergency plans prepared under AS 26.23.073 and 26.23.075 and the state and
31 regional master plans prepared by the Department of Environmental Conservation

1 under AS 46.04.200 - 46.04.210. The plan must use an incident command system
2 comparable to the system used in those plans and must be reviewed by the Alaska
3 State Emergency Response Commission under AS 26.23.077.

4 * Sec. 12. AS 26.23 is amended by adding new sections to read:

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

8 (b) The commission consists of the commissioners of community and regional
9 affairs, environmental conservation, fish and game, health and social services, labor,
10 natural resources, public safety, and transportation and public facilities, or the
11 designees of the commissioners, the adjutant general of the Department of Military and
12 Veterans' Affairs or a designee, and seven members of the public appointed by the
13 governor, two of whom must be members of a local emergency planning committee
14 for an emergency planning district that is predominantly rural in character and two of
15 whom must be members of a local emergency planning committee for an emergency
16 planning district that is predominantly urban in character. Two of the other three
17 members of the public who are appointed to the commission must be members of the
18 governing body of, or the mayor of, a political subdivision that has a local emergency
19 planning committee or a person nominated by the governing body or the mayor to
20 represent the political subdivision. To the extent practicable, the commission must
21 include members with expertise in the emergency response field.

22 (c) The adjutant general of the Department of Military and Veterans' Affairs,
23 or the adjutant general's designee, and the commissioner of environmental
24 conservation, or the commissioner's designee, shall co-chair the commission. The
25 Department of Military and Veterans' Affairs shall provide staff support to the
26 commission.

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

1 (e) The commission shall

2 (1) serve as the state emergency response commission required under
3 42 U.S.C. 11001 - 11005;

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

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

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

11 (5) establish a local emergency planning committee under
12 AS 26.23.073(d) for each emergency planning district;

13 (6) supervise and coordinate the activities of local emergency planning
14 committees;

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

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

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

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

30 (11) to the extent consistent with the constitution and law of the state,
31 perform all other functions prescribed for state emergency response commissions under

1 42 U.S.C. 11001 - 11005; and

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

4 Sec. 26.23.073. EMERGENCY PLANNING DISTRICTS AND
5 COMMITTEES. (a) The commission shall set the boundaries of local emergency
6 planning districts. The commission shall set the boundaries of a district so that they
7 are coextensive with the boundaries of a single political subdivision except when it
8 would be more appropriate, based on findings of the commission, for the district to
9 include more than one political subdivision or some area that is not contained within
10 a political subdivision. Before the commission sets the boundaries for a district under
11 this subsection so that it includes more than one political subdivision or some area that
12 is not within a political subdivision, the commission shall consult the emergency
13 response organizations and the political subdivisions in the proposed district.

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

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

22 (d) The commission shall appoint the members of a local emergency planning
23 committee for each emergency planning district established under (a) and (b) of this
24 section. In making appointments for a district that contains only one political
25 subdivision, the commission shall follow the recommendations of the political
26 subdivision if those recommendations would constitute a committee that meets the
27 requirements of this subsection. In making appointments for a district that contains
28 more than one political subdivision, the commission shall consider the
29 recommendations of each political subdivision and follow the recommendations to the
30 extent that the political subdivisions are in agreement and their recommendations
31 would constitute a committee that meets the requirements of this subsection. To the

1 extent required under regulations that may be adopted by the commission, the political
2 subdivisions in a district that includes more than one political subdivision shall follow
3 a process under which they develop coordinated recommendations to submit to the
4 commission under this subsection. In making appointments for a district that includes
5 some area that is not contained within a political subdivision, the commission shall
6 consider the recommendations of emergency response organizations in the district. In
7 making appointments for the district formed under (b) of this section, the commission
8 shall attempt to achieve equitable geographical representation on the committee.
9 Except as provided in (e) of this section, each committee must include, at a minimum,
10 representatives of each of the following seven categories:

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

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

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

29 (g) Each local emergency planning committee shall

30 (1) establish procedures for receiving and processing requests from the
31 public for information under 42 U.S.C. 11044, including tier II information under 42

1 U.S.C. 11022;

2 (2) appoint a chair and establish rules by which the committee shall
3 function, including provisions for public notification of committee activities, public
4 advertising of positions available on the committee, public meetings to discuss the
5 emergency plan, public comments, response to the comments by the committee,
6 distribution of the emergency plan, and designation of an official to serve as
7 coordinator for information;

8 (3) prepare and periodically review an emergency plan in accordance
9 with 42 U.S.C. 11003(a) in a manner that includes coordination with the political
10 subdivisions covered by the plan;

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

15 (5) to the extent consistent with the constitution and law of the state,
16 perform all other functions prescribed for emergency planning committees in 42 U.S.C.
17 11001 - 11005;

18 (6) to the extent considered advisable by the committee, make
19 recommendations to political subdivisions, representatives of interjurisdictional disaster
20 planning and service areas, and state agencies about the preparation of local, state, and
21 interjurisdictional plans; and

22 (7) serve as an advisory committee to the political subdivisions within
23 the emergency planning district or the interjurisdictional planning and service area
24 established under AS 26.23.070 with respect to emergency planning, training, and
25 response.

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

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

31 (1) identification of facilities subject to the requirements of 42 U.S.C.

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

7 (2) methods and procedures to be followed by facility owners and
8 operators and local emergency and medical personnel to respond to a release of
9 hazardous substances or a release of substances on the list of extremely hazardous
10 substances referred to in 42 U.S.C. 11002(a);

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

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

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

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

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

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

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

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

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

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

9 (b) When making recommendations about a plan, the commission shall suggest
10 changes that ensure that the plan includes an incident command system that describes
11 the respective roles of affected persons and agencies in a clear and specific manner and
12 that the respective roles of state agencies are consistent with their statutory duties. The
13 commission shall also suggest changes that ensure that the plans are well-integrated
14 with related plans.

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

20 * Sec. 13. AS 26.23.140(c) is amended to read:

21 (c) A representative of an [AN] interjurisdictional disaster planning and
22 service area [AGENCY OR OFFICIAL OF AN AGENCY] may not declare a local
23 disaster emergency unless expressly authorized by the principal executive officer of
24 each political subdivision in the emergency area [AGREEMENT UNDER WHICH
25 THE AGENCY FUNCTIONS. AN INTERJURISDICTIONAL DISASTER AGENCY
26 SHALL PROVIDE AID AND SERVICES IN ACCORDANCE WITH THE
27 AGREEMENT UNDER WHICH IT FUNCTIONS].

28 * Sec. 14. AS 26.23.150(a) is amended to read:

29 (a) In addition to disaster prevention measures as included in the state, local,
30 and interjurisdictional disaster plans, the governor shall consider, on a continuing basis,
31 steps that could be taken to prevent or reduce the harmful consequences of disasters.

1 At the governor's direction, and under any other authority and competence they have,
2 state agencies, including but not limited to those charged with responsibilities in
3 connection with flood plain management, stream encroachment and flow regulation,
4 weather modification, fire prevention and control, environmental [A. T.] quality, public
5 works, land use and land use planning, and construction standards, shall make studies
6 of disaster-prevention-related matters. The governor, from time to time, shall make
7 recommendations to the legislature, local governments, and other appropriate public
8 and private entities as may facilitate measures for the prevention or reduction of the
9 harmful consequences of disasters.

10 * Sec. 15. AS 26.23.180(c) is amended to read:

11 (c) It is a sufficient reason for the governor to require an interjurisdictional
12 agreement or arrangement under AS 26.23.070 that the area involved and political
13 subdivisions in it have available equipment, supplies, and forces necessary to provide
14 mutual aid on a regional basis, and that the political subdivisions have not already
15 made adequate provision for mutual aid; but in requiring an interjurisdictional
16 arrangement in order to accomplish the purpose of this section, the governor need not
17 require establishment and maintenance of an interjurisdictional disaster planning and
18 service area [AGENCY] or arrangement for any other disaster purposes.

19 * Sec. 16. AS 26.23.900 is amended by adding new paragraphs to read:

20 (8) "commission" means the Alaska State Emergency Response
21 Commission;

22 (9) "hazardous substance" has the meaning given in AS 46.03.826.

23 * Sec. 17. AS 46.03.865(a) is amended to read:

24 (a) When the department finds that an actual or imminent discharge of oil, a
25 hazardous substance, or low level radioactive materials to the air, water, land, or
26 subsurface land of the state poses an immediate threat to the public health or welfare
27 or the environment of the state, it may issue an order declaring an emergency and
28 directing a person or persons to take action the department believes necessary to meet
29 the emergency, and protect the public health, welfare, or environment. If there is an
30 incident command system established under AS 26.23 or [,] AS 46.04.200 - 46.04.210
31 [, OR AS 46.13] that is applicable to the situation for which the department issues an

1 order under this subsection, the department's exercise of authority under this
2 subsection shall be guided by the relevant provisions of the incident command system.

3 * Sec. 18. AS 46.03.865(c) is amended to read:

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

10 * Sec. 19. AS 46.04.200 is amended to read:

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

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

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

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

21 (A) the Department of Environmental Conservation [, THE
22 DIVISION OF EMERGENCY SERVICES IN THE DEPARTMENT OF
23 MILITARY AND VETERANS' AFFAIRS, AND OTHER AGENCIES OF
24 THE STATE; RESPONSIBILITIES ASSIGNED TO EACH AGENCY MUST
25 BE CONSISTENT WITH ITS STATUTORY AUTHORITY];

26 (B) municipalities of the state;

27 (C) appropriate federal agencies;

28 (D) operators of facilities;

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

31 (F) if the release involves a disaster declared by a state or

1 local official. the duties of all appropriate state agencies [OTHER PARTIES
2 IDENTIFIED BY THE COMMISSION AS HAVING AN INTEREST IN OR
3 THE RESOURCES TO ASSIST IN THE CONTAINMENT AND CLEANUP
4 OF AN OIL OR HAZARDOUS SUBSTANCE DISCHARGE];

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

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

12 (5) DESIGNATE THE LOCATIONS WHERE OIL AND
13 HAZARDOUS SUBSTANCE EMERGENCY RESPONSE DEPOTS SHOULD BE
14 ESTABLISHED IN THE STATE AND WHERE EMERGENCY RESPONSE CORPS
15 PERSONNEL SHOULD BE AVAILABLE].

16 (c) If the commissioner determines that [IN PREPARING AND
17 ANNUALLY REVIEWING] the state master plan should be revised, the
18 commissioner shall

19 (1) consult with municipal, [AND] community, and local emergency
20 planning committee officials, and with representatives of affected regional
21 organizations;

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

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

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

31 (5)] submit [THE PLAN AND] any revision of the plan to the Alaska

1 State Emergency Response Commission for its review [AND APPROVAL] under
2 AS 26.23.077 [AS 46.13.045].

3 * Sec. 20. AS 46.04.200 is amended by adding a new subsection to read:

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

9 * Sec. 21. AS 46.04.210(a) is amended to read:

10 (a) For any region of the state, the boundaries of which are determined by the
11 commissioner by regulation, in which the department is required to review and approve
12 an oil discharge prevention and contingency plan submitted by a person under
13 AS 46.04.01, the department shall prepare, [AND] annually review, and revise as
14 necessary a regional master oil and hazardous substance discharge prevention and
15 contingency plan.

16 * Sec. 22. AS 46.04.210 is amended by adding a new subsection to read:

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

20 * Sec. 23. AS 46.08.040(a) is amended to read:

21 (a) In addition to money in the fund that is transferred to the commissioner of
22 community and regional affairs to make grants under AS 29.60.510 and to pay for
23 impact assessments under AS 29.60.560, the commissioner of environmental
24 conservation may use money from the fund to

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

30 (2) pay all costs incurred to

31 (A) establish and maintain the oil and hazardous substance

1 response office, including costs incurred under an agreement entered into
2 under AS 46.04.090 or AS 46.09.040:

3 (B) review oil discharge prevention and contingency plans
4 submitted under AS 46.04.030;

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

11 (D) verify or establish proof of financial responsibility required
12 by AS 46.04.040;

13 (3) pay the expenses incurred by the Department of Military and
14 Veterans' Affairs [ALASKA DIVISION OF EMERGENCY SERVICES] for Alaska
15 State Emergency Response Commission activities, including staff support, when
16 the activities and staff support relate to oil and hazardous substances and for the
17 costs of being prepared for and responding to a request by the Department of
18 Environmental Conservation for support in response and restoration activities,
19 but not including the costs of maintaining the [OIL AND HAZARDOUS
20 SUBSTANCE] response corps and the emergency [OIL AND HAZARDOUS
21 SUBSTANCE] response depots under AS 26.23.045, when presented with appropriate
22 documentation by the Department of Military and Veterans' Affairs [DIVISION];

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

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

29 (6) prepare, review, and revise

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

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

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

5 * Sec. 24. AS 46.08.150 is amended to read:

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

10 [(1) PROVIDE THE PERSONNEL, EQUIPMENT, OR OTHER
11 SERVICES OR SUPPLIES NECESSARY TO ESTABLISH AND MAINTAIN
12 REGIONAL OIL AND HAZARDOUS SUBSTANCES DEPOTS AND
13 AS NECESSARY FOR RESPONSE READINESS;

14 (2) TRAIN MEMBERS OF RESPONSE CORPS; AND

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

19 * Sec. 25. AS 46.09.040 is amended to read:

20 Sec. 46.09.040. HAZARDOUS SUBSTANCES CONTAINMENT AND
21 CLEANUP. The department [COMMISSIONER] may contract with a person or a
22 municipality for personnel, equipment, or services that may be useful to carry out the
23 requirements of this chapter. If the department [COMMISSIONER] determines that
24 it is infeasible to contract with a person or a municipality, the department
25 [COMMISSIONER] may establish and maintain containment and cleanup personnel,
26 equipment, and supplies necessary to carry out the requirements of this chapter. When
27 exercising its authority under this section, the department shall coordinate with
28 the Department of Military and Veterans' Affairs to avoid duplication of efforts.

29 * Sec. 26. AS 46.13.100 is amended to read:

30 Sec. 46.13.100. FINDINGS AND PURPOSE. The legislature

31 (1) finds and declares that there exists a lack of scientific knowledge

1 concerning the availability, properties, and effectiveness of various hazardous substance
2 containment and cleanup technologies; and

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

9 * Sec. 27. AS 46.13.110(a) is amended to read:

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

13 * Sec. 28. AS 26.23.060(f), 26.23.190(b), 26.23.195, 26.23.215; AS 46.08.110, 46.08.120,
14 46.08.190(1), 46.08.190(2), 46.08.190(3); AS 46.13.010, 46.13.020, 46.13.030, 46.13.040,
15 46.13.045, 46.13.050, 46.13.060, 46.13.070, 46.13.080, 46.13.090, 46.13.120(6), and
16 46.13.900(1) are repealed.

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

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

24 (c) Regulations adopted under sections amended or repealed by this Act remain in
25 effect until superseded by new regulations adopted under sections amended or enacted by this
26 Act.

FISCAL NOTE

No. 4
 Bill Version: CSSB 33 (STA)
 (S) Publish Date: 1-24-94

STATE OF ALASKA
 1994 LEGISLATIVE SESSION

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

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						
TOTAL OPERATING	(646.7)	0.0	0.0	0.0	0.0	0.0

CAPITAL EXPENDITURES						
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CHANGE IN REVENUES ()						
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FUND SOURCE

(Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1006 GF/MHT/A						
Other: 1052 Oil/Haz "470" Fund	(646.7)	0.0	0.0	0.0	0.0	0.0
TOTAL	(646.7)	0.0	0.0	0.0	0.0	0.0

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

POSITIONS

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: Robert Poe, Director RGP
 Division: Information and Administrative Services
 Approved by: John Sandor, Commissioner RGP
 Agency: Environmental Conservation

Phone: 465-5010
 Date: 1/13/94
 Date: 1/13/94

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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.