



# LAWS OF ALASKA

1981

**Source**

FCCSSB 29

**Chapter No.**

93

## AN ACT

Relating to hazardous wastes and to nuclear and radioactive facilities and materials; and providing for an effective date.

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

THE ACT FOLLOWS ON PAGE 1, LINE 10

UNDERLINED MATERIAL INDICATES TEXT THAT IS BEING ADDED TO THE LAW AND BRACKETED MATERIAL IN CAPITAL LETTERS INDICATES DELETIONS FROM THE LAW; COMPLETELY NEW TEXT OR MATERIAL REPEALED AND RE-ENACTED IS IDENTIFIED IN THE INTRODUCTORY LINE OF EACH BILL SECTION.

Approved by the Governor: July 26, 1981  
Actual Effective Date: January 1, 1982

AN ACT

Relating to hazardous wastes and to nuclear and radioactive facilities and materials; and providing for an effective date.

\* Section 1. AS 18.45.025 is amended to read:

Sec. 18.45.025. FACILITIES SITING PERMIT REQUIRED. (a) A [NO] person may not construct a nuclear fuel production facility, utilization facility, reprocessing facility, or nuclear waste disposal facility in the state unless he has first obtained a permit from the Department of Environmental Conservation to construct the facility on land designated by the legislature under (b) of this section.

(b) The legislature shall designate by law the land in the state on which a nuclear fuel production, nuclear utilization, nuclear reprocessing, or nuclear waste disposal facility may be located. In designating the land in the state on which a nuclear fuel production, nuclear utilization, nuclear reprocessing, or nuclear waste disposal facility may be located, the legislature shall act to protect the public health and safety.

(c) The Department of Environmental Conservation shall adopt regulations governing the issuance of [THESE] permits required by (a) of this section. However, a [; HOWEVER, NO] permit may not be issued until

[ (1) THE LEGISLATURE HAS APPROVED THE REGULATIONS BY A CONCURRENT RESOLUTION CONCURRED IN BY A MAJORITY OF THE MEMBERS OF EACH

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HOUSE;]

(2) the municipality [LOCAL GOVERNMENT] with jurisdiction over the proposed facility site has approved the permit; and

[(3) THE LEGISLATURE HAS APPROVED THE PERMIT BY A CONCURRENT RESOLUTION CONCURRED IN BY A MAJORITY OF THE MEMBERS OF EACH HOUSE; AND]

(4) the governor has approved the permit.

\* Sec. 2. AS 18.45 is amended by adding a new section to read:

Sec. 18.45.027. TRANSPORTATION OF NUCLEAR WASTE MATERIAL. (a) The transportation of high level nuclear waste material, except for purposes of disposal outside the state, is prohibited.

(b) For purposes of this section, "high level nuclear waste material"

(1) means

(A) used nuclear reactor fuel;

(B) waste produced during the reprocessing of used nuclear reactor fuel; and

(C) elements having an atomic number greater than 92 and containing 10 or more nanocuries per gram;

(2) does not include radioactive materials used in medicine, education, or scientific research that are stored or disposed of in conformity with procedures established by the Department of Environmental Conservation by regulation adopted under AS 46.03.-250(3).

\* Sec. 3. AS 18.45.080 is amended by adding new paragraphs to read:

(7) "nuclear fuel production facility" means a facility that purifies radioactive mineral concentrates and fabricates fissionable material to be used for producing energy in a nuclear reactor;

(8) "nuclear utilization facility" means an apparatus,

device, or equipment in which nuclear fission is sustained in a self-supporting and controlled chain reaction; the term does not include an apparatus, device, or equipment used exclusively for educational, medical, or research purposes.

\* Sec. 4. AS 18.45 is amended by adding a new section to read:

Sec. 18.45.090. EXEMPTION. The provisions of this chapter do not apply to permit an agency or officer of the state to regulate the exploration for or the extraction and milling of uranium ore.

\* Sec. 5. AS 46.03.250 is amended to read:

Sec. 46.03.250. AUTHORITY. The department shall adopt regulations

(1) establishing standards governing the discharge of low level radioactive materials [RADIONUCLIDES] to the air, water, land, and subsurface land of the state;

(2) establishing safeguards for radioactive waste materials that do not constitute a threat to public health or safety and that may be stored or disposed of in the state; and

(3) establishing procedures for the storage and disposal of radioactive materials used in medicine, education, instruments, industrial testing, or scientific research.

\* Sec. 6. AS 46.03.260 is amended to read:

Sec. 46.03.260. USE OF RADIOACTIVE MATERIALS [ATOMIC RADIATION]. A person who conducts an operation which results in the discharge of low level radioactive materials [RADIONUCLIDES] to the air, water, land or subsurface land of the state must obtain a permit from the department before commencing the discharge.

\* Sec. 7. AS 46.03.900 is amended by adding a new paragraph to read:

(30) "low level radioactive materials" means a radioactive waste other than

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(A) used nuclear reactor fuel;

(B) waste produced during the reprocessing of used nuclear reactor fuel; and

(C) elements having an atomic number greater than 92 and containing 10 or more nanocuries per gram.

\* Sec. 8. AS 46.03.020(10) is amended by adding a new subparagraph to read:

(I) handling, transportation, treatment, storage, and disposal of hazardous wastes;

\* Sec. 9. AS 46.03.100 is amended by adding a new subsection to read:

(c) A permit for disposal of a hazardous waste may not be issued under this section unless the applicant for the permit has furnished proof to the commissioner of financial ability to control the hazardous waste. Proof of financial responsibility may be demonstrated by self-insurance, insurance, surety, or guarantee, under regulations issued by the department. Acceptance of proof of financial responsibility under this subsection expires

(1) one year from its issuance for self-insurance;

(2) on the effective date of a change in the surety bond, guarantee, or insurance agreement; or

(3) on the expiration or cancellation of the surety bond, guarantee, or insurance agreement.

\* Sec. 10. AS 46.03 is amended by adding new sections to read:

ARTICLE 5. RADIATION AND HAZARDOUS WASTE PROTECTION.

Sec. 46.03.296. DISPOSAL OF HAZARDOUS WASTES. (a) It is unlawful to dispose of hazardous wastes in the state unless

(1) the waste has been treated and disposed of in a manner that uses the maximum degree of reduction of the harmful qualities of a hazardous waste which is subject to this chapter and which the depart-

ment, on a case-by-case basis, determines is achievable for the hazardous waste by application of production processes and available methods, systems and techniques, taking into account energy, environmental, and economic impacts and other costs; and

(2) the waste is disposed of in a manner that will ensure the protection of human health, livestock, wildlife, property, and the environment.

(b) The department shall adopt regulations in accordance with the Administrative Procedure Act (AS 44.62) for the treatment, storage, and disposal of hazardous wastes to ensure the protection of human health, livestock, wildlife, property, and the environment.

Sec. 46.03.299. CONTROL OF HAZARDOUS WASTES. (a) The department shall, by regulations adopted under the Administrative Procedure Act (AS 44.62), establish a state hazardous waste program.

(b) The state hazardous waste program shall, consistent with and substantially equivalent to the Federal Conservation and Recovery Act of 1976 (P.L. 94-580, 42 U.S.C. 6901 - 6987),

(1) establish criteria to identify the characteristics of hazardous wastes;

(2) enumerate specific hazardous wastes (within the meaning of AS 46.03.900(31)) subject to the provisions of AS 46.03.302 and 46.03.305; however, the department may not list as hazardous a waste that has not been listed as a hazardous waste by the United States Environmental Protection Agency under 42 U.S.C. 6921, unless the commissioner first determines that the waste is hazardous as defined in this chapter;

(3) identify the sources of hazardous wastes enumerated under (2) of this subsection;

(4) qualify the department to receive authorization from the

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1 administrator of the Environmental Protection Agency to administer and  
2 enforce a hazardous waste program in accordance with the Federal  
3 Resource Conservation and Recovery Act;

4 (5) determine the amount of a hazardous waste that is so  
5 small as to not present a hazard to public health, livestock, fish,  
6 wildlife, and the environment of the state when disposed of;

7 (6) exempt a person who generates, treats, transports,  
8 stores, or disposes of a hazardous waste from the provisions of this  
9 chapter if the quantity of the hazardous waste is less than the amount  
10 identified in (5) of this subsection; and

11 (7) establish

12 (A) criteria for identifying appropriate hazardous  
13 waste disposal site locations;

14 (B) procedures by which the public shall have opportu-  
15 nity to

16 (1) participate in hazardous waste disposal site  
17 locations; and

18 (ii) review and comment on issuance of hazardous  
19 waste disposal permits by the department.

20 Sec. 46.03.302. HAZARDOUS WASTE PERMIT. (a) A person may not  
21 treat, transport, store, or dispose of a hazardous waste as defined by  
22 the department by regulation unless that person first secures a permit  
23 from the department and submits to the department any reports or mani-  
24 fests that the department may require for handling the hazardous wastes.

25 (b) A person who generates hazardous waste is not required to  
26 obtain a permit under (a) of this section unless the person also treats,  
27 transports, stores, or disposes of the hazardous waste.

28 Sec. 46.03.305. HAZARDOUS WASTE REPORTS AND MANIFESTS. A person  
29 who generates hazardous wastes shall submit to the department reports

or manifests that the department may require for handling the hazardous wastes.

Sec. 46.03.308. TRANSPORTATION OF HAZARDOUS WASTES. Hazardous wastes may not be transported to a hazardous waste disposal site unless the wastes are accompanied by a report or manifest that the department may require for handling hazardous wastes.

Sec. 46.03.311. PUBLIC RECORDS. (a) Permits, permit applications, records, reports, and information and documentation obtained under AS 46.03.302 - 46.03.308 are available to the public for inspection and copying. However, upon a showing satisfactory to the commissioner that a record, report, permit, application, or information would, if made public, divulge methods or processes entitled to protection as trade secrets, the commissioner shall treat the record, report, permit, application, or information as confidential.

(b) Information that is confidential may be transmitted under a continuing restriction of confidentiality to other officers, employees, or authorized representatives of the state or of the United States if

(1) the person responsible for furnishing the record, report, permit, application, or information to which such information pertains is informed at least two weeks before the transmittal; and

(2) the information has been acquired by the department under the provisions of AS 46.03.296 - 46.03.311.

(c) The provisions of this section do not limit the department's authority to release confidential information during emergency situations.

\* Sec. 11. AS 46.03.790(a) is amended to read:

(a) A person who violates or who causes or permits a violation of a provision of this chapter or AS 46.04, or of a regulation, lawful order of the department, or permit, approval, or acceptance, or term or

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1 condition of a permit, approval, or acceptance issued under this  
2 chapter or AS 46.04 is guilty of a class B misdemeanor [VIOLATION].

3 \* Sec. 12. AS 46.03.790(b) is amended to read:

4 (b) A person who wilfully violates a provision of this chapter,  
5 or of a regulation, lawful order of the department, or permit, approval,  
6 or acceptance, or term or condition of a permit, approval, or accep-  
7 tance issued under this chapter or AS 46.04 is guilty of a class A  
8 misdemeanor.

9 \* Sec. 13. AS 46.03 is amended by adding new sections to read:

10 Sec. 46.03.830. PROOF OF FINANCIAL RESPONSIBILITY REQUIRED FOR  
11 PETROCHEMICAL FACILITY OR HAZARDOUS WASTE DISPOSAL SITE OPERATION. (a)  
12 A person may not operate a petrochemical facility or a hazardous waste  
13 disposal site unless the person has furnished proof to the commissioner  
14 of financial ability to control a hazardous waste that will be used in,  
15 produced by, or disposed of at the facility or the site. Proof of  
16 financial responsibility shall include responsibility for the hazardous  
17 waste after the facility or site is closed, and may be demonstrated by  
18 self-insurance, insurance, surety, or guarantee, under regulations  
19 issued by the department.

20 (b) Acceptance of proof of financial responsibility under this  
21 section expires

22 (1) one year from its issuance for self-insurance;

23 (2) on the effective date of a change in the surety bond,  
24 guarantee, or insurance agreement; or

25 (3) on the expiration or cancellation of the surety bond,  
26 guarantee, or insurance agreement.

27 Sec. 46.03.833. COMPLIANCE WITH FINANCIAL RESPONSIBILITY REQUIRE-  
28 MENTS. (a) A person whose proof of financial responsibility is  
29 accepted by the department under AS 46.03.830 or under 46.03.100(c)

shall notify the department at least 90 days before the effective date of a change, expiration, or cancellation in the surety bond, guarantee, or insurance agreement. Application for renewal of acceptance of proof of financial responsibility under AS 46.03.830 or 46.03.100(c) must be filed at least 90 days before the date of expiration.

(b) The department, after notice and hearing, may revoke acceptance of proof of financial responsibility if it determines that

(1) acceptance was procured by fraud or misrepresentation;

or

(2) a change of circumstance has occurred that warrants revocation under regulations issued by the department.

\* Sec. 14. AS 46.03.900 is amended by adding new paragraphs to read:

(30) "dispose" has the same meaning as the term "disposal" is defined in 42 U.S.C. 6903(3);

(31) "hazardous waste" means a waste or combination of wastes that because of quantity, concentration, or physical, chemical, or infectious characteristics may

(A) cause, or significantly contribute to, an increase in mortality or an increase in serious irreversible or incapacitating reversible illness; or

(B) pose a substantial present or potential hazard to human health or the environment when improperly managed, treated, stored, transported, or disposed of;

(32) "manifest" means the form used for identifying the quantity, composition, origin, routing, and destination of a hazardous waste when the hazardous waste is transported;

(33) "storage" means the containment of hazardous waste, either on a temporary basis or for a period of years, in a manner that does not constitute disposal of the hazardous waste;

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1 (34) "treat" has the same meaning as the term "treatment" is  
2 defined in 42 U.S.C. 6903(27).

3 \* Sec. 15. This Act takes effect January 1, 1982.  
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