

Alaska Statute - 2015

Sec. 46.08.040. Uses of the fund.

(a) In addition to money in the response account of the fund that is transferred to the commissioner of commerce, community, and economic development to make grants under [AS 29.60.510](#) and to pay for impact assessments under [AS 29.60.560](#), the commissioner of environmental conservation may use money

(1) from the response account in the fund

(A) when authorized by [AS 46.08.045](#), to investigate and evaluate the release or threatened release of oil or a hazardous substance, and contain, clean up, and take other necessary action, such as monitoring and assessing, to address a release or threatened release of oil or a hazardous substance that poses an imminent and substantial threat to the public health or welfare, or to the environment;

(B) to provide matching funds in the event of a release of oil or a hazardous substance for which use of the response account is authorized by [AS 46.08.045](#) for participation

(i) in federal oil discharge cleanup activities; and

(ii) under 42 U.S.C. 9601 - 9657 (Comprehensive Environmental Response, Compensation, and Liability Act of 1980); and

(C) to recover the costs to the state, a municipality, a village, or a school district of a containment and cleanup resulting from the release or the threatened release of oil or a hazardous substance for which money was expended from the response account;

(2) from the prevention account in the fund to

(A) investigate and evaluate the release or threatened release of oil or a hazardous substance, except a release described in [AS 46.08.045\(a\)](#), and contain, clean up, and take other necessary action, such as monitoring and assessing, to address a release or threatened release of oil or a hazardous substance, except a release described in [AS 46.08.045\(a\)](#);

(B) pay all costs incurred

(i) to establish and maintain the oil and hazardous substance response office;

(ii) under agreements entered into under [AS 46.04.090](#) or [AS 46.09.040](#);

(iii) to review oil discharge prevention and contingency plans submitted under [AS 46.04.030](#)

;

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

(v) to verify or establish proof of financial responsibility required by [AS 46.04.040](#) ;

(C) pay, when presented with appropriate documentation by the Department of Military and Veterans' Affairs, the expenses incurred by the Department of Military and Veterans' Affairs for Alaska State Emergency Response Commission activities, including staff support, when the activities and staff support relate to oil or hazardous substances, and for the costs of being prepared for responding to a request by the department for support in response and restoration, but not including the costs of maintaining the response corps and the emergency response depots under [AS 26.23.045](#) ;

(D) pay all costs incurred to acquire, repair, or improve an asset having an anticipated life of more than one year and that is acquired, repaired, or improved as a preparedness measure by which the state may respond to, recover from, reduce, or eliminate the effects of a release or threatened release of oil or a hazardous substance;

(E) pay the costs, if approved by the commissioner, that were incurred by local emergency planning committees to carry out the duties assigned them by [AS 26.23.073](#) (g);

(F) provide matching funds in the event of the release of oil or a hazardous substance, except a release of oil for the containment and cleanup of which use of the response account is authorized by AS 46.08.045, for participation

(i) in federal oil discharge cleanup activities; and

(ii) under 42 U.S.C. 9601 - 9657 (Comprehensive Environmental Response, Compensation, and Liability Act of 1980);

(G) *[Repealed, Sec. 2 ch 102 SLA 2006]*.

(H) transfer to the Department of Commerce, Community, and Economic Development for payment by the commissioner of commerce, community, and economic development of

(i) municipal impact grants when authorized under AS 29.60.510(b)(2);

(ii) assessments of the social and economic effects of the release of oil or hazardous substances as required by [AS 29.60.560](#) when, in the judgment of the commissioner, the release of oil or a hazardous substance is not one that is described in [AS 46.08.045](#) ; and

(iii) grants to repair, improve, or replace fuel storage facilities under the bulk fuel system emergency repair and upgrade program;

(I) recover the costs to the state, a municipality, a village, or a school district of a containment and cleanup resulting from the release or threatened release of oil or a hazardous substance for which money was expended from the prevention account;

(J) prepare, review, and revise

(i) the state's master oil and hazardous substance discharge prevention and contingency plan required by [AS 46.04.200](#); and

(ii) a regional master oil and hazardous substance discharge prevention and contingency plan required by [AS 46.04.210](#); and

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

(b) *[Repealed, Sec. 43 ch 128 SLA 1994].*

(c) Notwithstanding other provisions of this section, money from the fund may not be used for a purpose specified in (a)(1)(B) or (C) or (a)(2) of this section unless money is available from an appropriation made specifically for that purpose. The legislature may use not more than three percent of the estimated annual balance of the prevention account to make appropriations for the purposes described in (a)(2)(E) of this section.

(d) *[Repealed, Sec. 43 ch 128 SLA 1994].*

Sec. 46.08.045. Use of the response account; declared disasters.

(a) The commissioner may use money from the response account in the fund to respond to a release or threatened release when the governor declares a disaster related to an oil or hazardous substance discharge emergency under [AS 26.23.020](#)(c). During the effective period of the disaster emergency, the commissioner may use money from the response account to respond to the disaster emergency.

(b) Notwithstanding (a) of this section, money from the response account may be used for the purpose in [AS 46.08.040](#)(a)(1)(A) without a declaration under [AS 26.23.020](#)(c). However, when exercising authority under this subsection, the commissioner shall, within 120 hours of using money in the response account when authorized by this subsection, provide a written report to the governor and to the Legislative Budget and Audit Committee summarizing the release, the state's actions, both taken and anticipated, the costs of the state's actions, both taken and anticipated, and other information considered appropriate by the commissioner or the governor. The governor may, at any time during the state's response, approve, disapprove, or amend the action.