

Sec. 46.09.010. Report of hazardous substance releases.

(a) Except as provided in (b) of this section, a person in charge of a vehicle, vessel, or container from which, or a place at which, a hazardous substance is released shall report the release to the department and appropriate public safety agencies promptly after learning of the release.

(b) The commissioner may enter into an agreement with a person for the periodic reporting of a controlled release of a hazardous substance if the release is not into water.

Sec. 46.09.020. Containment and cleanup of a released hazardous substance.

(a) A person who causes a release of a hazardous substance shall make reasonable efforts to contain and clean up the hazardous substance promptly after learning of the release, unless the commissioner determines

(1) after consulting the Environmental Protection Agency or appropriate public safety agencies, that containment or cleanup is technically infeasible;

(2) that containment or cleanup would cause greater environmental damage than if the release were not contained or cleaned up; or

(3) that containment or cleanup would pose a greater threat to human life or health than if the release were not contained or cleaned up.

(b) The commissioner shall develop guidelines prescribing general procedures and methods to be used in the containment and cleanup of a hazardous substance. The guidelines shall be consistent with the national contingency plan revised and republished under 42 U.S.C. 9605.

(c) If the commissioner determines that the containment or cleanup of a hazardous substance undertaken is inadequate, the commissioner may direct the person undertaking the containment or cleanup to cease and may undertake the containment or cleanup directly or by contract.

(d) If it appears to the commissioner that the cause or responsibility for the release of a hazardous substance is unclear or unexplained, the commissioner may immediately undertake the containment and cleanup of the release unless the commissioner determines

(1) after consulting the Environmental Protection Agency or appropriate public safety agencies, that containment or cleanup is technically infeasible;

(2) that containment or cleanup would cause greater environmental damage than if the release were not contained or cleaned up; or

(3) that containment or cleanup would pose a greater threat to human life or health than if the release were not contained or cleaned up.

(e) The commissioner shall enter into agreement with the Environmental Protection Agency, and may enter into agreements with other persons and municipalities, in order to

(1) facilitate a coordinated and effective hazardous substance

(1) facilitate a coordinated and effective hazardous substance release response in the state;

(2) provide for cooperative hazardous substance release notification procedures; or

(3) provide for cooperative review of hazardous substance release response contingency plans submitted to the department.

Sec. 46.09.030. Disaster emergencies.

The commissioner of environmental conservation or the adjutant general of the Department of Military and Veterans' Affairs may request the governor to determine that an actual or imminent release of a hazardous substance constitutes a disaster emergency under [AS 26.23](#). The commissioner of environmental conservation and the adjutant general of the Department of Military and Veterans' Affairs shall respond appropriately in the relief of the actual or imminent release under the relevant provisions of the applicable incident command system.

Sec. 46.09.040. Hazardous substances containment and cleanup.

The department may contract with a person or a municipality for personnel, equipment, or services that may be useful to carry out the requirements of this chapter. If the department determines that it is infeasible to contract with a person or a municipality, the department may establish and maintain containment and cleanup personnel, equipment, and supplies necessary to carry out the requirements of this chapter. When exercising its authority under this section, the department shall coordinate with the Department of Military and Veterans' Affairs to avoid duplication of efforts.

Sec. 46.09.050. Compacts authorized.

The governor may enter into supplementary agreements, reciprocal arrangements, and compacts with another state or country for the implementation of this chapter subject to the approval of the Congress of the United States, if required, under the Constitution of the United States.

Sec. 46.09.060. Municipalities.

(a) If a provision of this chapter or of a regulation adopted by the commissioner under this chapter conflicts with the charter, ordinance, or regulation of a municipality, the provisions of this chapter or of the regulation adopted by the commissioner under this chapter prevails.

(b) Authority to contain, clean up, or prevent a release or threatened release of oil or of a hazardous substance, and to exercise other powers necessary to implement this chapter. [AS 46.04.](#) and [AS 46.08.](#) are

granted to municipalities that do not otherwise have that authority. Except as provided in (a) of this section, a municipality may exercise its police power within the area of the municipality.

Sec. 46.09.070. Regulations.

The commissioner shall periodically review the minimum quantities of hazardous substances established under federal law and may adopt regulations establishing minimum quantities of substances for all or any portion of the substances to which this chapter otherwise applies. The commissioner shall adopt only those regulations that are expressly required to implement the specific purposes of this chapter.

Sec. 46.09.900. Definitions.

In this chapter,

(1) “commissioner” means the commissioner of environmental conservation;

(2) “containment and cleanup” includes the direct and indirect efforts associated with the prevention, abatement, containment, or removal of a hazardous substance, and the restoration of the environment; when applied to expenses, the term includes the additional costs of providing a reasonable and appropriate function or service incurred in response to the release of the hazardous substance, including administrative expenses for the incremental costs of providing the function or service;

(3) “department” means the Department of Environmental Conservation;

(4) “hazardous substance” means (A) an element or compound that, when it enters into or on the surface or subsurface land or water of the state, presents an imminent and substantial danger to the public health or welfare, or to fish, animals, vegetation, or any part of the natural habitat in which fish, animals, or wildlife may be found; or (B) a substance defined as a hazardous substance under 42 U.S.C. 9601 – 9657 (Comprehensive Environmental Response, Compensation, and Liability Act of 1980); “hazardous substance” does not include uncontaminated crude oil or uncontaminated refined oil;

(5) “permitted release” means a release occurring under the authority of a valid permit issued by the department or by the Environmental Protection Agency;

(6) “release” means any spilling, leaking, pumping, pouring, emitting, emptying, discharging, injecting, escaping, leaching, dumping, or disposing into the environment, except that “release” does not include a permitted release or an act of nature;

(7) “service” means a function performed or service provided by the state, including functions not previously performed and services not previously provided by the state;

(8) “threatened release” means that a release is imminent; a release is imminent if

(A) it is impending, or on the point of happening; or

(B) though not impending, in the judgment of the commissioner

(i) the incident or occurrence may reasonably be expected to culminate in an actual release; and

(ii) that actual release may reasonably be expected to cause personal injury, other injury to life, or loss of or damage to property, including the environment.