

SENATE BILL NO. 355

IN THE LEGISLATURE OF THE STATE OF ALASKA
TWENTY-THIRD LEGISLATURE - SECOND SESSION

BY THE SENATE RULES COMMITTEE BY REQUEST OF THE GOVERNOR

Introduced: 2/27/04

Referred: Community and Regional Affairs, Resources

A BILL

FOR AN ACT ENTITLED

1 **"An Act relating to the protection of land and water from waste disposal; providing for**
2 **the regulation of waste management; making conforming amendments; and providing**
3 **for an effective date."**

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

5 * **Section 1.** AS 16.05.782(e)(3) is amended to read:

6 (3) "solid waste disposal facility" means a facility for the disposal of
7 solid waste, other than sewage, for which a **prior authorization** [PERMIT] has been
8 issued under AS 46.03.100.

9 * **Sec. 2.** AS 44.46.025(a) is amended to read:

10 (a) Except as otherwise provided in AS 37.10.050 - 37.10.056, the Department
11 of Environmental Conservation may adopt regulations that prescribe reasonable fees,
12 and establish procedures for the collection of those fees, to cover the applicable direct
13 costs, not including travel except in the case of a designated regulatory service, as that
14 term is defined in AS 37.10.058, of inspections, permit preparation and administration,

1 plan review and approval, and other services provided by the department relating to

2 (1) agriculture and animals under AS 03.05; food, drugs, and
3 cosmetics under AS 17.20; and public accommodations and facilities under AS 18.35;

4 (2) certificates of inspection for motor vehicles under AS 46.14.400 or
5 46.14.510;

6 (3) [SEWERAGE SYSTEM AND TREATMENT WORKS AND
7 WASTEWATER DISPOSAL SYSTEMS, AND] drinking water systems[,] under
8 AS 46.03.720;

9 (4) water and wastewater operator training under AS 46.30;

10 (5) **waste management and disposal authorizations** [CONTROL OF
11 SOLID WASTE FACILITIES] under [AS 46.03.020(10) AND] 46.03.100;

12 (6) certification of laboratories conducting environmental analyses of
13 public drinking water systems or of oil or hazardous substances, or conducting other
14 analyses required by the department;

15 (7) certification of federal permits or authorizations under 33 U.S.C.
16 1341 (sec. 401, Clean Water Act).

17 * **Sec. 3.** AS 46.03.100 is repealed and reenacted to read:

18 **Sec. 46.03.100. Waste management and disposal authorization.** (a) A
19 person may not construct, modify, or operate a sewerage system or treatment works,
20 or dispose of or conduct an operation that results in the disposal of solid or liquid
21 waste material or heated process or cooling water into the waters or onto the land of
22 the state without prior authorization from the department. Department authorization
23 shall be obtained for direct disposal and for disposal, other than of domestic sewage,
24 into publicly owned or operated sewerage systems.

25 (b) Prior authorization by the department is provided through one or a
26 combination of the following:

27 (1) an individual permit issued for a specific facility or disposal
28 activity;

29 (2) a general permit issued on a statewide, regional, or other
30 geographical basis for a category of disposal activities that the commissioner, using
31 information available when the permit is developed, determines are similar in nature

1 and will comply with applicable environmental quality standards established under
2 this title;

3 (3) regulations adopted by the department authorizing a category of
4 disposal without requiring a permit and establishing specific siting or operational
5 requirements, discharge limits, or best management practices for the disposal
6 category;

7 (4) designation and approval of a plan as described under (c) of this
8 section;

9 (5) an integrated waste management and disposal authorization as
10 described in (d) of this section.

11 (c) The department may require the submission of plans for review and written
12 approval before construction, extension, installation, modification or operation of a
13 publicly or privately owned or operated sewerage system or treatment works. If the
14 sewerage system or treatment works is designed to prevent disposal from the system
15 or works outside of containment under normal operating conditions, the department
16 may designate that the plan approval constitutes the authorization required under (a) of
17 this section.

18 (d) The department may issue an integrated waste management and disposal
19 authorization covering multiple related or unrelated waste management or disposal
20 activities to be conducted at a facility, including generation, treatment, storage and
21 disposal of solid or liquid waste. An integrated waste management and disposal
22 authorization may include the authorizations in (b) and (c) of this section and a water
23 quality-related certification required by 33 U.S.C. 1341 for the discharge of dredged or
24 fill materials or of pollutants to surface waters from point sources.

25 (e) This section does not apply to

26 (1) a person discharging only domestic sewage into a sewerage system;

27 (2) disposals subject to regulation under AS 31.05.030(e)(2);

28 (3) injection projects permitted under AS 31.05.030(h);

29 (4) discharges of solid or liquid waste material or water discharges
30 from the following activities if the discharge is incidental to the activity and the
31 activity does not produce a discharge from a point source, as that term is defined in

1 regulations adopted under this chapter, directly into any surface water of the state:

2 (A) mineral drilling, trenching, ditching, and similar activities;

3 (B) landscaping;

4 (C) water well drilling, geophysical drilling, or coal bed
5 methane drilling or other natural gas drilling to recover gas from a field if a
6 part of the field is within 3,000 feet of the surface; or

7 (D) drilling, ditching, trenching, and similar activities
8 associated with facility construction and maintenance or with road or other
9 transportation facility construction and maintenance; however, the exemption
10 provided by this paragraph does not relieve a person from obtaining a prior
11 authorization under this section if the drilling, ditching, trenching, or similar
12 activity will involve the removal of the groundwater, stormwater, or
13 wastewater runoff that has accumulated and is present at an excavation site for
14 facility, road, or other transportation construction or maintenance and a prior
15 authorization is otherwise required by this section;

16 (5) bilge pumping, unless the bilge product pumped may be expected
17 to yield an oily sludge, emulsion, or sheen on the surface of any water of the state;

18 (6) cooling water discharges from a boat or vessel into any surface
19 water of the state; or

20 (7) the firing or other use of munitions in training activities conducted
21 on active ranges, including active ranges operated by the United States Department of
22 Defense or a United States military agency.

23 (f) A person who applies for an authorization to operate a solid waste disposal
24 facility that accepts hazardous waste or a mining waste disposal facility for an
25 operation that chemically processes ores or has the potential to generate acid shall
26 furnish to the department proof of financial responsibility to manage and close the
27 facility in a manner that the department finds will control or minimize the risk of the
28 release of unauthorized levels of pollutants from the facility to waters. The
29 department may require that a municipal solid waste disposal facility furnish proof of
30 financial responsibility. Proof of financial responsibility may be demonstrated by self-
31 insurance, insurance, surety bond, corporate guarantee, letter of credit, certificate of

1 deposit, or other proof of financial responsibility approved by the department, under
 2 regulations adopted by the department. For a mining waste disposal facility, the
 3 department may accept as adequate to satisfy the requirement of this subsection
 4 financial assurance for reclamation provided to a state or federal land management
 5 agency, including financial assurance demonstrated through proof other than that
 6 described in this subsection. The department's acceptance of proof of financial
 7 responsibility under this subsection expires

8 (1) one year from its issuance for self-insurance, unless the department
 9 accepts a renewal of the same self-insurance demonstration;

10 (2) on the effective date of a change in the insurance agreement, surety
 11 bond, corporate guarantee, letter of credit, or certificate of deposit;

12 (3) on the expiration or cancellation of the insurance agreement, surety
 13 bond, corporate guarantee, letter of credit, or certificate of deposit.

14 (g) A person who applies for a solid waste disposal authorization under this
 15 section, except for an authorization under (b)(2) of this section or an authorization to
 16 dispose of municipal solid waste, shall demonstrate to the satisfaction of the
 17 department that the applicant has reasonably considered all solid waste management
 18 options and that the authorization would be consistent with the practices and priorities
 19 established under AS 46.06.021.

20 * **Sec. 4.** AS 46.03.110(a) is amended to read:

21 (a) An application for a permit **under AS 46.03.100(b)(1) or (2) or an**
 22 **authorization under AS 46.03.100(d)** shall be made on forms prescribed by the
 23 department. **Forms shall** [OR ON FORMS PRESCRIBED BY THE UNITED
 24 STATES ENVIRONMENTAL PROTECTION AGENCY AND MUST] contain the
 25 name and address of the applicant, a description of the applicant's operations, the
 26 quantity and type of waste material sought to be disposed of, the proposed method of
 27 disposal, and any other information considered necessary by the department.
 28 [APPLICATION FOR PERMIT SHALL BE MADE AT LEAST 60 DAYS BEFORE
 29 COMMENCEMENT OF A PROPOSED DISCHARGE.] The applicant may request
 30 that a general permit be issued [UNDER AS 46.03.100(h)], or the department may, on
 31 its own initiative, propose that an applicant be **authorized under** [ISSUED] a general

1 permit.

2 * **Sec. 5.** AS 46.03.110(b) is amended to read:

3 (b) **After** [UPON] receipt of a proper application for an individual or general
 4 permit or [UPON] a determination by the department that a general permit should be
 5 proposed, the department shall publish notice of the application or proposal, **or of the**
 6 **availability of a draft permit for comment**, as applicable, in **at least one**
 7 **publication** [TWO SEPARATE PUBLICATIONS] of a newspaper of general
 8 circulation within the general area in which the disposal of waste material is proposed
 9 to be made. The notice shall also be posted on the Alaska Online Public Notice
 10 System maintained under AS 44.62.175 and may also be published in other
 11 appropriate information media. The notice must include a statement that a person who
 12 wants to present views to the department in regard to the application or proposal may
 13 do so in writing to the department within 30 days after the **first** [SECOND]
 14 publication of the notice. The written response entitles the writer to a copy of the
 15 application **or draft permit** and, in the case of an application or proposal to issue a
 16 general permit, the application or proposal shall also be posted by the department on
 17 the Internet at the same time that notice is published under this subsection.

18 * **Sec. 6.** AS 46.03.110(d) is amended to read:

19 (d) The department may specify in a permit **or other authorization** the terms
 20 and conditions under which waste material or water may be disposed of. The terms
 21 and conditions shall be directed to avoiding pollution and to otherwise carry out the
 22 policies of this chapter. The commissioner may provide, as a term of a general permit,
 23 that a person intending to dispose of waste material or water under the general permit
 24 shall first obtain specific authorization from the department. A general permit shall be
 25 posted on the Internet by the department; the posting must include the names of
 26 persons authorized to make disposals under the permit and the locations at which
 27 disposals may be made if those locations are specifically authorized under this
 28 subsection. A permit may not be **issued** [EFFECTIVE] for a **term** [PERIOD] in
 29 excess of five years from the date of issuance. **The department may prescribe in**
 30 **regulations the circumstances under which an expiring permit may be**
 31 **administratively continued.**

1 * **Sec. 7.** AS 46.03.120 is amended to read:

2 **Sec. 46.03.120. Termination or modification of waste management and**
 3 **disposal authorization [PERMIT].** (a) The department may terminate a permit **or**
 4 **other authorization issued under AS 46.03.100, or may rescind a person's**
 5 **authority to dispose of waste in accordance with regulations adopted under**
 6 **AS 46.03.100(b)(3)**, upon 30 days' written notice if the department finds

7 (1) that the permit **or other authorization** was procured by
 8 misrepresentation of material fact or by failure of the applicant to disclose fully the
 9 facts relating to its issuance;

10 (2) that there has been a violation of the conditions of the permit **or**
 11 **other authorization; or**

12 (3) that there has been a material change in the quantity or type of
 13 waste disposed of.

14 (b) The department may modify a permit **or other authorization issued**
 15 **under AS 46.03.100, or may rescind a person's authority to dispose of waste in**
 16 **accordance with regulations adopted under AS 46.03.100(b)(3)**,

17 **(1) for any of the causes for termination listed in (a) of this section;**
 18 **or**

19 **(2)** if the department finds that a material change in the quality or
 20 classification of the waters of the state has occurred.

21 * **Sec. 8.** AS 46.03.120 is amended by adding a new subsection to read:

22 (c) Nothing in this section limits the authority of the department to terminate
 23 or to modify a permit or plan approval under other circumstances if requested to do so
 24 by the permittee or plan holder.

25 * **Sec. 9.** AS 46.03.833(a) is amended to read:

26 (a) A person whose proof of financial responsibility is accepted by the
 27 department under AS 46.03.830 or **46.03.100(f)** [46.03.100(b)] shall notify the
 28 department at least 90 days before the effective date of a change **in, or** expiration[,], or
 29 cancellation **of** [IN] the **proof of financial responsibility** [SURETY BOND,
 30 GUARANTEE, OR INSURANCE AGREEMENT]. Application for renewal of
 31 acceptance of proof of financial responsibility under AS 46.03.830 or **46.03.100(f)**

1 [46.03.100(b)] must be filed at least 90 days before the date of expiration.

2 * **Sec. 10.** AS 46.03.900(25) is amended to read:

3 (25) "solid waste" means garbage, refuse [ALL UNWANTED],
4 abandoned, or other discarded solid or semi-solid material regardless of whether [OR
5 NOT] subject to decomposition, originating from any source;

6 * **Sec. 11.** AS 46.03.900 is amended by adding a new paragraph to read:

7 (37) "municipal solid waste" means waste material

8 (A) generated by a household, including a single-family or
9 multi-family residence, and collected and disposed of as part of municipal
10 solid waste collection services;

11 (B) generated by a commercial, industrial, or institutional
12 entity, to the extent that the waste material

13 (i) is essentially the same as waste normally generated
14 by a household;

15 (ii) is collected and disposed of with other municipal
16 solid waste as part of normal municipal solid waste collection services;
17 and

18 (iii) contains a relative quantity of hazardous substances
19 no greater than the relative quantity of hazardous substances contained
20 in waste material generated by a typical single-family household;

21 * **Sec. 12.** AS 46.03.090 and AS 46.03.720(a) are repealed.

22 * **Sec. 13.** The uncodified law of the State of Alaska is amended by adding a new section to
23 read:

24 REVISOR OF STATUTES INSTRUCTIONS. The revisor of statutes is instructed to
25 change the heading of AS 46.03.720 from "Construction and operation of sewer and water
26 facilities prohibited" to "Public water system plan review requirement."

27 * **Sec. 14.** This Act takes effect immediately under AS 01.10.070(c).