

CS FOR SENATE BILL NO. 91(RES)

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-FIFTH LEGISLATURE - FIRST SESSION

BY THE SENATE RESOURCES COMMITTEE

Offered: 4/13/07

Referred: Judiciary

Sponsor(s): SENATE RULES COMMITTEE BY REQUEST OF THE GOVERNOR

A BILL

FOR AN ACT ENTITLED

1 **"An Act relating to the authority of the Department of Environmental Conservation to**
2 **require certain monitoring, sampling, and reporting and to require permits for certain**
3 **discharges of pollutants; relating to criminal penalties for violations of the permit**
4 **program; and providing for an effective date."**

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

6 * **Section 1.** AS 46.03.020 is amended to read:

7 **Sec. 46.03.020. Powers of the department.** The department may

8 (1) enter into contracts and compliance agreements necessary or
9 convenient to carry out the functions, powers, and duties of the department;

10 (2) review and appraise programs and activities of state departments
11 and agencies in light of the policy set out in AS 46.03.010 for the purpose of
12 determining the extent to which the programs and activities are contributing to the
13 achievement of that policy and to make recommendations to the departments and
14 agencies, including environmental guidelines;

- 1 (3) consult with and cooperate with
- 2 (A) officials and representatives of any nonprofit corporation or
- 3 organization in the state;
- 4 (B) persons, organizations, and groups, public and private,
- 5 using, served by, interested in, or concerned with the environment of the state;
- 6 (4) appear and participate in proceedings before any state or federal
- 7 regulatory agency involving or affecting the purposes of the department;
- 8 (5) undertake studies, inquiries, surveys, or analyses it may consider
- 9 essential to the accomplishment of the purposes of the department; these activities
- 10 may be carried out by the personnel of the department or in cooperation with public or
- 11 private agencies, including educational, civic, and research organizations, colleges,
- 12 universities, institutes, and foundations;
- 13 (6) at reasonable times, enter and inspect with the consent of the owner
- 14 or occupier any property or premises to investigate either actual or suspected sources
- 15 of pollution or contamination or to ascertain compliance or noncompliance with a
- 16 regulation that may be adopted under AS 46.03.020 - 46.03.040; information relating
- 17 to secret processes or methods of manufacture discovered during investigation is
- 18 confidential;
- 19 (7) conduct investigations and hold hearings and compel the
- 20 attendance of witnesses and the production of accounts, books, and documents by the
- 21 issuance of a subpoena;
- 22 (8) advise and cooperate with municipal, regional, and other local
- 23 agencies and officials in the state, to carry out the purposes of this chapter;
- 24 (9) act as the official agency of the state in all matters affecting the
- 25 purposes of the department under federal laws now or hereafter enacted;
- 26 (10) adopt regulations necessary to carry out the purposes of this
- 27 chapter, including, by way of example and not limitation, regulations providing for
- 28 (A) control, prevention, and abatement of air, water, or land or
- 29 subsurface land pollution;
- 30 (B) safeguard standards for petroleum and natural gas pipeline
- 31 construction, operation, modification, or alteration;

1 (C) protection of public water supplies by establishing
 2 minimum drinking water standards, and standards for the construction,
 3 improvement, and maintenance of public water supply systems;

4 (D) collection and disposal of sewage and industrial waste;

5 (E) collection and disposal of garbage, refuse, and other
 6 discarded solid materials from industrial, commercial, agricultural, and
 7 community activities or operations;

8 (F) control of pesticides;

9 (G) other purposes as may be required for the implementation
 10 of the policy declared in AS 46.03.010;

11 (H) handling, transportation, treatment, storage, and disposal of
 12 hazardous wastes;

13 (11) inspect the premises of sellers and suppliers of paint, vessels, and
 14 marine and boating supplies, and take other actions necessary to enforce
 15 AS 46.03.715;

16 (12) notwithstanding any other provision of law, take all actions
 17 necessary to receive authorization from the administrator of the United States
 18 Environmental Protection Agency to administer and enforce a National Pollutant
 19 Discharge Elimination System program in accordance with 33 U.S.C. 1342 (sec. 402,
 20 Clean Water Act), 33 U.S.C. 1345 (sec. 405, Clean Water Act), 40 C.F.R. Part 123,
 21 and 40 C.F.R. Part 403, as amended;

22 **(13) require the owner or operator of a facility to undertake**
 23 **monitoring, sampling, and reporting activities described in 33 U.S.C. 1318 (sec.**
 24 **308, Clean Water Act).**

25 * **Sec. 2.** AS 46.03.100(a) is amended to read:

26 (a) A person may not construct, modify, or operate a sewerage system or
 27 treatment works or **take any action** [DISPOSE OF OR CONDUCT AN
 28 OPERATION] that results in the disposal **or discharge** of solid or liquid waste
 29 material or heated process or cooling water into the waters or onto the land of the state
 30 without prior authorization from the department. [DEPARTMENT
 31 AUTHORIZATION SHALL BE OBTAINED FOR DIRECT DISPOSAL AND FOR

1 DISPOSAL, OTHER THAN OF DOMESTIC SEWAGE, INTO PUBLICLY
2 OWNED OR OPERATED SEWERAGE SYSTEMS.]

3 * **Sec. 3.** AS 46.03.100(b) is amended to read:

4 (b) Prior authorization **may be provided** by the department, **in its discretion,**
5 [IS PROVIDED] through one or a combination of the following:

6 (1) an individual permit issued for a specific facility or disposal
7 activity;

8 (2) a general permit issued on a statewide, regional, or other
9 geographical basis for a category of disposal activities that the commissioner, using
10 information available when the permit is developed, determines are similar in nature
11 and will comply with applicable environmental quality standards established under
12 this title;

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

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

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

21 * **Sec. 4.** AS 46.03.100(e) is amended to read:

22 (e) This section does not apply to

23 (1) a person discharging only domestic sewage into a **publicly owned**
24 **treatment works** [SEWERAGE SYSTEM];

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

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

27 (4) discharges of solid or liquid waste material or water discharges
28 from the following activities if the discharge is incidental to the activity and the
29 activity does not produce a discharge from a point source, as that term is defined in
30 regulations adopted under this chapter, [DIRECTLY] into any **waters** [SURFACE
31 WATER] of the **United States** [STATE]:

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

2 (B) landscaping;

3 (C) water well drilling and geophysical drilling; or

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

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

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

17 (7) the firing or other use of munitions in training activities conducted
 18 on active ranges, including active ranges operated by the United States Department of
 19 Defense or a United States military agency, **unless it results in a discharge into**
 20 **waters of the United States.**

21 * **Sec. 5.** AS 46.03.100(h) is amended to read:

22 (h) The program developed to issue permits by the department to authorize
 23 discharge of pollutants into surface waters and submitted to the United States
 24 Environmental Protection Agency for approval under 33 U.S.C. 1342 (sec. 402, Clean
 25 Water Act) shall include the monitoring and reporting requirements included in the
 26 permits, limited to those requirements **authorized** [MANDATED] by law, including
 27 **33 U.S.C. 1318 (sec. 308, Clean Water Act), and** any legal settlements, and those
 28 necessary to ascertain compliance with the effluent limitations contained in the permit
 29 and with state water quality standards.

30 * **Sec. 6.** AS 46.03.100 is amended by adding a new subsection to read:

31 (m) For purposes of the permit program authorized by the United States

1 Environmental Protection Agency under 33 U.S.C. 1342 (sec. 402, Clean Water Act),
2 "waste material" includes pollutants as defined in 33 U.S.C. 1362(6) (sec. 502(6),
3 Clean Water Act).

4 * **Sec. 7.** AS 46.03.110 is amended by adding a new subsection to read:

5 (f) The standards for determining waste material in AS 46.03.100(m) apply to
6 this section.

7 * **Sec. 8.** AS 46.03.790 is amended by adding a new subsection to read:

8 (i) Notwithstanding (a) and (d) of this section, a person is guilty of a class A
9 misdemeanor if the person negligently

10 (1) violates a regulation adopted by the department under
11 AS 46.03.020(12);

12 (2) violates a permit issued under the program authorized by
13 AS 46.03.020(12);

14 (3) fails to provide information or provides false information required
15 by a regulation adopted under AS 46.03.020(12);

16 (4) makes a false statement, representation, or certification in an
17 application, notice, record, report, permit, or other document filed, maintained, or used
18 for purposes of compliance with a permit issued under or a regulation adopted under
19 AS 46.03.020(12); or

20 (5) renders inaccurate a monitoring device or method required to be
21 maintained by a permit issued under or a regulation adopted under AS 46.03.020(12).

22 * **Sec. 9.** This Act takes effect immediately under AS 01.10.070(c).