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Referred: Resources and
Finance

BY THE RULES COMMITTEE
BY REQUEST OF THE
LEGISLATIVE COUNCIL

1 IN THE HOUSE

2 HOUSE BILL NO. 451

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 SIXTH LEGISLATURE - SECOND SESSION

5 A BILL

6 For an Act entitled: "An Act creating a Department of Environmental
7 Affairs; and providing for an effective date."

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

9 * Section 1. AS 44.15.010 is amended by adding a new subsection to read:

10 (16) Department of Environmental Affairs

11 * Sec. 2. AS 41 is amended by adding a new chapter to read:

12 CHAPTER 03. DEPARTMENT OF ENVIRONMENTAL AFFAIRS.

13 ARTICLE 1. GENERAL DUTIES AND ORGANIZATION.

14 Sec. 41.03.010. COMMISSIONER OF ENVIRONMENT. The principal exe-
15 cutive officer of the Department of Environmental Affairs is the
16 commissioner of environment. The commissioner shall be a capable admin-
17 istrator and a recognized expert in the field of ecology and environ-
18 mental control. The commissioner shall be appointed by the governor
19 with the consent of the legislature for a term of five years.

20 Sec. 41.03.020. POWERS AND DUTIES OF COMMISSIONER. The commis-
21 sioner shall

22 (1) supervise and control the department, and he may appoint
23 and employ division heads, section heads, and the technical, clerical
24 and other assistants necessary for the general administration of the
25 department;

26 (2) establish those divisions and sections considered neces-
27 sary to carry out the provisions of this chapter and otherwise consist-
28 ent with law.

29 Sec. 41.03.030. DUTIES OF DEPARTMENT. The Department of

1 Environmental Affairs shall

2 (1) conduct investigations, studies, surveys, research, and
3 analyses relating to ecological systems and environmental quality;

4 (2) document and define changes in the natural environment,
5 including the plant and animal systems, and accumulate necessary data
6 and other information for a continuing analysis of these changes or
7 trends and for an interpretation of their underlying causes;

8 (3) evaluate and disseminate information of an ecological
9 nature to public and private agencies or organizations, or individuals
10 in the form of reports, publications, atlases, and maps;

11 (4) make available to state agencies, local governments, and
12 individuals, advice and information useful in restoring, maintaining,
13 and enhancing the quality of the environment;

14 (5) initiate and utilize ecological information in the plan-
15 ning and development of resource-oriented projects;

16 (6) accept and use donations of funds, property, personal
17 services, or facilities to carry out the purposes of this chapter;

18 (7) require reports from state agencies, local governments,
19 and private individuals who undertake resource development projects,
20 engineering works, and other major projects and programs which make
21 significant modifications in the natural environment, evaluate these
22 reports and approve the projects if it is found that

23 (A) any adverse environmental effects cannot be avoided
24 by following reasonable alternatives and are justified by other
25 stated considerations of state policy;

26 (B) local short-term uses of man's environment are con-
27 sistent with maintaining and enhancing long-term productivity;

28 (C) any irreversible and irretrievable commitments of
29 of resources are warranted;

1 (8) disapprove the projects if the criteria in (7) of this
2 section are not met; projects may not be undertaken without approval;

3 (9) have primary responsibility for parks and outdoor
4 recreation in the state as provided for in sec. 60 of this chapter;

5 (10) exercise primary responsibility for designating,
6 acquiring, restoring and administering historic, prehistoric and
7 archeological sites and monuments in the state, as well as for adminis-
8 tering a statewide archeological program, as provided for in sec. 80
9 of this chapter;

10 (11) have primary responsibility for the state museum func-
11 tions as provided for in sec. 80 of this chapter;

12 (12) have primary responsibility for the state historical
13 library and the state archives as provided for in sec. 80 of this
14 chapter;

15 (13) exercise land planning and classification duties as
16 provided for in sec. 70 of this chapter;

17 (14) study, develop, and describe appropriate alternatives
18 to recommended courses of action in any proposal which involves unre-
19 solved conflicts concerning alternative uses of land, water, or air;

20 (15) review statutory authority, administrative regulations,
21 and current policies and procedures for conformity to the purposes and
22 provisions of this chapter and propose to the governor and to the
23 legislature those measures considered desirable to effectuate the pro-
24 visions and purposes of this chapter.

25 Sec. 41.03.040. DIVISIONS OF DEPARTMENT. (a) The department
26 shall have the following divisions:

27 (1) the division of ecology;

28 (2) the division of parks and outdoor recreation;

29 (3) the division of land planning and classification;

- (4) the division of archives and history;
- (5) the division of pollution control;
- (6) the division of agriculture.

(b) The commissioner may create other divisions and sections which he considers necessary to carry out the provisions of this chapter. Subject to the supervision and control of the commissioner, the divisions in this section shall have the duties and powers described in secs. 50 - 90 of this chapter.

(c) The commissioner shall appoint directors for the divisions within the department and these directors shall serve at the pleasure of the commissioner.

ARTICLE 2. DEPARTMENTAL STRUCTURE

Sec. 41.03.050. DIVISION OF ECOLOGY. The division of ecology shall

- (1) conduct investigations, studies, surveys, research, and analyses relating to ecological systems and environmental quality;
- (2) initiate and utilize ecological information in the planning and development of resource-oriented projects;
- (3) perform other duties as provided by law or that the commissioner sees fit to place in the division's trust.

Sec. 41.03.060. DIVISION OF PARKS AND RECREATION. The division of parks and outdoor recreation shall

- (1) foster the growth and development of a system of parks and recreational facilities and opportunities in the state, for the general health, welfare, education, and enjoyment of its citizens and for the attraction of visitors to the state;
- (2) perform the responsibilities imposed by ch. 20 of this title and other duties as provided by law or that the commissioner sees fit to place in the division's trust.

1 Sec. 41.03.070. DIVISION OF LAND PLANNING AND CLASSIFICATION.

2 The division of land planning and classification shall

3 (1) perform the responsibilities imposed by AS 38.05, AS 38.
4 07 and AS 38.10, except for the leasing of mineral lands and mining
5 rights which shall be a coordinated effort performed by the Department
6 of Natural Resources and the Department of Environmental Affairs;

7 (2) perform other duties as provided by law or that the
8 commissioner sees fit to place in the division's trust.

9 Sec. 41.03.080. DIVISION OF ARCHIVES AND HISTORY. The division
10 of archives and history shall

11 (1) administer the state programs relating to archives and
12 public records;

13 (2) conduct a records management program, including the
14 operation of a records center or centers and a centralized microfilm-
15 ing program for the benefit of all state agencies;

16 (3) administer the state historical library and museum;

17 (4) administer state programs relating to historic, pre-
18 historic and archeological resource preservation and maintenance;

19 (5) promote and encourage throughout the state knowledge
20 and appreciation of Alaska history;

21 (6) cooperate with and assist state institutions, depart-
22 ments, agencies and political subdivisions, and organizations and
23 individuals engaged in activities in the fields of Alaska archives and
24 history.

25 (7) perform the responsibilities imposed by AS 41.35;

26 (8) perform other duties as provided by law or that the
27 commissioner sees fit to place in the division's trust.

28 Sec. 41.03.090. DIVISION OF POLLUTION CONTROL. The division of
29 pollution control shall

1 (1) perform the responsibilities imposed by AS 18.30 and
2 AS 18.35;

3 (2) have the primary responsibility for controlling and
4 preventing pollution of the state's air, water and surface and sub-
5 surface land areas;

6 (3) perform other duties as provided by law or that the
7 commissioner sees fit to place in the division's trust.

8 Sec. 41.03.100. DIVISION OF AGRICULTURE. The division of agri-
9 culture shall

10 (1) perform the responsibilities imposed by AS 3; and

11 (2) perform other duties as provided by law or that the
12 commissioner sees fit to place in the division's trust.

13 * Sec. 3. AS 41 is amended by adding a new chapter to read:

14 CHAPTER 35. ALASKA HISTORIC PRESERVATION ACT.

15 Sec. 41.35.010. DECLARATION OF PURPOSE. The legislature is con-
16 cerned over the fact that the most recent past has seen the neglect,
17 desecration, loss and destruction of the historic, prehistoric and
18 archeological resources of Alaska with a resulting loss to the people
19 of the state of knowledge concerning their heritage. The legislature
20 determines that the public has an interest in the preservation of all
21 historic, prehistoric and archeological resources for their scientific
22 and historical information and value and that the public has a right
23 to the knowledge to be derived and gained from the study of these
24 resources. The legislature finds and declares that the historic, pre-
25 historic and archeological resources of the state are properly the
26 subject of concerted and coordinated efforts exercised on behalf of
27 the general welfare of the public in order that these resources may be
28 located, preserved, studied, exhibited and evaluated.

29 Sec. 41.35.020. TITLE TO HISTORIC, PREHISTORIC AND ARCHEOLOGICAL

1 RESOURCES. The State of Alaska reserves to itself title to all his-
2 toric, prehistoric and archeological resources situated on land owned
3 or controlled by the state, including tidelands and submerged lands,
4 and reserves to itself the exclusive right of field archeology on state
5 owned or controlled lands.

6 Sec. 41.35.030. DESIGNATION OF MONUMENTS AND HISTORIC SITES.

7 Upon the recommendation of the Historic Sites Advisory Committee, the
8 governor may declare by public order any particular historic, prehis-
9 toric or archeological structure, deposit, site or other object of
10 scientific or historic interest that is situated on land owned or con-
11 trolled by the state to be a state monument or historic site and he
12 may designate as a part of the monument or site as much land as is
13 considered necessary for the proper access, care and management of the
14 object or site to be protected. When an object or site is situated on
15 land held in private ownership, it may be declared a state monument or
16 historic site in the same manner, with the written consent of the owner.

17 Sec. 41.35.040. ADMINISTRATION AND FINANCIAL SUPPORT OF MONUMENTS
18 AND HISTORIC SITES. State-owned monuments, sites and other historic,
19 prehistoric or archeological properties owned or purchased by the state
20 under the control of the Department of Environmental Affairs and their
21 maintenance shall be covered in the appropriations made to that depart-
22 ment. Privately owned state monuments or historic sites or other
23 historic, prehistoric or archeological properties are eligible to
24 receive state support for their maintenance if they meet the criteria
25 for support determined by the Historic Sites Advisory Committee and
26 are kept accessible to the general public and application for support
27 is made in conformity with regulations adopted by the commissioner of
28 environmental affairs.

29 Sec. 41.35.050. REGULATIONS. The commissioner of environmental

1 affairs shall adopt regulations to carry out the purposes of this
2 chapter.

3 Sec. 41.35.060. POWER TO ACQUIRE HISTORIC, PREHISTORIC OR
4 ARCHEOLOGICAL PROPERTIES. (a) The department, with the recommendation
5 of the Historic Sites Advisory Committee, may acquire real and personal
6 properties that have statewide historic, prehistoric or archeological
7 significance by gift, purchase, devise or bequest. The department
8 shall preserve and administer property so acquired. The department
9 may acquire property adjacent to the property having historic, prehis-
10 toric or archeological significance when it is determined to be
11 necessary for the proper use and administration of the significant
12 property.

13 (b) In the event that a historic, prehistoric or archeological
14 property which has been found by the department, upon the recommenda-
15 tion of the Historic Sites Advisory Committee, to be important for
16 state ownership is in danger of being sold or used so that its historic,
17 prehistoric or archeological value will be destroyed or seriously im-
18 paired, or is otherwise in danger of destruction or serious impairment,
19 the department may establish the use of the property in a manner neces-
20 sary to preserve its historic, prehistoric or archeological character
21 or value. If the owner of the property does not wish to follow the
22 restrictions of the department, then he may require the state to issue
23 a declaration of taking and acquire the property by eminent domain
24 under AS 09.55.240 - 09.55.460.

25 Sec. 41.35.065. STATE ARCHEOLOGIST AND DUTIES. (a) There is
26 established in the department in the division of archives and history
27 the position of state archeologist. The state archeologist shall be
28 a professional archeologist.

29 (b) The state archeologist shall

1 (1) sponsor, engage in and direct fundamental research into
2 the archeology of the state and encourage and coordinate archeological
3 research and investigation undertaken in the state;

4 (2) cooperate with the Historic Sites Advisory Committee in
5 performing its functions under this chapter;

6 (3) cooperate with the committee in preparing an inventory
7 of historic, prehistoric and archeological sites in the state;

8 (4) cooperate with the commissioner in reviewing and issu-
9 ing investigation, excavation, gathering and removal permits;

10 (5) ensure that historic, prehistoric and archeological
11 sites are properly reported by persons or agencies engaged in public
12 construction work and protect sites and objects of significance dis-
13 covered at state sites or discovered during the course of public con-
14 struction and encourage the protection of sites and objects discovered
15 during the course of any other construction work;

16 (6) investigate reported historic, prehistoric or arche-
17 ological sites and appraise them for any future excavation; and

18 (7) serve as a central clearing-house for information on
19 all historic, prehistoric and archeological site excavation in the
20 state.

21 Sec. 41.35.070. PRESERVATION OF HISTORIC, PREHISTORIC AND
22 ARCHEOLOGICAL RESOURCES THREATENED BY PUBLIC CONSTRUCTION. (a) The
23 department shall locate, identify and preserve in suitable records
24 information regarding historic, prehistoric and archeological sites,
25 locations and remains. The information shall be submitted to the heads
26 of the executive departments of the state.

27 (b) Before any public construction or public improvement of any
28 nature is undertaken by the state, or a governmental agency of the
29 state or by a private person under contract with or licensed by the

1 state or governmental agency of the state, the information required
2 under (a) of this section shall be consulted by the appropriate agency
3 or person to determine if the area to be affected by the public con-
4 struction or improvement contains listed historic, prehistoric or
5 archeological sites, locations or remains. If the affected area con-
6 tains listed sites, locations or remains, the proposed public construc-
7 tion or improvement may not be commenced, or, in the event it has
8 already begun, continued, until the Department of Environmental Affairs
9 is advised of the construction or improvement and the concurrence of
10 the department in the project is secured.

11 (c) If the department does not concur because the listed site,
12 location or remains will be adversely affected by the public construc-
13 tion or improvement, it shall perform the necessary investigation,
14 recording and salvage of the site, location or remains.

15 (d) If in the course of performing public construction or im-
16 provements, historic, prehistoric or archeological sites, locations,
17 remains or objects are discovered, the department shall be notified and
18 the concurrence of the department shall be requested in continuing the
19 construction or improvement. Upon receipt of this notice, the depart-
20 ment shall survey the area to determine whether the area contains
21 historic, prehistoric or archeological data which should be preserved
22 in the public interest. The survey shall be conducted as expeditiously
23 as possible. If, as a result of the survey, it is determined that

24 (1) such data exists in the area,

25 (2) that the data has exceptional historic, prehistoric or
26 archeological significance, and should be collected and preserved in
27 the public interest, and

28 (3) that it is feasible to collect and preserve the data,
29 the department shall perform the necessary work to collect and preserve

1 the data. This work shall be performed as expeditiously as possible.

2 (e) If the concurrence of the department, required under (b), (c)
3 and (d) of this section is not obtained after 90 days from the filing
4 of a request for concurrence of the department to proceed with the
5 project, the agency or person performing the construction or improve-
6 ment may apply to the governor for permission to proceed without the
7 concurrence of the department and the governor may take the action he
8 considers best in overruling or sustaining the department.

9 Sec. 41.35.080. NOTICE REQUIRED BY PRIVATE PERSON. Before any
10 construction, alteration or improvement of any nature is undertaken on
11 a privately owned, officially designated state monument or historic
12 site by any person, he shall give the department and the state arche-
13 ologist three months notice of intention to construct on, alter or
14 improve it. After the expiration of the three-month notification
15 period, the department shall either follow the proceedings under
16 sec. 50(b) of this chapter or undertake or permit the recording and
17 salvaging of any historic, prehistoric or archeological objects or
18 information considered necessary.

19 Sec. 41.35.090. PERMITS. The commissioner, with the advice and
20 recommendation of the state archeologist, may issue a permit for the
21 investigation, excavation, gathering or removal from the natural state,
22 of any historic, prehistoric or archeological resources of the state.
23 A permit may be issued only to persons or organizations qualified to
24 make the investigations, excavations, gatherings or removals and only
25 if the results of these authorized activities will be made available to
26 the general public through institutions and museums interested in
27 disseminating knowledge on the subjects involved.

28 Sec. 41.35.100. EXCAVATION AND REMOVAL OF HISTORIC, PREHISTORIC
29 OR ARCHEOLOGICAL REMAINS ON PRIVATE LANDS. Before any historic,

1 prehistoric or archeological remains are excavated or removed from
2 private lands by the department or the state archeologist, the written
3 approval of the owner shall first be secured. When the value of the
4 private land is diminished by the excavation or removal, the owner of
5 the land shall be compensated for the loss at a monetary sum mutually
6 agreed on by the department and the owner or at a monetary sum set by
7 the court.

8 Sec. 41.35.110. HISTORIC SITES ADVISORY COMMITTEE. There is
9 created in the Department of Environmental Affairs the Historic Sites
10 Advisory Committee.

11 Sec. 41.35.120. COMPOSITION OF COMMITTEE. The committee consists
12 of the following persons:

- 13 (1) one representative from the Alaska State Museum;
- 14 (2) one representative from the University of Alaska Museum;
- 15 (3) the state archeologist;
- 16 (4) four persons appointed to represent each of the following
17 fields: history, architecture, geology and natural history;
- 18 (5) one representative of the Alaska Historical Society;
- 19 (6) the commissioner of environmental affairs; and
- 20 (7) the State Liaison Officer appointed under the National
21 Historic Preservation Act of 1966, Public Law 89-665, as an ex officio
22 member without vote.

23 Sec. 41.35.130. APPOINTMENT OF MEMBERS. Members of the committee
24 are appointed by the governor and confirmed by the legislature meeting
25 in joint session.

26 Sec. 41.35.140. TERM OF MEMBERSHIP. The term of office for a
27 member of the committee is three years, except for those who are mem-
28 bers by virtue of their positions with the state. They serve for as
29 long as they remain in the position by virtue of which they are members

1 of the committee. A member appointed to fill a vacancy serves for the
2 unexpired term of the member he succeeds. Of those members listed
3 under sec. 120(1), (2), (4) and (5), upon initial appointment, two
4 shall serve for one year, three for two years, and two for three years.

5 Sec. 41.35.150. COMPENSATION. The members of the committee serve
6 without compensation but are entitled to per diem and travel expenses
7 authorized by law for other boards and commissions.

8 Sec. 41.35.160. OFFICERS. At the first meeting of each year,
9 the committee shall elect a chairman from among its members.

10 Sec. 41.35.170. MEETINGS AND QUORUM. The committee shall meet
11 at least twice a year. Additional meetings may be called by the chair-
12 man or by petition of at least five members. Five members of the com-
13 mittee constitute a quorum.

14 Sec. 41.35.180. DUTIES OF THE COMMITTEE. The Historic Sites
15 Advisory Committee shall

16 (1) develop criteria for the evaluation of state monuments
17 and historic sites and all real and personal property which may be con-
18 sidered to be of historic, prehistoric or archeological significance
19 as would justify their acquisition and ownership by the state;

20 (2) cooperate with the Department of Environmental Affairs
21 and the state archeologist in formulating and administering a state-
22 wide historic sites survey under the National Historic Preservation Act
23 of 1966, Public Law 89-665;

24 (3) review those surveys and historic preservation plans
25 that may be required, and approve properties for nomination to the
26 National Register as provided for in the National Historic Preservation
27 Act of 1966, Public Law 89-665;

28 (4) provide necessary assistance to the governor and the
29 legislature for achieving balanced and coordinated state policies and

1 programs for the preservation of the state's historic, prehistoric and
2 archeological resources;

3 (5) develop criteria for the evaluation of all historic
4 or archeological properties owned by private persons for which state
5 appropriations are suggested or requested to determine if the property
6 is historically authentic and significant, if it is essential to the
7 development of a balanced program of historic preservation, and if
8 practical plans can be developed for financing, maintaining and oper-
9 ating the site;

10 (6) make a written report of its findings and recommenda-
11 tions with respect to all historic, prehistoric and archeological
12 sites in the state, which shall be filed in the department, setting
13 out the necessary amount of money which will have to be expended for
14 the restoration of the property, the manner and method by which the
15 maintenance and operation should be carried on, and the sources from
16 which funds may be derived for this purpose.

17 Sec. 41.35.190. POWERS OF CHAIRMAN. Subject to available appro-
18 priations the chairman may, with the concurrence of a majority of the
19 committee, employ necessary personnel and may contract for the services
20 of experts and other persons who may be needed.

21 Sec. 41.35.200. UNLAWFUL ACTS. (a) It is unlawful for a person
22 to appropriate, excavate, remove, injure, or destroy, without a permit
23 from the commissioner, any historic, prehistoric, or archeological
24 resources of the state.

25 (b) It is unlawful for a person to knowingly possess, sell, buy
26 or transport within the state, or offer to sell, buy or transport
27 within the state, historic, prehistoric or archeological resources
28 taken or acquired in violation of this section or 16 U.S.C. 433.

29 (c) It is unlawful for a person to willfully destroy, mutilate,

1 deface, injure, remove or excavate a gravesite or a tomb, monument,
2 gravestone or other structure or object at a gravesite, even though
3 the gravesite appears to be abandoned, lost or neglected.

4 (d) A historic, prehistoric or archeological resource which is
5 taken in violation of this section shall be seized by any person
6 designated in sec. 210 of this chapter wherever found and at any time.
7 Objects seized may be disposed of as the commissioner determines by
8 deposit in the proper public depository.

9 Sec. 41.35.210. PENALTIES. A person who violates a provision of
10 this chapter is guilty of a misdemeanor, and upon conviction is punish-
11 able by a fine of \$1,000, or by imprisonment for not more than six
12 months, or by both.

13 Sec. 41.35.220. ENFORCEMENT AUTHORITY. The following persons are
14 peace officers of the state and shall enforce this chapter:

- 15 (1) an employee of the department authorized by the commis-
16 sioner;
- 17 (2) a police officer in the state;
- 18 (3) any other person authorized by the commissioner.

19 Sec. 41.35.230. DEPARTMENT OF ENVIRONMENTAL AFFAIRS TO GOVERN
20 HISTORICAL LIBRARY, ARCHIVES AND MUSEUM. The Department of Environ-
21 mental Affairs, division of archives and history, shall manage and
22 have complete charge of all of the property contained in the institu-
23 tions known as the state historical library, the archives and museum.
24 The historical library, the archives and the museum shall be maintained
25 in the state capital.

26 Sec. 41.35.240. HISTORICAL LIBRARY DUTIES. The department shall
27 (1) collect, catalog and preserve an Alaska collection
28 consisting of books, laws, pamphlets, periodicals, manuscripts, micro-
29 reproductions, audiovisual materials, etc.;

1 (2) serve as a depository for state and federal historical
2 publications concerning Alaska;

3 (3) perform other functions necessary to the operation of
4 a historical library.

5 Sec. 41.35.250. STATE MUSEUM DUTIES. The department shall

6 (1) acquire artifacts, natural history specimens, art
7 objects, etc., that pertain to the human and natural history of Alaska
8 by purchase and by gift;

9 (2) identify, catalog, preserve and display these acqui-
10 sitions;

11 (3) acquire and catalog Alaskan photographs and maintain a
12 card catalog of this collection;

13 (4) accept endowments, grants and gifts in accordance with
14 established state policy;

15 (5) collect and maintain books, periodicals, pamphlets and
16 other materials pertinent to museum administration, techniques and
17 collections;

18 (6) assist and advise in the development of local museums;

19 (7) collect and keep current information concerning museum
20 activities throughout the state;

21 (8) coordinate the museum activities of the state with
22 those of other agencies;

23 (9) keep the museum open at reasonable hours for the con-
24 venience of visitors;

25 (10) provide museum services and administer state and other
26 grants-in-aid to museums in the state to supplement and improve their
27 services, the grants to be paid from funds appropriated for that pur-
28 pose, or from other funds available for that purpose.

29 Sec. 41.35.260. STATE ARCHIVES DUTIES. The department shall

1 (1) negotiate for, acquire and receive public records of
2 legal or administrative value or of historical interest, including
3 noncurrent public records of the state, political subdivisions of the
4 state and defunct public agencies which may be transferred to and
5 accepted in official custody in the state archives where they will be
6 preserved, protected and arranged according to approved archival
7 practice;

8 (2) provide for the development of standards for records
9 creation, maintenance and service with disposal of public records;

10 (3) have the right of reasonable access to and examination
11 of all public records in the state, unless otherwise prohibited by law;

12 (4) adopt a seal for official use and for certification of
13 record copies which shall have the same effect as if made by the orig-
14 inal custodian of the records;

15 (5) make copies of archival materials available, unless
16 restricted by law or by specified terms and conditions of their depos-
17 it, to any person for a reasonable fee;

18 (6) recover records of any public office in the Territory
19 or State of Alaska by negotiating for their return or by notifying
20 the attorney general to initiate recovery proceedings;

21 (7) acquire and maintain private records, papers and
22 manuscripts concerning Alaska which are of historic interest or signi-
23 ficance;

24 (8) publish guides, inventories, reports, bulletins and
25 other publications to promote the objectives of the archives; and

26 (9) report to the governor and the legislature on the
27 activities and requirements of the archives with recommendations for
28 improving services to the state.

29 Sec. 41.35.270. DEFINITIONS. In this chapter, unless the

1 context otherwise requires

2 (1) "commissioner" means the commissioner of environmental
3 affairs;

4 (2) "committee" means the Historic Sites Advisory Committee;

5 (3) "department" means the Department of Environmental
6 Affairs;

7 (4) "historic, prehistoric and archeological resources"
8 include deposits, structures, ruins, sites, buildings, graves, arti-
9 facts, fossils, or other objects of antiquity which provide information
10 pertaining to the historical or prehistorical culture of people in the
11 state as well as to the natural history of the state.

12 Sec. 41.35.280. TITLE OF CHAPTER. This chapter may be cited as
13 the Alaska Historic Preservation Act.

14 * Sec. 4. To provide for the orderly transfer of the responsibilities
15 and obligations of the division of agriculture, Department of Natural
16 Resources to the division of agriculture, Department of Environmental
17 Affairs, existing terms of office on boards and commissions shall continue
18 until these terms have expired, existing loan obligations and applications
19 for loans shall not be affected and existing regulations shall continue in
20 full force and effect until lawfully amended or withdrawn by the commis-
21 sioner of environmental affairs.

22 * Sec. 5. AS 03.10.054 is amended to read:

23 Sec. 03.10.054. SALE OR TRANSFER OF MORTGAGES AND NOTES. The
24 commissioner may sell or transfer at par value or at a premium or dis-
25 count to the Department of Revenue or a bank or other private purchaser
26 for cash or other consideration the mortgages and notes held by the
27 Department of Environmental Affairs [DEPARTMENT OF NATURAL RESOURCES]
28 as security for loans made under this chapter.

29 * Sec. 6. AS 03.17.060(c) is amended to read:

1 (c) A marketing order which is approved by the producers but
2 disapproved by the handlers may nevertheless be issued if necessary to
3 carry out the purposes of secs. 10 - 100 of this chapter. In such a
4 case the director shall not issue the order without the permission of
5 the commissioner of environmental affairs [NATURAL RESOURCES].

6 * Sec. 7. AS 03.17.100(2) is amended to read:

7 (2) "director" means the director of the division of agri-
8 culture, Department of Environmental Affairs [NATURAL RESOURCES];

9 * Sec. 8. AS 03.19.050(a) is amended to read:

10 (a) The director may with the concurrence of the commissioner of
11 the Department of Environmental Affairs [NATURAL RESOURCES] enter into
12 a cooperative agreement with the Agricultural Stabilization and Con-
13 servation Service, of the United States Department of Agriculture,
14 to delegate to the service part of the administrative functions re-
15 lated to the small grain incentive program except final determinations
16 rendered on appeals filed by or for small grain producers.

17 * Sec. 9. AS 03.35.030 is amended to read:

18 Sec. 03.35.030. NOTICE, HEARING AND ORDER. Upon receipt of a
19 petition for the establishment of a controlled livestock district, the
20 magistrate shall set a time for hearing the petition not less than
21 30 days thereafter. Notice of the time and place of the hearing and
22 its purpose shall be posted in not less than three conspicuous public
23 places within the proposed district, including a post office, for a
24 period of at least 30 days before the hearing. If there is no post
25 office within the proposed district, then the notice shall be posted
26 in two conspicuous public places in the proposed district and in the
27 post office nearest the proposed district. If, at the hearing, the
28 district magistrate finds that the petition is sufficient and that
29 notice of the hearing has been given, he shall enter an order creating

1 and establishing the controlled livestock district and describing its
2 boundaries. The district magistrate shall certify to the clerk of
3 the superior court for the judicial district a copy of his findings
4 and order. He shall send a copy of the order to the director, divi-
5 sion of agriculture, Department of Environmental Affairs [NATURAL
6 RESOURCES].

7 * Sec. 10. AS 03.45.080 is amended to read:

8 Sec. 03.45.080. RECORD AND PAYMENT OF VALUE OF DESTROYED DAIRY
9 CATTLE. The Department of Administration shall keep a record of the
10 appraised value of all dairy cattle slaughtered or destroyed and of
11 the salvage value thereof, stating the date when the animal was
12 slaughtered or destroyed and the name of the inspector who ordered the
13 animal slaughtered or destroyed. The Department of Administration,
14 with the approval of the Department of Environmental Affairs [NATURAL
15 RESOURCES] shall pay the owner of the animal slaughtered or destroyed
16 two-thirds of the difference between the appraised value and the
17 salvage value of the animal slaughtered or destroyed. The appraised
18 valuation of each slaughtered animal may not exceed \$175 in the first
19 judicial district and not more than \$200 in the second and third
20 judicial districts and not more than \$250 in the fourth judicial dis-
21 trict. No payment may be made if at the time of inspection, test or
22 destruction, the animal was upon the premises of any person to which
23 it had been sold, shipped or delivered for the purpose of being
24 slaughtered. No payment may be made unless the owner has complied
25 with all lawful quarantine regulations.

26 * Sec. 11. AS 03.57.010(b) is amended to read:

27 (b) The fee for the license is \$25. The director of the di-
28 vision of agriculture of the Department of Environmental Affairs
29 [NATURAL RESOURCES] shall grant a license to each person who pays the

1 fee.

2 * Sec. 12. AS 03.57.020 is amended to read:

3 Sec. 03.57.020. BOND REQUIRED. Each dealer is required to obtain
4 and file with the director of the division of agriculture of the
5 Department of Environmental Affairs [NATURAL RESOURCES] a bond in the
6 amount of \$5,000. The bond shall be conditioned on the faithful per-
7 formance of the legal duties of the dealer as set out in this chapter
8 and the payment for vegetables purchased by him. The bond is payable
9 to the person injured to the extent of the damages. The aggregate
10 liability of the surety for all breaches of the conditions of the bond
11 shall, in no event, exceed the amount of the bond. The surety may
12 cancel the bond upon giving 30 days' notice in writing to the director
13 and thereafter shall be relieved of any liability for a breach of con-
14 dition occurring after the effective date of cancellation.

15 * Sec. 13. AS 03.60.010 is amended to read:

16 Sec. 03.60.010. "DEPARTMENT" AND "COMMISSIONER" DEFINED. In
17 this title

18 (1) "department" means the Department of Environmental
19 Affairs [NATURAL RESOURCES];

20 (2) "commissioner" means the commissioner of environmental
21 affairs [NATURAL RESOURCES].

22 * Sec. 14. AS 18.05.040(11) and (12) are repealed.

23 * Sec. 15. AS 18.30.015-070 are repealed.

24 * Sec. 16. AS 18.30.080 is amended to read:

25 Sec. 18.30.080. POWERS. In addition to other powers conferred
26 on it by law the Department of Environmental Affairs [COMMISSION] has
27 the power to

28 (1) adopt regulations implementing this chapter;

29 (2) hold hearings relating to any aspect of the administra-

1 tion of this chapter and in that regard compel the attendance of
2 witnesses and the production of evidence;

3 (3) issue orders necessary to effectuate the purposes of
4 this chapter and enforce them by appropriate administrative and
5 judicial proceedings;

6 (4) require access to records relating to emissions which
7 cause or contribute to air contamination;

8 (5) secure necessary scientific, technical, administrative
9 and operational services, including laboratory facilities, by contract
10 or otherwise;

11 (6) prepare and develop a comprehensive plan or plans for
12 the prevention, abatement and control of air pollution in the state;

13 (7) encourage voluntary cooperation by persons and affected
14 groups to achieve the purposes of this chapter;

15 (8) encourage local units of government to handle air pol-
16 lution problems within their respective jurisdictions and on a coopera-
17 tive basis, and provide technical and consultative assistance for this;

18 (9) encourage and conduct studies, investigations and
19 research relating to air contamination and air pollution and their
20 causes, effects, prevention, abatement and control;

21 (10) determine by means of field studies and sampling the
22 degree of air contamination and air pollution in the several areas of
23 the state;

24 (11) make a continuing study of the effects of the emission
25 of air contaminants from motor vehicles on the quality of the outdoor
26 atmosphere of the state and make recommendations to appropriate public
27 and private bodies with respect to this;

28 (12) establish ambient air quality standards for the state
29 as a whole or for any part of it;

1 (13) collect and disseminate information and conduct educa-
2 tional and training programs relating to air contamination and air
3 pollution;

4 (14) advise, consult, contract and cooperate with other
5 agencies of the state, local governments, industries, other states,
6 interstate or interlocal agencies, the federal government and with
7 interested persons or groups;

8 (15) consult, upon request, with any person proposing to
9 construct, install, or otherwise acquire an air contaminant source or
10 a device or system for its control, concerning the efficacy of the
11 device or system or the air pollution problem which may be related to
12 the source, device or system; nothing in this consultation may be con-
13 strued to relieve a person from compliance with this chapter, rules
14 and regulations in force under it or other provisions of law;

15 (16) accept and administer grants or other funds or gifts
16 from public and private sources, including the federal government, for
17 carrying out the purposes of this chapter.

18 * Sec. 17. AS 18.30.090 is amended to read:

19 Sec. 18.30.090. CLASSIFICATION AND REPORTING. (a) The department
20 [COMMISSION] by rule or regulation may classify air contaminant sources,
21 which in its judgment may cause or contribute to air pollution,
22 according to levels and types of emissions and other characteristics
23 which relate to air pollution, and may require reporting for the
24 classifications. Classifications made under this subsection may be for
25 application to the state as a whole or to a designated area of the
26 state and shall be made with special reference to effects on health,
27 economics and social factors and physical effects on property.

28 (b) A person operating or responsible for the operation of air
29 contaminant sources of a class for which the regulations of the

1 department [COMMISSION] require reporting shall make reports containing
2 the information required by the department [COMMISSION] concerning
3 location, size and height of contaminant outlets, processes employed,
4 fuels used and the nature and time periods or duration of emissions,
5 and other information relevant to air pollution and available or
6 reasonably capable of being assembled.

7 * Sec. 18. AS 18.30.100 is amended to read:

8 Sec. 18.30.100. ADDITIONAL CONTAMINANT CONTROL MEASURES. (a)
9 The department [COMMISSION] may require that notice be given to it
10 before the undertaking of the construction, installation or establish-
11 ment of particular types or classes of new air contaminant sources
12 specified in its regulations. Within 15 days of its receipt of the
13 notice, the department [COMMISSION] may require, as a condition pre-
14 cedent to this undertaking, the submission of plans and other infor-
15 mation it considers necessary in order to determine whether the pro-
16 posed undertaking will be in accord with applicable regulations in
17 force under this chapter. If within 30 days of the receipt of these
18 plans and information the department [COMMISSION] determines that the
19 proposed undertaking will not be in accord with the requirements of
20 this chapter and applicable regulations, it shall issue an order pro-
21 hibiting the undertaking. Failure to issue the order within the time
22 prescribed shall be considered an approval of the plans and information
23 and the undertaking may proceed in accordance with them.

24 (b) A person subject to an order of prohibition as prescribed in
25 (a) of this section, upon written request in accordance with regula-
26 tions of the department [COMMISSION], is entitled to a hearing on the
27 order. This procedure must be followed before invoking other available
28 legal remedies. Following the hearing the order may be affirmed,
29 modified or withdrawn.

1 (c) For the purposes of this chapter, addition to or enlargement
2 or replacement of an air contaminant source, or a major alteration of
3 one, shall be construed as an undertaking for the construction, instal-
4 lation or establishment of a new air contaminant source.

5 (d) Features, machines and devices constituting parts of or
6 called for by plans or other information submitted under (a) of this
7 section shall be maintained in good working order.

8 (e) Nothing in this section may be construed to authorize the
9 department [COMMISSION] to require the use of machinery, devices or
10 equipment from a particular supplier or produced by a particular manu-
11 facturer if the required performance standards may be met by machinery,
12 devices or equipment available from other sources.

13 (f) The absence of or the department's [COMMISSION'S] failure to
14 issue a regulation or order under this section does not relieve a per-
15 son from compliance with emission control requirements or other pro-
16 visions of law.

17 (g) The department [COMMISSION] may require the payment of a
18 reasonable fee for the review of plans and information required to be
19 submitted. No fee for a single review may exceed \$25.

20 * Sec. 19. AS 18.30.110 is amended to read:

21 Sec. 18.30.110. INSPECTION. For the purpose of ascertaining the
22 state of compliance with this chapter and appropriate regulations an
23 authorized officer, employee or representative of the department
24 [COMMISSION] may, at a reasonable time, enter and inspect the property
25 and premises where an air contaminant source is located or is being
26 constructed. No person may refuse entry or access to an authorized
27 representative of the department [COMMISSION] who requests entry for
28 purposes of inspection and who presents appropriate credentials; nor
29 may a person interfere with the inspection. The department [COMMISSION]

1 shall give the person who owns or is in control of the premises a
2 report setting out all facts found which relate to compliance status.
3 Inspection of private dwellings is not permitted without a search
4 warrant.

5 * Sec. 20. AS 18.30.120 is amended to read:

6 Sec. 18.30.120. EMISSION CONTROL REQUIREMENTS. The department
7 [COMMISSION] may establish emission control requirements which in its
8 judgment are necessary to prevent, abate or control air pollution.
9 These requirements may be for the state as a whole or may vary from
10 area to area as may be appropriate to facilitate accomplishment of the
11 purposes of this chapter and in order to take account of varying local
12 conditions.

13 * Sec. 21. AS 18.30.130 is amended to read:

14 Sec. 18.30.130. EMERGENCY PROCEDURE. (a) If the commissioner
15 [DIRECTOR] finds that a generalized condition of air pollution exists
16 and that it creates an emergency requiring immediate action to protect
17 human health or safety he shall, [WITH THE CONCURRENCE OF THE GOVERNOR,
18 order persons causing or contributing to the air pollution to reduce
19 or discontinue immediately the emission of air contaminants. The
20 order shall fix a place and time, not more than 24 hours later, for a
21 hearing to be held before the department [COMMISSION]. Within 24
22 hours after the commencement of the hearing, and without adjournment of
23 it, the department [COMMISSION] shall affirm, modify or set aside the
24 order of the commissioner [DIRECTOR].

25 (b) In the absence of a generalized condition of air pollution
26 of the type referred to in (a) of this section, but if the commissioner
27 [DIRECTOR] finds that emissions from the operation of one or more air
28 contaminant sources is causing imminent danger to human health or
29 safety, he may order the person responsible for the operation in

1 question to reduce or discontinue emissions immediately, without regard
2 to sec. 220 of this chapter. If an order is issued, the hearing
3 requirements of (a) of this section apply.

4 (c) Nothing in this section may be construed to limit the con-
5 stitutional, statutory or inherent power of the governor or other
6 officer to declare an emergency and act on the basis of that declaration.

7 * Sec. 22. AS 18.30.140 is amended to read:

8 Sec. 18.30.140. VARIANCES. (a) A person who owns or is in con-
9 trol of a plant, building, structure, establishment, process or equip-
10 ment may apply to the department [COMMISSION] for a variance from
11 regulations. The department [COMMISSION] may grant the variance, but
12 only after public hearing following due notice, if it finds that

13 (1) the emissions occurring or proposed to occur do not
14 endanger human health or safety; and

15 (2) compliance with the regulations from which variance is
16 sought would produce serious hardship without equal or greater benefits
17 to the public.

18 (b) No variance may be granted under this section until the
19 department [COMMISSION] has considered the relative interests of the
20 applicant, other owners of property likely to be affected by the
21 emissions and the general public.

22 (c) A variance or its renewal, granted under (a) of this section,
23 shall be for periods and under conditions consistent with the reasons
24 for it and within the following limitations:

25 (1) If the variance is granted on the ground that there is
26 no practicable means known or available for the adequate prevention,
27 abatement or control of the air pollution involved, it shall be only
28 until the necessary means for prevention, abatement or control become
29 known and available, subject to the taking of substitute or alternate

1 measures that the department [COMMISSION] may prescribe.

2 (2) If the variance is granted on the ground that compliance
3 with the particular requirement from which variance is sought will
4 necessitate the taking of measures which, because of their extent or
5 cost, must be spread over a considerable period, it shall be for a
6 period not to exceed the reasonable time which in the opinion of the
7 department [COMMISSION] is necessary. A variance granted on this
8 ground shall contain a timetable for taking action in an expeditious
9 manner and shall be conditioned on adherence to the timetable.

10 (3) If the variance is granted on the ground that it is
11 justified to relieve or prevent hardship of a kind other than that pro-
12 vided in (c)(1) and (2) of this section, it shall be for not more than
13 one year.

14 (d) A variance granted under this section may be renewed on terms
15 and conditions and for periods which would be appropriate on initial
16 granting of a variance. If complaint is made to the department
17 [COMMISSION] on account of the variance no renewal of it may be granted
18 unless, after public hearing on the complaint following due notice,
19 the department [COMMISSION] finds that renewal is justified. No renewal
20 may be granted except upon application for it. This application shall
21 be filed at least 60 days before the expiration of the variance.

22 Immediately upon receipt of an application for renewal the department
23 [COMMISSION] shall give public notice of it.

24 (e) A variance or renewal is not a right of the applicant but
25 shall be in the discretion of the department [COMMISSION]. However, a
26 person adversely affected by a variance or renewal granted by the
27 department [COMMISSION] may obtain judicial review of the department
28 [COMMISSION] order in accordance with the Administrative Procedure
29 Act (AS 44.62). Judicial review of the denial of a variance or renewal

1 may be had only on the ground that the denial was arbitrary or cap-
2 ricious.

3 (f) No variance or renewal granted under this section may be
4 construed to prevent or limit the application of the emergency pro-
5 visions of sec. 130 of this chapter.

6 * Sec. 23. AS 18.30.150 is amended to read:

7 Sec. 18.30.150. APPLICABILITY OF THE ADMINISTRATIVE PROCEDURE
8 ACT. Except as otherwise specifically provided in this chapter, the
9 Administrative Procedure Act (AS 44.62) governs the activities and the
10 proceedings of the department [COMMISSION].

11 * Sec. 24. AS 18.30.160 is amended to read:

12 Sec. 18.30.160. CONFIDENTIALITY OF RECORDS. Unless the owner or
13 operator expressly agrees to their publication or availability to the
14 general public, records and information in the possession of the
15 department [COMMISSION] concerning a contaminant source, which records
16 and information relate to production or sales figures or to processes
17 or production unique to the owner or operator or which would tend to
18 adversely affect his competitive position, as certified by him, are
19 only for the confidential use of the department [COMMISSION] on an
20 incamera basis in the administration of this chapter. The department
21 [COMMISSION] may, nevertheless, use these records and information in
22 compiling analyses or summaries relating to the general condition of
23 the outdoor atmosphere so long as the owner or operator is not identi-
24 fied and no information specified in the preceding sentence is revealed.

25 * Sec. 25. AS 18.30.170 is amended to read:

26 Sec. 18.30.170. LOCAL AIR POLLUTION CONTROL PROGRAMS. (a) A
27 municipality with a population in excess of 1,000 may, within five
28 years from August 5, 1969, establish and administer within its juris-
29 diction an air pollution control program. Organized boroughs may

1 establish the air pollution control program on an areawide basis, and
2 the exercise of powers with respect to the program is not subject to
3 the restrictions on acquiring additional areawide powers specified in
4 AS 07.15.350. However, the weighted vote shall apply to the exercise
5 of powers as provided in AS 07.20.070(d). This program shall

6 (1) provide by ordinance for requirements compatible with,
7 or stricter or more extensive than those imposed by secs. 120, 130 and
8 140 of this chapter and regulations issued under those sections;

9 (2) provide for the enforcement of the requirements by
10 appropriate administrative and judicial process;

11 (3) provide for administrative organization, staff, finan-
12 cial and other resources necessary to effectively and efficiently carry
13 out the program; and

14 (4) be approved by the department [COMMISSION] as adequate
15 to meet the requirements of this chapter and applicable regulations.

16 (b) Other municipalities may establish and administer air pol-
17 lution control programs if they meet the requirements of (a)(1) - (4)
18 of this section.

19 (c) A municipality may administer all or part of its air pollu-
20 tion control program in cooperation with one or more municipalities.

21 (d) If the department [COMMISSION] finds that the location,
22 character or extent of particular concentrations of population, air
23 contaminant sources, the geographic, topographic or meteorological
24 considerations, or a combination of these factors, make impracticable
25 the maintenance of appropriate levels of air quality without an area-
26 wide air pollution control program, the department [COMMISSION] may
27 determine the boundaries within which the program is necessary and
28 require it as the only acceptable alternative to direct state adminis-
29 tration.

1 * Sec. 26. AS 18.30.180 is amended to read:

2 Sec. 18.30.180. ABSENCE OF LOCAL PROGRAM. (a) If a municipality
3 authorized to establish or participate in an air pollution control
4 program under sec. 170(a) or (d) of this chapter fails to establish
5 a program within the time specified, or if the department [COMMISSION]
6 has reason to believe that an air pollution control program in force
7 under that section is inadequate to prevent and control air pollution
8 in the jurisdiction to which the program applies, or that the program
9 is being administered in a manner inconsistent with the requirements
10 of this chapter the department [COMMISSION] shall, following due
11 notice, conduct a hearing on the matter.

12 (b) If, after the hearing, the department [COMMISSION] determines
13 that any of the deficiencies enumerated in (a) of this section exist,
14 it shall require that necessary corrective action be taken within a
15 reasonable period of time, not to exceed 90 days.

16 (c) If the municipality or the district set up under sec. 170(a)
17 or (d) of this chapter fails to take the necessary corrective action
18 within the time specified the department [COMMISSION] shall administer
19 in the municipality or district all of the regulatory provisions of
20 this chapter. The department's [COMMISSION'S] air pollution control
21 program shall then supersede municipal air pollution ordinances,
22 regulations, and requirements in the affected jurisdiction.

23 (d) If the department [COMMISSION] finds that the control of a
24 particular class of air contaminant source, because of its complexity
25 or magnitude, is beyond the reasonable capability of the local air
26 pollution control authorities or may be more efficiently and economi-
27 cally performed at the state level, it may assume and retain juris-
28 diction over that class of air contaminant source. Classifications
29 under this subsection may be either on the basis of the nature of the

1 sources involved or on the basis of their relationship to the size of
2 the communities in which they are located.

3 (e) A municipality in which the department [COMMISSION] adminis-
4 ters the air pollution control program under this section may with the
5 approval of the department [COMMISSION] establish or resume a municipal
6 program which meets the requirements of sec. 170(a) of this chapter.

7 (f) The provisions of this chapter do not nullify a local air
8 pollution program in operation on August 5, 1969, if the program meets
9 the requirements of sec. 170(a) of this chapter within two years from
10 that date. Approval required from the department [COMMISSION] shall
11 be considered granted unless the department [COMMISSION] takes explicit
12 action to the contrary.

13 * Sec. 27. AS 18.30.190 is amended to read:

14 Sec. 18.30.190. STATE AND FEDERAL AID. (a) A local government
15 unit with an air pollution program meeting the requirements of this
16 chapter and the regulations issued under it may apply to the state for
17 state aid equal to 75 per cent of the locally funded annual operating
18 cost of the program. For a joint or areawide program established under
19 sec. 170 of this chapter application may be made for state aid equal to
20 75 per cent of the locally funded operating cost. In the case of a
21 joint or areawide program or, if the department [COMMISSION] finds that
22 one or more elements of separately administered programs are being
23 carried on jointly in a way that materially increases the efficiency
24 or effectiveness of the programs, it may aid the element carried on
25 under the interlocal agreement at the rate applied to joint and area-
26 wide programs generally.

27 (b) Municipalities of the state and interlocal air pollution
28 control agencies established under this chapter may apply for, receive,
29 administer and expend federal aid for the control of air pollution or

1 the development and administration of programs related to that con-
2 trol, if the application is first submitted to and approved by the
3 department [COMMISSION]. The department [COMMISSION] shall approve
4 an application if it is consistent with this chapter and other appli-
5 cable requirements of law.

6 * Sec. 28. AS 18.30.200 is amended to read:

7 Sec. 18.30.200. MOTOR VEHICLE POLLUTION. (a) As the state of
8 knowledge and technology relating to the control of emissions from
9 motor vehicles may permit or make appropriate, and in furtherance of
10 the purposes of this chapter, the department [COMMISSION] may provide
11 by regulations for the control of these emissions. The regulations
12 may prescribe requirements for the installation and use of equipment
13 designed to reduce or eliminate emissions and for the proper mainten-
14 ance of this equipment.

15 (b) Except as permitted by law, no person may fail to maintain
16 in operation any equipment or feature constituting an operational
17 element of the air pollution control system or mechanism of a motor
18 vehicle if it is required by regulations of the department [COMMISSION]
19 to be maintained in or on the vehicle. A failure to maintain this
20 equipment in operation shall subject the owner or operator to suspen-
21 sion or cancellation of the registration of the vehicle, and it may
22 not be again eligible for registration until this equipment is restored
23 to operation.

24 (c) The department [COMMISSION] shall consult with the Depart-
25 ment of Public Safety and furnish it with technical information, in-
26 cluding testing techniques, standards and instructions for emission
27 control features and equipment.

28 (d) When the department [COMMISSION] has issued regulations
29 requiring the maintenance of features or equipment in or on motor

1 vehicles for the purpose of controlling emission from the vehicles,
2 no motor vehicle may be issued a certificate of inspection and approval
3 if required, unless the required features or equipment have been
4 inspected in accordance with the standards, testing techniques and
5 instructions furnished by the board and have been found to meet those
6 standards.

7 * Sec. 29. AS 18.30.215 is repealed.

8 * Sec. 30. AS 18.30.220 is amended to read:

9 Sec. 18.30.220. ENFORCEMENT (a) When the department [COMMISSION]
10 has reason to believe that a violation of this chapter or a regulation
11 issued under this chapter has occurred, the department [COMMISSION]
12 may serve written notice upon the suspected violator. The notice
13 shall specify the provision believed to be violated and the facts
14 believed to constitute the violation and may include an order that
15 necessary corrective action be taken within a reasonable time. This
16 order becomes final unless within 15 days after the notice and order
17 are served the person named requests in writing a hearing before the
18 department [COMMISSION], which hearing shall be held within a reason-
19 able time. In place of an order the department [COMMISSION] may
20 require the suspected violator to appear before the board for a hear-
21 ing at a time and place specified in the notice and answer the
22 charges.

23 (b) If, after a hearing held under (a) of this section, the
24 department [COMMISSION] finds that a violation has occurred, it shall
25 affirm or modify its order previously issued or issue an appropriate
26 order for taking corrective action. If the department [COMMISSION]
27 finds that no violation has occurred it shall rescind its previous
28 order, if any. An order issued as part of a notice or after a hearing
29 may prescribe the date by which the violation shall cease and may

1 prescribe timetables for necessary action in preventing, abating or
2 controlling the emissions.

3 (c) The department [COMMISSION] may make efforts to obtain
4 voluntary compliance through warning, conference or other appropriate
5 means.

6 (d) In connection with a hearing held under this section, the
7 department [COMMISSION] has the power and upon application by a party
8 to the hearing it has the duty to compel the attendance of witnesses
9 and the production of evidence on behalf of all parties.

10 * Sec. 31. AS 18.30.230(d) is amended to read:

11 (d) Conviction as specified in (a) and (b) of this section is
12 not a bar to enforcement of this chapter, and the regulations and
13 orders issued under it. The department [COMMISSION] has the power to
14 institute and maintain in the name of the state all enforcement
15 proceedings.

16 * Sec. 32. AS 18.30.250(3) is repealed.

17 * Sec. 33. AS 18.30.250 is amended by adding a new subsection to read:
18 (6) "department" means Department of Environmental Affairs.

19 * Sec. 34. AS 18.35.090(2) is amended to read:

20 (2) "department" means the Department of Environmental
21 Affairs [HEALTH AND WELFARE].

22 * Sec. 35. AS 18.45.030 is amended by adding a new subsection to read:

23 (10) the Department of Environmental Affairs particularly
24 as to any adverse effect the presence of radioactive material in a
25 given area would have on the ecology and general environmental quality
26 of the area.

27 * Sec. 36. AS 18.60.560(1) is amended to read:

28 (1) "department" means the Department of Environmental
29 Affairs [HEALTH AND WELFARE];

1 * Sec. 37. AS 19.05.010 is amended to read:

2 Sec. 19.05.010. DEPARTMENT TO SUPERVISE HIGHWAY SYSTEM. The
3 department, subject to AS 41.03, is responsible for the planning, con-
4 struction, maintenance, protection and control of the state highway
5 system.

6 * Sec. 38. AS 19.05.030 is amended to read:

7 Sec. 19.05.030. DUTIES OF DEPARTMENT. Subject to AS 41.03, the
8 [THE] department has the following duties:

- 9 (1) direct approved highway planning and construction and
10 maintenance, protection and control of highways;
11 (2) employ assistants and employees;
12 (3) certify and approve vouchers;
13 (4) provide a program of highway research;
14 (5) prepare a budget;
15 (6) review the annual highway program.

16 * Sec. 39. AS 19.05.040 is amended to read:

17 Sec. 19.05.040. POWERS OF DEPARTMENT. Subject to AS 41.03, the
18 [THE] department may

- 19 (1) acquire property;
20 (2) exercise the power of eminent domain;
21 (3) take immediate possession of real property, or any inter-
22 est in it under a declaration of taking or by other lawful means;
23 (4) acquire rights-of-way for present or future use;
24 (5) control access to highways;
25 (6) regulate roadside development;
26 (7) preserve and maintain the scenic beauty along state
27 highways;
28 (8) dispose of excess property;
29 (9) accept and dispose of federal funds or property

1 available for highway construction, maintenance, or equipment;

2 (10) enter into contracts or agreements relating to high-
3 ways with the federal government, municipalities, a political sub-
4 division, or with a foreign government, if the contract is approved by
5 the federal government; and

6 (11) exercise any other power necessary to carry out the
7 purpose of chs. 5 - 25 of this title.

8 * Sec. 40. AS 27.05.010 is amended to read:

9 Sec. 27.05.010. DEPARTMENT RESPONSIBLE FOR MINERAL RESOURCES.
10 Subject to AS 41.03, the [THE] department has charge of all matters
11 affecting exploration, development and mining of the mineral resources
12 of the state, the collection and dissemination of all official infor-
13 mation relative to the mineral resources, and mines and mining projects
14 of the state, and the administration of the laws with respect to all
15 kinds of mining.

16 * Sec. 41. AS 31.05.030 is amended to read:

17 Sec. 31.05.030. POWERS AND DUTIES OF DEPARTMENT. (a) The
18 department, subject to AS 41.03, has jurisdiction and authority over
19 all persons and property, public and private, necessary to carry out
20 the purposes and intent of this chapter.

21 (b) The department shall investigate to determine whether or not
22 waste exists or is imminent, or whether or not other facts exist
23 which justify or require action by it.

24 (c) The department, subject to AS 41.03, shall adopt rules,
25 regulations and orders and take other appropriate action to carry out
26 the purposes of this chapter.

27 (d) The department, subject to AS 41.03, may require

28 (1) identification of ownership of wells, producing leases,
29 tanks, plants and drilling structures;

1 (2) the making and filing of reports, well logs, drilling
2 logs, electric logs, lithologic logs, directional surveys, and all
3 other subsurface information on a well drilled for oil or gas, or for
4 the discovery of oil or gas, or for geologic information, and the
5 required reports and information shall be filed within 30 days after
6 the completion, abandonment, or suspension of the well, and required
7 reports and information marked "confidential" shall be kept confiden-
8 tial for 24 months after the 30-day filing period, unless the owner
9 gives written permission to release the reports, logs, or other infor-
10 mation at an earlier date;

11 (3) the drilling, casing and plugging of wells in a manner
12 which will prevent the escape of oil or gas out of one stratum into
13 another, the intrusion of water into an oil or gas stratum, the pollu-
14 tion of fresh water supplies by oil, gas or salt water, and prevent
15 blowouts, cavings, seepages and fires;

16 (4) the furnishing of a reasonable bond with sufficient
17 surety conditions for the performance of the duty to plug each dry or
18 abandoned well or the repair of wells causing waste;

19 (5) the operation of wells with efficient gas-oil and
20 water-oil ratios, and may fix these ratios;

21 (6) the gauging or other measuring of oil and gas to deter-
22 mine the quality and quantity of oil and gas;

23 (7) every person who produces oil or gas in the state to
24 keep and maintain for a period of five years in the state complete and
25 accurate records of the quantities of oil and gas produced, which
26 shall be available for examination by the department or its agents at
27 all reasonable times.

28 (e) The department, subject to AS 41.03, may regulate, for
29 conservation purposes

- 1 (1) the drilling, producing and plugging of wells;
- 2 (2) the shooting and chemical treatment of wells;
- 3 (3) the spacing of wells;
- 4 (4) the disposal of salt water, nonpotable water and oil
- 5 field wastes;
- 6 (5) the contamination or waste of underground water.

7 (f) The department may classify wells as oil or gas wells for
8 purposes material to the interpretation or enforcement of this chapter.

9 * Sec. 42. AS 31.05.040(a) is amended to read:

10 (a) The department, subject to AS 41.03, shall prescribe rules
11 and regulations governing practice and procedure before it under this
12 chapter.

13 * Sec. 43. AS 31.05.090 is amended to read:

14 Sec. 31.05.090. PERMITS AND FEES TO DRILL WELLS. A person
15 desiring to drill a well in search of oil or gas shall notify the
16 Department of Natural Resources and the Department of Environmental
17 Affairs [DEPARTMENT] of his intent on a form prescribed by the
18 Department of Natural Resources and the Department of Environmental
19 Affairs [DEPARTMENT] and shall pay a fee of \$50 to the Department of
20 Natural Resources for a permit for each well sought to be drilled.
21 Upon receipt of notification and fee, the departments [DEPARTMENT]
22 shall timely and jointly [PROMPTLY] issue a permit to drill, unless
23 the drilling of the well is contrary to law or a rule, regulation or
24 order of either [THE] department. The drilling of a well is prohibited
25 until a permit to drill is obtained in accordance with this chapter.

26 * Sec. 44. AS 31.05.150 is amended to read:

27 Sec. 31.05.150. PENALTIES. (a) A person who wilfully violates
28 a provision of this chapter, or a rule, regulation or order of the
29 Department of Natural Resources and the Department of Environmental

1 Affairs [DEPARTMENT] adopted under this chapter is subject to a
2 penalty of not more than \$1,000 for each act of violation and for each
3 day that the violation continues, unless the penalty for violation is
4 otherwise provided for and made exclusive in this chapter.

5 (b) If a person, for the purpose of evading this chapter, or any
6 rule, regulation or order of the Department of Natural Resources and
7 the Department of Environmental Affairs [DEPARTMENT] adopted under
8 this chapter, wilfully makes or has made a false entry in a record,
9 account or memorandum required by this chapter, or by a rule, regula-
10 tion or order, or wilfully omits, or causes to be omitted, from a
11 record, account or memorandum, full, true and correct entries as re-
12 quired by this chapter, or by a rule, regulation or order, or removes
13 from the state or destroys, mutilates, alters or falsifies such record,
14 account or memorandum, the person is guilty of a misdemeanor, and upon
15 conviction is punishable by a fine of not more than \$5,000, or by
16 imprisonment in jail for not more than six months, or by both.

17 (c) A person who knowingly aids or abets another person in the
18 violation of any provision of this chapter, or a rule, regulation or
19 order of the Department of Natural Resources and the Department of
20 Environmental Affairs [DEPARTMENT] adopted under this chapter is sub-
21 ject to the same penalty as that prescribed by this chapter for the
22 violation by the other person.

23 (d) The penalties provided in this section are recoverable by
24 suit filed by the attorney general in the name and on behalf of the
25 Department of Natural Resources and the Department of Environmental
26 Affairs [DEPARTMENT] in the superior court of the judicial district in
27 which the defendant resides or in which any defendant resides, if
28 there is more than one defendant, or in the superior court of the
29 judicial district in which the violation occurs. The payment of a

1 penalty does not relieve a person on whom the penalty is imposed from
2 liability to any other person for damages arising out of the violation.

3 * Sec. 45. AS 31.05.160 is amended to read:

4 Sec. 31.05.160. INJUNCTIVE RELIEF. (a) Whenever it appears
5 that a person is violating or threatening to violate a [ANY] provision
6 of this chapter, or a [ANY] rule, regulation or order of the Depart-
7 ment of Natural Resources or the Department of Environmental Affairs
8 [DEPARTMENT], the department or departments shall bring suit against
9 that person in the superior court of the judicial district where the
10 violation occurs or is threatened, to restrain the person from con-
11 tinuing the violation or from carrying out the threat of violation.
12 In the suit, the court shall have jurisdiction to grant to the depart-
13 ment or departments, without bond or other [OTHERWISE] undertaking,
14 [SUCH] prohibitory and mandatory injunctions as the facts warrant.

15 (b) If the Department of Natural Resources or the Department of
16 Environmental Affairs [DEPARTMENT] fail [FAILS] to bring suit to
17 enjoin a violation or threatened violation within 10 days after re-
18 ceipt of written request to do so by a person who is or will be adverse-
19 ly affected by the violation, the person making the request may bring
20 suit in his own behalf to restrain the violation or threatened viola-
21 tion in the court in which the departments [DEPARTMENT] may bring
22 suit. If the court finds that injunctive relief should be granted,
23 the department or departments shall be made a party and shall be
24 substituted for the person who brought the suit, and the injunction
25 shall be issued as if the department or departments had at all times
26 been the plaintiff.

27 * Sec. 46. AS 31.05.170(3) is amended to read:

28 (3) "department" means the Department of Natural
29 Resources unless the context appears otherwise;

1 * Sec. 47. AS 35.05.010 is amended to read:

2 Sec. 35.05.010. PLANNING AND CONSTRUCTION. The department,
3 subject to AS 41.03, is responsible for the planning and construction
4 of public works.

5 * Sec. 48. AS 35.05.020 is amended to read:

6 Sec. 35.05.020. RULES AND REGULATIONS. The department, subject
7 to AS 41.03, shall adopt rules and regulations which it considers
8 necessary to carry out the purpose of this title.

9 * Sec. 49. AS 35.05.040 is amended to read:

10 Sec. 35.05.040. POWERS OF DEPARTMENT. The department, subject
11 to AS 41.03, may (1) acquire property; (2) exercise the power of eminent
12 domain; (3) take immediate possession of real property, or any interest
13 in it under a declaration of taking or by other lawful means; (4) ac-
14 quire rights-of-way for present or future use; (5) dispose of excess
15 property or property rights; (6) accept and dispose of federal funds
16 or property available for public works construction, maintenance, or
17 equipment; (7) enter into contracts or agreements relating to public
18 works with the federal government and political subdivisions, and also
19 enter into contracts with a foreign government if approved by the
20 federal government; (8) exercise any other power necessary to carry
21 out the purpose of this title; (9) lease or grant land or any interest
22 in land to the Alaska State Housing Authority on terms and conditions
23 prescribed by the department.

24 * Sec. 50. To provide for the orderly transfer of the responsibilities
25 and obligations of the division of lands, Department of Natural Resources,
26 to the division of land planning and classification, Department of Environ-
27 mental Affairs, existing regulations, and obligations incurred through
28 them, shall continue in full force and effect until lawfully amended or
29 withdrawn by the commissioner of environmental affairs.

1 * Sec. 51. AS 38.05.005 is amended to read:

2 Sec. 38.05.005. DIVISION OF LANDS. The commissioner shall con-
3 trol and supervise the division of lands created and established under
4 the Department of Environmental Affairs [NATURAL RESOURCES]. The
5 director has administrative powers and other delegated duties, as
6 prescribed by law or regulation.

7 * Sec. 52. AS 38.05.135 is amended to read:

8 Sec. 38.05.135. GENERALLY. Except as otherwise provided by the
9 Department of Environmental Affairs, valuable minerals deposits in
10 lands belonging to the state shall be open to exploration, development,
11 and the extraction of minerals. All lands not otherwise withdrawn,
12 together with tide, submerged, or shorelands, to which the state holds
13 title or to which the state may become entitled, may be obtained by
14 permit or lease for the purpose of exploration, development, and the
15 extraction of minerals. Except as specifically limited by secs. 135 -
16 180 of this chapter, lands may be withheld from lease application on a
17 first-come, first-served basis, and offered only on a competitive bid
18 basis when determined by the commissioner to be in the best interests
19 of the state. In unproven areas the commissioner may offer additional
20 incentives, including a reduction of royalty to a minimum of five per
21 cent in the case of oil and gas, and other terms in granting permit or
22 lease for exploration and development whenever it appears to be in the
23 best interests of the state to do so.

24 * Sec. 53. AS 38.05.145(a) is amended to read:

25 (a) Deposits of coal, phosphates, oil shale, sodium, potassium,
26 oil, gas, and state lands containing these deposits are subject to
27 disposition under rules and regulations [, RECOMMENDED BY THE DIRECTOR
28 AND] adopted by the commissioner, subject to approval by the Department
29 of Environmental Affairs, and the provisions of secs. 145 - 180 of

1 this chapter. In applying the acreage limitations the commissioner
2 may apply the rule of approximation. The uses of the rule of approxi-
3 mation made before March 31, 1960, by the commissioner are ratified.

4 * Sec. 54. AS 38.05.150(b) and (c) are amended to read:

5 (b) Thereafter the commissioner may, subject to AS 41.03 and
6 upon the request of a qualified applicant or on his own motion, from
7 time to time, offer the lands or deposits of coal for leasing. Each
8 lease shall be awarded to a qualified applicant by competitive bidding
9 or by the method which the commissioner adopts by general regulation.

10 (c) Where prospecting or exploration work is necessary to deter-
11 mine the existence or workability of coal deposits in an unclaimed and
12 undeveloped area, the commissioner, subject to AS 41.03, may issue to
13 qualified applicants prospecting permits for a term of two years, not
14 exceeding 5,120 acres. If within the period of two years the
15 permittee shows to the commissioner that the land contains coal in com-
16 mercial quantities and submits a satisfactory mining plan for the
17 coal's recovery, the permittee shall be entitled to a lease for all or
18 part of the land in his permit. A coal prospecting permit may be
19 extended by the commissioner for a period of two years, if he finds
20 that the permittee has been unable, with the exercise of reasonable
21 diligence, to determine the existence or workability of coal deposits
22 in the area covered by the permit and desires to prosecute further
23 prospecting or exploration, or for other reasons in the opinion of
24 the commissioner warranting extension.

25 * Sec. 55. AS 38.05.155(a) is amended to read:

26 (a) The commissioner, subject to AS 41.03, may lease to qualified
27 applicants lands belonging to the state which contain deposits of
28 phosphates and associated and related minerals, when in his judgment
29 it is in the public interest to do so. The commissioner may lease

1 land through advertisement, competitive bidding, or other methods
2 which he adopts by general regulation. The land shall be leased in
3 units reasonably compact in form and not exceeding 2,560 acres in
4 each unit.

5 * Sec. 56. AS 38.05.160(a) is amended to read:

6 (a) The commissioner, subject to AS 41.03, may lease to a
7 qualified person deposits of oil shale belonging to the state and the
8 surface of as much of the land containing these deposits, or land
9 adjacent to it, as may be required for the extraction and reduction of
10 the lease minerals. The lease may not exceed 5,120 acres of land,
11 and the terms of the lease shall be limited to the extraction of
12 minerals from the oil shale so leased. The lease may be for indeter-
13minate periods upon the conditions imposed by the commissioner.

14 * Sec. 57. AS 38.05.165(a) is amended to read:

15 (a) The commissioner, subject to AS 41.03, may grant a pros-
16 pecting permit to a qualified applicant. The permit gives the exclu-
17 sive right to prospect for chlorides, sulphates, carbonates, borates,
18 silicates, or nitrates of sodium in lands belonging to the state for
19 a period of not exceeding two years. The area included in a pros-
20 pecting permit shall not exceed 2,560 acres of land in reasonably
21 compact form. Upon showing to the satisfaction of the commissioner
22 that valuable deposits of sodium minerals have been discovered by the
23 permittee within the area covered by his permit, and that the land
24 is chiefly valuable for these deposits, the permittee is entitled to
25 a lease for all or a part of the land embraced in the prospecting
26 permit at a royalty of not less than two per cent of the quantity or
27 gross value of the output of sodium compounds and other related
28 products at the point of shipment to market. The commissioner, subject
29 to AS 41.03, may lease lands known to contain valuable deposits of

1 sodium compounds which are not covered by permits or leases through
2 advertisement, competitive bidding, or other methods which he adopts
3 by general regulation. The area covered by a lease may not exceed
4 2,560 acres.

5 * Sec. 58. AS 38.05.170(a) is amended to read:

6 (a) Subject to AS 41.03 and under [UNDER] rules and regulations
7 prescribed by the commissioner, the commissioner shall grant a pros-
8 pecting permit for sulphur to a qualified applicant. The permit gives
9 the applicant the exclusive right to prospect for sulphur, in lands
10 belonging to the state, for a period not exceeding two years. The
11 area included in a permit shall not exceed 2,560 acres of land in
12 reasonably compact form. Upon showing to the satisfaction of the
13 commissioner that valuable deposits of sulphur have been discovered
14 by the permittee within the area covered by his permit, and that the
15 land is chiefly valuable for these deposits, the permittee is entitled
16 to a lease for all or a part of the land embraced in the prospecting
17 permit, at a royalty of five per cent of the quantity or gross value
18 of the output of sulphur at the point of shipment to market. The
19 commissioner may lease lands known to contain valuable deposits of
20 sulphur which are not covered by permits or leases through advertise-
21 ment, competitive bidding, or other methods which he adopts by general
22 regulation. The area covered by the lease may not exceed 2,560 acres.

23 * Sec. 59. AS 38.05.175(a) is amended to read:

24 (a) Subject to AS 41.03 and under [UNDER] rules and regulations
25 prescribed by the commissioner, the commissioner may grant a pros-
26 pecting permit to a qualified applicant. The permit gives the appli-
27 cant the exclusive right to prospect for chlorides, sulphates,
28 carbonates, borates, silicates, or nitrates of potassium, in lands
29 belonging to the state, for a period not exceeding two years. The

1 area included in a permit may not exceed 2,560 acres of land in reason-
2 ably compact form. Upon showing to the satisfaction of the commis-
3 sioner that valuable deposits of potassium compounds have been dis-
4 covered by the permittee within the area covered by his permit, and
5 that the land is chiefly valuable for these deposits, the permittee
6 is entitled to a lease for all or a part of the land embraced in the
7 prospecting permit, at a royalty of not less than two per cent of
8 the quantity or gross value of the output of potassium compounds and
9 other related products, except sodium, at the point of shipment to
10 market. The commissioner may lease lands known to contain valuable
11 deposits of potassium compounds which are not covered by permits or
12 leases through advertisement, competitive bidding, or other methods
13 as he adopts by general regulation. The area covered by the lease may
14 not exceed 2,560 acres. ✓

15 * Sec. 60. AS 38.05.180(a), (h), (j), (k), (l), and (r) are amended
16 to read:

17 (a) Subject to AS 41.03, all [ALL] tide and submerged lands,
18 mental health lands, school lands, and university lands shall be
19 leased by competitive bidding, and whenever oil or gas is discovered
20 in commercial quantities, the commissioner shall determine the extent
21 of the area of lands in addition to tide, submerged, mental health
22 lands, school, or university lands in the same general area of the
23 discovery well which, by reason of the discovery, the commissioner
24 reasonably believes to be capable of producing oil or gas, and the
25 additional lands shall be leased to the highest responsible qualified
26 bidder by competitive bidding under general regulations, in units
27 of not exceeding 2,560 acres (except that tide and submerged lands
28 shall be leased in units of not exceeding 5,760 acres), which shall
29 be as nearly compact in form as possible, upon the payment by the

1 lessee of such bonus as may be accepted by the commissioner and of
2 such royalty as may be fixed in the lease which shall not be less than
3 12 1/2 per cent in amount or value of the production removed or sold
4 from the lease. All lands other than those above provided to be
5 leased by competitive bidding may be leased competitively or non-
6 competitively as determined by the commissioner to be in the best
7 interests of the state. Noncompetitive leases shall be issued in
8 units of not exceeding 2,560 acres in any one lease. Noncompetitive
9 leases shall be conditioned upon the payment by the lessee of a
10 royalty of 12 1/2 per cent in amount or value of the production re-
11 moved or sold from the lease. Competitive leases issued under this
12 subsection shall be for 10 years except that in the Cook Inlet sedi-
13 mentary basin, leases shall be for a primary term of not more than
14 10 years and not less than five years at the discretion of the com-
15 missioner, and shall continue so long thereafter as oil or gas is
16 produced in paying quantities. Noncompetitive leases issued under
17 this subsection shall be for a primary term of five years and shall
18 continue so long thereafter as oil or gas is produced in paying
19 quantities. If drilling has commenced on the expiration date of the
20 primary term of the lease and is continued with reasonable diligence,
21 such operations to include redrilling, sidetracking or other means
22 necessary to reach the originally proposed bottom hole location, the
23 lease shall continue in effect until 90 days after drilling has
24 ceased and for so long thereafter as oil or gas is produced in paying
25 quantities. If all or part of the lands covered by the lease are
26 lands that have been selected by the state under laws of the United
27 States granting lands to the state and a patent has not been issued
28 on them, a conditional lease may be issued. However, no term exten-
29 sion may be granted for the period during which the lease was

1 conditional.

2 (h) If lands described in the offer for a federal lease are
3 covered by nontidal water and are excluded from the federal lease on
4 the basis of navigability, the state shall, subject to AS 41.03 and
5 upon application within in 60 days after notice of the exclusion, if
6 not previously filed, grant a preference lease for the areas excluded,
7 carrying the same provisions as an ordinary state lease on the same
8 lands, except that the term of the state lease shall conform in all
9 respects to that of the adjoining federal lease including extended
10 terms. The state shall issue a shorelands preference lease where a
11 federal lease has been issued before March 31, 1960, and application
12 is made to the state before July 1, 1960. Where a federal lessee or
13 offeror failed before January 3, 1959, to file a proper application
14 for a preference right under the Act of July 3, 1958, he may apply for
15 a state preference lease under this section, subject to the rights of
16 intervening applicants.

17 (j) Upon timely application as provided by regulation and sub-
18 ject to AS 41.03, the state shall issue to the holder of a federal
19 lease a state shorelands lease covering land within the exterior
20 boundaries of the federal lease which has been excluded on the basis
21 of navigability or which are later administratively or judicially
22 determined to be "shorelands." The term of every shoreland lease
23 shall conform to that of the adjacent federal lease including extended
24 terms. The authority of the state to classify the lands as competi-
25 tive or noncompetitive shall not be impaired.

26 (k) Instead of the foregoing procedure, the federal lessee or
27 his assignee may, at his option, exercise his preference right for a
28 state lease on the shorelands included within the exterior boundaries
29 of his federal lease by applying to the [DIVISION OF LANDS,]

1 Department of Natural Resources. If, at the time of applying, the lands
2 are classified as noncompetitive, the state, subject to AS 41.03, shall,
3 upon application, issue a lease covering whatever shorelands are included
4 within the exterior boundaries of the federal lease. If, at the time of
5 applying, the shorelands included in the federal lease are classified as
6 competitive lands, the lands shall be leased by competitive bidding. The
7 competitive lease shall be issued to the federal lessee or his assignee
8 upon payment to the state of an amount equal to the highest bid for the
9 lease, plus the rental for the first year, payment to be made within 10
10 days after the lessee's or assignee's receipt of written notice from the
11 commissioner [DIRECTOR OF THE DIVISION OF LANDS] of the amount of the
12 highest bid. These leases, whether competitive or noncompetitive, shall
13 carry the same conditions as an ordinary state lease on the same lands,
14 except that the term of the state lease shall conform to that of the ad-
15 joining federal lease, including extended terms, and shall terminate if
16 the federal lease is terminated for any reason. The lease shall provide
17 for annual rental at the rate of \$100 a unit of 640 acres or part there-
18 of of the lands included within the federal lease until agreement is
19 reached between the state and the Secretary of the Interior of the
20 United States, or his authorized representative, as to the actual area
21 of the shorelands included in the federal lease, and as to the apportion-
22 ment between the state and federal government of the rental theretofore
23 paid under the federal lease.

24 (1) The lease of a record lessee of a federal oil and gas lease
25 who filed, or whose predecessor in interest filed, between July 3,
26 1958, and January 3, 1959, a proper preference right application under
27 the Act of July 3, 1958, (72 Stat. 322) to have included in the
28 lease the shorelands within the exterior boundaries of the lease and
29 which lease or any part of it has terminated or failed as to the

1 shorelands due to mispayment of or failure to pay the required rental
2 as to the shorelands in advance of the anniversary date of the federal
3 lease, shall be revived and reinstated as to the shorelands upon pay-
4 ment to the Bureau of Land Management of the United States Department
5 of the Interior or to the state of all rental payable as to the shore-
6 lands under the lease since January 3, 1959. The rights under this
7 section terminate 60 days after receipt of notice from the commissioner
8 [DIRECTOR], but not later than March 31, 1961. Nothing herein oper-
9 ates to extend a lease beyond its stated term.

10 (r) To avoid waste or to promote conservation of natural re-
11 sources, the commissioner, subject to AS 41.03, may authorize the sub-
12 surface storage of oil or gas whether or not produced from state lands
13 in lands leased or subject to lease under this section. This authori-
14 zation may provide for the payment of a storage fee or rental on the
15 stored oil or gas, or, instead of the fee or rental, for a royalty
16 other than that prescribed in the lease when the stored oil or gas is
17 produced in conjunction with oil or gas not previously produced. A
18 lease on which storage is so authorized shall be extended at least for
19 the period of storage and so long thereafter as oil or gas not previ-
20 ously produced is produced in paying quantities.

21 * Sec. 61. AS 38.05.185(a) is amended to read:

22 (a) The acquisition and continuance of rights in and to deposits
23 on state lands of minerals which on January 3, 1959, were subject to
24 location under the mining laws of the United States shall be governed
25 by secs. 185 - 280 of this chapter. Nothing in secs. 185 - 280 of
26 this chapter affects the law pertaining to the acquisition of rights
27 to mineral deposits owned by any other person or government. The
28 [DIRECTOR, WITH THE APPROVAL OF THE] commissioner, shall determine
29 those lands from which mineral deposits may be mined only under lease,

1 and, subject to the limitations of sec. 300 of this chapter, those
2 lands which shall be closed to mining.

3 * Sec. 62. AS 38.05.205(a) and (c) are amended to read:

4 (a) Prior discovery, location and filing shall initiate prior
5 rights to mineral deposits subject to secs. 185 - 280 of this chapter
6 in or on state lands, other than submerged lands, which are open to
7 mining leasing. Locations shall be made and certificates of location
8 recorded in accordance with sec. 195 of this chapter. If the located
9 lands are available only for leasing, an application form for a
10 mining lease shall be mailed to the locator by the commissioner
11 [DIRECTOR] upon request or upon receipt of notice that the location
12 has been made on lands open only for leasing. A lease application
13 shall be filed with the commissioner [DIRECTOR] by the locator within
14 90 days after receipt of the form. If the located lands are not
15 available for leasing, notice shall be given the locator by the
16 commissioner [DIRECTOR] and his prior rights shall terminate. A min-
17 ing lessee has the exclusive rights of possession and extraction of
18 all minerals subject to secs. 185 - 280 of this chapter lying within
19 the boundaries of his lease. Mining leases may be issued for one
20 location or for a group of contiguous locations held in common.
21 Minerals may not be mined and marketed or used until a lease is issued
22 except for limited amounts necessary for sampling or testing.

23 (c) A mining lease shall be for any period up to 55 years, and
24 the lessee has a right to a new lease at the end of each lease period.
25 The commissioner may make reasonable adjustments of the rental rate at
26 the end of each 20 year period, based upon changed conditions in
27 production costs and markets. A valid mining claim located and held
28 under sec. 195 of this chapter may be converted to a lease at any time
29 upon application by the owner, and issuance by the commissioner

1 [DIRECTOR]. No rights granted by a mining lease may be exercised
2 until the lease has been filed for record in the recording district
3 where the land is located.

4 * Sec. 63. AS 38.05.245(a) and (c) are amended to read:

5 (a) Subject to AS 41.03 and before [BEFORE] the discovery of
6 valuable minerals, an exclusive right to prospect by geophysical, geo-
7 chemical and similar methods may be acquired by marking boundaries
8 and posting a notice of location of a prospecting site in a manner and
9 containing such information as the commissioner requires. A pros-
10 pecting site may not exceed 2,640 feet in its longest dimension and
11 its boundaries shall run in the four cardinal directions. A certifi-
12 cate of location shall be filed for record in the recording district
13 where the prospecting site is located within 90 days after posting the
14 notice of location, and a copy of the certificate shall also be
15 mailed to the commissioner [DIRECTOR] within the 90 day period. The
16 locator of a prospecting site has the exclusive right to stake mining
17 claims or leasehold locations within the boundaries of his site.

18 (c) No person may locate more than six prospecting sites in one
19 calendar year in one recording district. A prospecting site remains
20 in effect for one year after the notice of location is posted and may,
21 at the discretion of the commissioner [DIRECTOR], be extended for one
22 year periods. During each year, work of a type compatible with the
23 purpose of this section and acceptable to the commissioner [DIRECTOR]
24 shall be done. The minimum expenditure for the work shall be estab-
25 lished by the commissioner uniformly for all prospecting sites.
26 Where adjacent prospecting sites are held in common the expenditure
27 may be made on any one or more locations. If a prospecting site
28 expires, neither the locator nor his successor in interest may again
29 locate the same prospecting site or any portion of it, as a

1 prospecting site, for a period of two years following the date of
2 expiration or abandonment; nor may he, during the two years, either
3 directly or indirectly, obtain a beneficial interest in the same pros-
4 pecting site or a portion of it.

5 * Sec. 64. AS 38.05.250(a) and (b) are amended to read:

6 (a) Subject to AS 41.03, the [THE] exclusive right to prospect
7 for deposits of minerals subject to secs. 185 - 275 of this chapter
8 in or on tide and submerged state lands may be granted by a permit
9 issued by the commissioner [DIRECTOR]. Permits shall be granted to
10 the first qualified applicant. No permit may include an area larger
11 than 2,560 acres, subject to the rule of approximation. Lands subject
12 to a prospecting permit shall be as compact in form as possible taking
13 into consideration the area involved. The term of the permit shall be
14 10 years. Prospecting permits shall be conditioned upon payment of
15 rental against which credit shall be given for useful expenditures on
16 land covered by the permit or group of contiguous permits under common
17 ownership or assignment. The rental shall be \$1 per acre for the
18 first two-year period of the permit, payable at the end of the period,
19 and \$1 per acre for each year thereafter, payable at the end of each
20 year. No minerals from lands under a prospecting permit may be mined
21 and marketed or used, except for limited amounts necessary for sampling
22 or testing.

23 (b) Upon discovery, the right to possess and extract the miner-
24 als may be acquired by noncompetitive lease. A noncompetitive lease
25 shall be granted to a holder of a prospecting permit for so much of
26 the land subject to the permit as is shown to the satisfaction of the
27 commissioner [DIRECTOR] to contain workable mineral deposits. Sub-
28 merged lands containing known deposits of minerals subject to secs.
29 185 - 275 of this chapter may, in the discretion of the commissioner

1 [DIRECTOR], be offered by competitive bid. These lands shall be
2 leased to the responsible qualified person offering the highest amount
3 of cash bonus.

4 * Sec. 65. AS 38.05.255 is amended to read:

5 Sec. 38.05.255. SURFACE USE. Surface uses of land or waters
6 included within mining properties by owners of those properties shall
7 be limited to those necessary for the prospecting for, extraction of,
8 or basic processing of mineral deposits and shall be subject to
9 AS 41.03 and reasonable concurrent uses. Subject to AS 41.03, permits
10 [PERMITS] for millsites and tailings disposal may be granted by the
11 commissioner [DIRECTOR]. The permits shall be conditioned upon pay-
12 ment of a reasonable charge for the use and continuance of the limited
13 use. Timber from lands open to mining without lease, except timber-
14 lands, may be used by a mining claimant or prospecting site locator
15 for the mining or development of his location or adjacent claims under
16 common ownership. On other lands, timber may be acquired as provided
17 elsewhere in this chapter. Use of water shall be made in accordance
18 with sec. 260 of this chapter and rules and regulations adopted under
19 it or in accordance with any law amending or superseding that section.

20 * Sec. 66. AS 38.05.265 is amended to read:

21 Sec. 38.05.265. ABANDONMENT. Failure to (1) properly file for
22 record a certificate of location or a statement of annual labor, or
23 (2) file with the commissioner [DIRECTOR] within the time prescribed
24 a lease application or a copy of a prospecting site location certifi-
25 cate, or (3) pay rental or receive credit for rental, or (4) keep
26 location boundaries clearly marked, all as required by this article and
27 by regulations adopted under secs. 185 - 280 of this chapter, consti-
28 tutes abandonment of all rights acquired under the mining lease,
29 location, or site involved, and it is subject to relocation by others.

1 If a location is not relocated by another person within one year after
2 such failure, or, in the case of a prospecting site, two years, the
3 locator or claimant of the abandoned location, or his successor in
4 interest, may return to relocate it as though it had never been lo-
5 cated. A statement of annual labor which does not accurately set out
6 the essential facts is void and of no effect.

7 * Sec. 67. AS 38.05.270 is amended to read:

8 Sec. 38.05.270. TRANSFERS. The sale, lease or other transfer
9 of mining property or interest in mining property shall be recorded or
10 shall be approved by the commissioner [DIRECTOR] in compliance with
11 such regulations as the commissioner may adopt. The heirs and assigns
12 of mining property or interest in mining property have the same rights
13 and duties as their predecessors.

14 * Sec. 68. AS 38.05.275 is amended to read:

15 Sec. 38.05.275. RECOGNITION OF LOCATIONS. Mining locations made
16 on state lands, including shorelands, tidelands or submerged lands,
17 or state selected lands, under secs. 185 - 280 of this chapter or in
18 the manner described in AS 27.10.010 - 27.10.240 acquire for the
19 locator mining rights under secs. 185 - 280 of this chapter, subject
20 to existing claims and to any denial of or restriction in the tenta-
21 tive approval of state selection or the patent of the lands to the
22 state. If shorelands, tidelands or submerged lands are included in a
23 mining location or within the projected boundaries of a mining location
24 made in accordance with this section, the locator is required to file
25 a certificate of location with the commissioner [DIVISION OF LANDS]
26 within 90 days following the date of posting the notice of location,
27 in addition to filing a certificate of location as required by sec.
28 195 of this chapter. The certificate of location must identify the
29 position of the mining location in the system of rectangular or

1 (1) "acquired lands" means lands belonging to the state
2 including tide, submerged and shorelands which have been obtained by
3 escheat, purchase, or any means other than by general land grant;

4 (2) "agricultural lands" means lands chiefly valuable for
5 agricultural purposes;

6 (3) "commissioner" means the commissioner of the Department
7 of Environmental Affairs as used in AS 38.05.005 - AS 38.05.130 and
8 AS 38.05.290 - AS 38.05.348 and "commissioner" means the commissioner
9 of the Department of Natural Resources as used in AS 38.05.135 -
10 AS 38.05.285;

11 (4) "department" means the Department of Environmental
12 Affairs as used in AS 38.05.005 - AS 38.05.130 and AS 38.05.290 -
13 AS 38.05.348 and "department" means the Department of Natural Resources
14 as used in AS 38.05.135 - AS 38.05.285;

15 (5) "director" means the director of the division of land
16 planning and classification, Department of Environmental Affairs
17 [LANDS OF THE DEPARTMENT OF NATURAL RESOURCES];

18 (6) "industrial and commercial lands" means lands chiefly
19 valuable for industrial trade, manufacturing or business use;

20 (7) "lieu and indemnity lands" means lands which the state
21 is entitled to select under the provisions of 38 Stat. 1214, as
22 amended (48 USC 353) or a similar statute to compensate for lands in
23 place of surveyed rectangulars, which have been lost to the state by
24 reason of deficient sections, prior rights, claims, withdrawals,
25 reservations and other appropriations;

26 (8) "mental health lands" means lands granted under Title I,
27 sec. 202 of Public Law 830, 84th Congress, 2nd Session, as heretofore
28 or hereafter amended;

29 (9) "mineral lands" means lands prospectively valuable for

1 mineral deposits;

2 (10) "park and recreation lands" means lands chiefly valu-
3 able for public park and recreation use;

4 (11) "preference right forest lease" means a lease granted
5 to a lessee whose United States Forest Service term special use per-
6 mit was cancelled to allow the land under permit to be selected by
7 the state;

8 (12) "preference right grazing lease" means a grazing lease
9 granted to a lessee whose federal grazing lease was cancelled to allow
10 the land under lease to be selected by the state;

11 (13) "rule of approximation" is the rule which is applied
12 in determining whether or not a lease complies with the area limits
13 set forth in this chapter and regulations adopted under it and in
14 keeping the boundaries of leased lands coincidental with legal sub-
15 divisions; under the rule, if the area covered by a lease in excess of
16 the permitted maximum is smaller than the area of any deficiency that
17 would result by eliminating from the lease the smallest legal subdi-
18 vision covered by the lease or application for lease, the excess area
19 will be permitted to remain in the lease; if the excess area is great-
20 er than the deficient area would be, then the smallest legal subdivi-
21 sion will be eliminated from the lease;

22 (14) "school lands" means those rectangular sections 16
23 and 36 within each township surveyed on or before January 3, 1959, and
24 confirmed and transferred to the State of Alaska upon its admission
25 under sec. 6 (k), Alaska Statehood Act, 72 Stat. 339, and any other
26 lands designated solely for school revenues;

27 (15) "shorelands" means lands belonging to the state which
28 are covered by nontidal waters that are navigable under the laws of
29 the United States up to ordinary high water mark as modified by

1 accretion, erosion, or reliction;

2 (16) "state lands" or "lands" means all lands, including
3 shore, tide and submerged lands, or resources belonging to or acquired
4 by the state;

5 (17) "submerged lands" means lands covered by tidal waters
6 between the line of mean low water and seaward to a distance of three
7 geographical miles or further as may hereafter be properly claimed by
8 the state;

9 (18) "tidelands" means those lands which are periodically
10 covered by tidal waters between the elevation of mean high and mean
11 low tides;

12 (19) "timber lands" and "material lands" mean state lands
13 chiefly valuable for materials, including, but not limited to, sand,
14 stone, gravel, pumice, common clay, or timber and other forest pro-
15 ducts;

16 (20) "university lands" means all sections 33 reserved to
17 the university under 38 Stat. 1214, as amended (48 USC 353) and all
18 lands granted to or reserved for the benefit of the university;

19 (21) "grazing lands" means lands chiefly valuable for
20 grazing purposes.

21 * Sec. 73. AS 38.07.060(3) is amended to read:

22 (3) "commissioner" means the commissioner of the Department
23 of Environmental Affairs [NATURAL RESOURCES].

24 * Sec. 74. AS 38.10.010 is amended to read:

25 Sec. 38.10.010. APPLICATION FOR TRANSFER. Upon application by
26 a municipal corporation with a population of less than 5,000 persons
27 according to the latest United States census entitled to a conveyance
28 of tide and submerged lands under AS 38.05.320(b), the director [OF
29 THE DIVISION OF LANDS OF THE DEPARTMENT OF NATURAL RESOURCES] may

1 make or provide for the making of surveys that may be required for the
2 transfer of tide and submerged lands to the municipal corporation, and
3 as may be required for subsequent conveyance of the tide and submerged
4 lands by the municipal corporation to occupants of those lands who
5 hold preference rights. When the application by the municipal corpora-
6 tion is accepted, the governing body of the municipal corporation
7 shall execute a contract on a form approved by the attorney general
8 providing for the survey under the sole management and supervision of
9 the director and for repayment according to the provisions of this
10 chapter.

11 * Sec. 75. AS 38.10.050 is amended to read:

12 Sec. 38.10.050. RULES, REGULATIONS AND PROCEDURES. The commis-
13 sioner [OF NATURAL RESOURCES], upon recommendation of the director,
14 may establish reasonable procedures and adopt reasonable rules and
15 regulations necessary to carry out this chapter.

16 * Sec. 76. AS 38.10 is amended by adding a new section to read:

17 Sec. 38.10.060. DEFINITIONS. As used in this chapter

18 (1) "commissioner" means the commissioner of the Department
19 of Environmental Affairs;

20 (2) "director" means the director of the division of land
21 planning and classification, Department of Environmental Affairs.

22 * Sec. 77. AS 38.12.010 - 050 are repealed.

23 * Sec. 78. AS 38.25.010 - 020 are repealed.

24 * Sec. 79. AS 38.30.320 is amended to read:

25 Sec. 38.30.330. CONTRACTS WITH THE ALASKA DIVISION OF LAND
26 PLANNING AND CLASSIFICATION [LANDS]. A native group may contract with
27 the director of land planning and classification [STATE DIVISION OF
28 LANDS] for the management of land; however, no sale, lease, exchange
29 or other disposal of this land may be made without the approval of

1 the governing body of the native group. The contract may cover all
2 or a portion of the land of the native group, shall be terminable upon
3 reasonable notice by either party, and shall provide for the terms of
4 management by reference to law or regulation or otherwise. The
5 Department of Environmental Affairs [NATURAL RESOURCES] is authorized
6 to receive and expend, subject to appropriation, funds necessary to
7 carry out its functions under this section.

8 * Sec. 80. AS 40.18.030(b) is amended to read:

9 (b) The Department of Environmental Affairs [ADMINISTRATION]
10 shall, under the Administrative Procedure Act (AS 44.62), adopt and
11 submit to the secretary of state for publication in the Alaska Admin-
12 istrative Code regulations governing the retention and disposal of
13 original records by state agencies. These regulations shall establish
14 disposal criteria for each agency.

15 * Sec. 81. AS 40.20.010 is amended to read:

16 Sec. 40.20.010. DISPOSAL OF PUBLIC RECORDS. Every public offi-
17 cer of the state who has in his custody public records considered by
18 him to be without legal or administrative value or historical interest
19 shall compile lists of these records sufficiently detailed to identify
20 them and submit them to the Department of Environmental Affairs
21 [ADMINISTRATION]. The Department of Environmental Affairs [ADMINIS-
22 TRATION] shall authorize the disposal and specify the method of dis-
23 posal of the listed records which it finds have no legal or adminis-
24 trative value or historical interest. Upon the request of the legal
25 custodian of the records, the Department of Environmental Affairs
26 [ADMINISTRATION] may authorize in advance the periodic disposal of
27 routine records that the department considers to have no legal or
28 administrative value or historical interest. After receipt of written
29 authorization from the Department of Environmental Affairs

1 [ADMINISTRATION], the legal custodian of the records may proceed with
2 the disposal of the records. The legal custodian shall file in the
3 office from which the records are drawn a descriptive list of all
4 records disposed of and a record of the disposal itself and shall trans-
5 mit copies of these documents to the Department of Environmental Affairs
6 [ADMINISTRATION] which shall file and preserve them. No public records
7 of the state government may be destroyed or disposed of except as pro-
8 vided in this section.

9 * Sec. 82. AS 40.20.020 is amended to read:

10 Sec. 40.20.020. TRANSFER OF PUBLIC RECORDS TO DEPARTMENT OF
11 ENVIRONMENTAL AFFAIRS [ADMINISTRATION]. The Department of Environmenta
12 Affairs [ADMINISTRATION] may negotiate for the transfer of and receive
13 public records from any agency of the state government. The Department
14 of Environmental Affairs [ADMINISTRATION] is made the legal custodian
15 of public records turned over to it. Any public officer of the state
16 government may turn over to the Department of Environmental Affairs
17 [ADMINISTRATION] those public records legally in his custody which are
18 not needed for the transaction of the business of his agency, if the
19 Department of Environmental Affairs [ADMINISTRATION] is willing to
20 receive and care for them. When public records are transferred, the
21 agency from which the records are transferred shall prepare a list
22 describing the records in terms sufficient to identify them. The
23 Department of Environmental Affairs [ADMINISTRATION] shall acknowledge
24 receipt of the list. Copies of the list shall be filed with the Depart-
25 ment of Environmental Affairs [ADMINISTRATION] and the agency trans-
26 ferring the records.

27 * Sec. 83. AS 40.20 is amended by adding a new section to read:

28 Sec. 40.20.040. PUBLIC RECORDS DEFINED. In this chapter "public
29 records" include all written or printed documents, books, papers,

1 letters, photographs, maps, sound recordings, tapes, and other records
2 regardless of physical form, made or received under law or in the
3 transaction of public business by an agency of the state or a political
4 subdivision of the state.

5 * Sec. 84. AS 41.05.025 is amended to read:

6 Sec. 41.05.020. COLLECTION, RECORDING, DISTRIBUTION AND USE OF
7 HYDROLOGICAL DATA. The Department of Environmental Affairs [HEALTH AND
8 WELFARE] has the following powers and duties:

9 (1) collect, record, evaluate, and distribute data on the
10 quantity, quality and location of underground, surface and coastal
11 waters of the state;

12 (2) publish or have published data on the waters of the
13 state;

14 (3) require the filing with it of the results and findings
15 of surveys of water quality, quantity and location, including water
16 well drilling logs, pumping tests, flow measurements, type of aquifer,
17 tidal currents and physical characteristics, and volume determinations:

18 (4) accept and expend funds for the purposes of secs. 10 -
19 30 of this chapter and enter into agreements with individuals, public
20 or private agencies, communities, private industry, state agencies and
21 agencies of the federal government.

22 * Sec. 85. AS 41.05.030 is amended to read:

23 Sec. 41.05.030. REGULATIONS BY DEPARTMENT OF ENVIRONMENTAL AFFAIRS
24 [HEALTH AND WELFARE]. The Department of Environmental Affairs [HEALTH
25 AND WELFARE] may adopt regulations relating to and providing for the
26 systematic collection, recording and distribution of data on the waters
27 of the state.

28 * Sec. 86. AS 41.10.100 is amended to read:

29 Sec. 41.10.100. DUTY OF BOARD TO ADVISE COMMISSIONER OF

ENVIRONMENTAL AFFAIRS [NATURAL RESOURCES]. At the request of the commissioner of environmental affairs [NATURAL RESOURCES], the board shall meet and advise him in the exercise of his powers, duties, and functions.

* Sec. 87. AS 41.10.110 is amended to read:

1 Sec. 41.10.110. POWERS OF COMMISSIONER OF ENVIRONMENTAL AFFAIRS
2 [NATURAL RESOURCES] RELATING TO SOIL CONSERVATION. The commissioner
3 of environmental affairs [NATURAL RESOURCES] has the power to

4 (1) conduct land capability surveys and investigations of
5 potential agricultural areas and of soil conservation and erosion con-
6 trol, including necessary preventative and control measures, in the
7 state; to publish the results of these surveys and investigations and
8 to disseminate information concerning the results of the surveys and
9 investigations to prospective settlers and the general public;

10 (2) make technical guidance and other assistance available
11 to settlers of new land to assure the development of the land in a
12 manner that will permit it to be used in accordance with its capabili-
13 ties and treated in accordance with its needs;

14 (3) carry out measures for soil conservation and erosion
15 control within the district, including engineering operations, methods
16 of cultivation, the growing of vegetation, and changes in use of land,
17 with the consent and cooperation of the land occupier or agency having
18 jurisdiction of the land;

19 (4) cooperate with, furnish assistance to, and enter into
20 agreements with, an occupier of land or agency within the district,
21 subject to the conditions as the board considers necessary to advance
22 the purposes of this chapter;

23 (5) construct, improve, and maintain soil erosion control
24 and conservation structures as are necessary and practical for carrying
25 out the purposes of this chapter;

26 (6) develop comprehensive plans for the conservation of
27 soil and control of soil erosion within the district, cropping programs,
28 tillage practices and changes in land use, and publish plans and infor-
29 mation and bring them to the attention of occupiers of lands within

1 the district;

2 (7) accept contributions in money, services, materials, or
3 equipment from the United States or its agencies, from an agency of the
4 state, and from any other source, for use in carrying out the purposes
5 of this chapter.

6 * Sec. 88. AS 41.10.130 is amended to read:

7 Sec. 41.10.130. CREATION OF SUBDISTRICTS. The commissioner of
8 environmental affairs [NATURAL RESOURCES] may create subdistricts of
9 the Soil Conservation District of Alaska, upon petition signed by 25
10 or more land occupiers setting out the proposed boundaries of the sub-
11 district. The commissioner shall fix a time for and give notice of a
12 public hearing based on the petition at a convenient location or loca-
13 tions within the boundaries of the proposed subdistrict. The commis-
14 sioner may fix the boundaries of the subdistrict created, supervise the
15 election of, prescribe the duties of, and install a governing body of
16 five land occupiers to be known as district supervisors for each sub-
17 district created, and delegate to the district supervisors powers as
18 the commissioner considers necessary to accomplish the purposes of this
19 chapter within the subdistrict boundaries.

20 * Sec. 89. AS 41.15.040 is amended to read:

21 Sec. 41.15.040. RIGHT OF ENTRY TO CONTROL AND SUPPRESS FIRES.
22 Upon approval by the commissioner or his authorized agent, employees
23 of the division of land planning and classification [LANDS], or of any
24 organization authorized to prevent, control or suppress fires or
25 destructive agents, and others assisting in the control or suppression
26 of fires upon request of an officer or employee of the United States
27 or the state may at any time enter upon any lands, whether publicly or
28 privately owned, for the purpose of preventing, suppressing or con-
29 trolling forest fires and destructive agents.

1 * Sec. 90. AS 41.15.170(1) is amended to read:

2 (1) "commissioner" means the commissioner of environmental
3 affairs [NATURAL RESOURCES];

4 * Sec. 91. AS 41.20.020 is amended to read:

5 Sec. 41.20.020. DUTIES OF DEPARTMENT OF ENVIRONMENTAL AFFAIRS
6 [NATURAL RESOURCES]. The Department of Environmental Affairs [NATURAL
7 RESOURCES] shall

8 (1) develop a continuing plan for the conservation and maxi-
9 mum use in the public interest of the scenic, historic, archaeologic,
10 scientific, biological, and recreational resources of the state;

11 (2) plan for and develop a system of state parks and recre-
12 ational facilities, to be established as the legislature authorizes
13 and directs;

14 (3) acquire by gift, purchase, or transfer from state or
15 federal agencies, or from individuals, corporations, partnerships or
16 associations, land necessary, suitable and proper for roadside, picnic,
17 recreational or park purposes;

18 (4) control, develop and maintain state parks and recreatio-
19 al areas;

20 (5) provide for the acquisition, care, control, supervision,
21 improvement, development, extension and maintenance of public recrea-
22 tional lands, and make necessary arrangements, contracts or commitments
23 for the improvement and development of lands acquired under secs. 10 -
24 40 of this chapter;

25 (6) establish, in accordance with the Administrative Proce-
26 dure Act, rules and regulations governing the use of state park and
27 recreational areas to protect the property and to preserve the peace;

28 (7) cooperate with the United States and its agencies and
29 local subdivisions of the state to secure the effective supervision,

1 improvement, development, extension, and maintenance of state parks,
2 state monuments, state historical areas, and state recreational areas,
3 and secure agreements or contracts for the purpose of secs. 10 - 40
4 of this chapter;

5 (8) encourage the organization of state public park and
6 recreational activities in the local political subdivisions of the
7 state;

8 (9) provide for consulting service designed to develop local
9 park and recreation facilities and programs;

10 (10) provide clearing-house services for other state agencies
11 concerned with park and recreation matters; and

12 (11) perform other duties as are prescribed by executive
13 order or by law.

14 * Sec. 92. AS 41.20.040 is repealed.

15 * Sec. 93. AS 41.20.050 is amended to read:

16 Sec. 41.20.050. SELECTION OF SITES. The Department of Environ-
17 mental Affairs [PUBLIC WORKS AND THE DEPARTMENT OF NATURAL RESOURCES,
18 JOINTLY,] shall select sites of 100 [TEN] acres or less for their
19 historic or scenic value, or for recreation beaches along waterways,
20 roadside rests for travelers resting, camping, or parking, and deter-
21 mine what facilities are necessary or desirable at these sites. Selec-
22 tion of the sites for roadside rests and recreation beaches shall be
23 based upon the flow of traffic and distances to and between facilities
24 otherwise provided. Insofar as possible, sites shall be located on,
25 or adjacent to, highway rights-of-way and small boat waterways. The
26 department [DEPARTMENT OF NATURAL RESOURCES] may acquire the sites
27 [JOINTLY] selected by grant, gift, purchase, lease, dedication or pre-
28 scription and hold them in the name of the state.

29 * Sec. 94. AS 41.20.050 is amended to read:

1 Sec. 41.20.060. CONSTRUCTION AND MAINTENANCE OF FACILITIES. The
2 Department of Public Works shall [MAY] construct and maintain facili-
3 ties at scenic sites, recreation beaches or roadside rests as are deter-
4 mined to be necessary and desirable by the Department of Environmental
5 Affairs. Facilities may include, but are not limited to, access roads,
6 camp facilities, including picnic tables, fire places, and toilets,
7 camping areas or other facilities that are considered necessary and
8 desirable for the convenience and benefit of travelers and small boat
9 operators.

10 * Sec. 95. AS 41.20.080 is amended to read:

11 Sec. 41.20.080. SELECTION. The Department of Environmental
12 Affairs [NATURAL RESOURCES], in consultation with the Departments of
13 Fish and Game and Public Works, shall designate a system of wilderness
14 trails and campsites throughout the state. Significant in the selec-
15 tion shall be the scenic, historic, natural, or cultural qualities of
16 the areas through which the trails may pass. The department [DEPART-
17 MENT OF NATURAL RESOURCES] may acquire the trail sites jointly
18 selected by grant, gift, purchase, lease, dedication or prescription
19 and hold them in the name of the state.

20 * Sec. 96. AS 41.20.090 is amended to read:

21 Sec. 41.20.090. UNIFORM MARKER. The commissioner [OF NATURAL
22 RESOURCES] shall establish a uniform marker for the wilderness trails
23 system.

24 * Sec. 97. AS 41.20.100 is amended to read:

25 Sec. 41.20.100. REGULATIONS. The commissioner [OF NATURAL
26 RESOURCES] shall promulgate regulations concerning the use, management,
27 development, and administration of the trails.

28 * Sec. 98. AS 41.20.120 is amended to read:

29 Sec. 41.20.120. ASSISTANCE UNDER LAND AND WATER CONSERVATION FUND

1 ACT OF 1965. The commissioner of environmental affairs [NATURAL
2 RESOURCES] is authorized to consider the feasibility of any form of
3 financial assistance available to the state for the planning, acquisi-
4 tion or development of trails under the Land and Water Conservation
5 Fund Act of 1965.

6 * Sec. 99. AS 41.20.140 is amended to read:

7 Sec. 41.20.140. DESIGNATED STATE LAND AND WATER RESTRICTED TO USE
8 AS PUBLIC RECREATION AREA. The governor may designate by proclamation
9 the state owned land and water and all that acquired in the future by
10 the state, lying within the parcels described in this section, as the
11 Captain Cook State Recreation Area. The proclamation may include the
12 entire area or portions of the area at different times, shall reserve
13 the areas included from all uses incompatible with their primary func-
14 tion as public recreation land and waters, and shall assign them to the
15 department [DEPARTMENT OF NATURAL RESOURCES] for control, development
16 and maintenance. Land covered by secs. 130 - 160 is that within the
17 following described parcels:

18 Section 3; Section 9; NW 1/4, NE 1/4, SW 1/4 and W 1/2 SE 1/4
19 Section 10; W 1/2 W 1/2 Section 15; Section 16; Section 17; all tide-
20 lands abutting the above and all of Stormy Lake, all in Township 8N
21 Range 10W Seward Meridian.

22 * Sec. 100. AS 41.20.150 is amended to read:

23 Sec. 41.20.150. INCOMPATIBLE USE PROHIBITED. The commissioner
24 [OF NATURAL RESOURCES] shall designate by regulation incompatible uses
25 within the boundaries of the Captain Cook State Recreation Area in
26 accordance with sec. 130 of this chapter, and those incompatible uses
27 designated shall be prohibited or restricted, as provided by regulation.

28 * Sec. 101. AS 41.20.160 is amended to read:

29 Sec. 41.20.160. PURCHASE AUTHORIZED. The commissioner [OF

1 NATURAL RESOURCES] may acquire, by negotiated purchase only in the name
2 of the state, title to or interest in real property lying within the
3 boundaries of the Captain Cook State Recreation Area.

4 * Sec. 102. AS 41.20 is amended by adding a new section to read:

5 Sec. 41.20.170. DEFINITIONS. In this chapter, unless the context
6 requires otherwise

7 (1) "department" means the Department of Environmental
8 Affairs;

9 (2) "commissioner" means the commissioner of the Department
10 of Environmental Affairs;

11 (3) "director" means the director of the division of parks
12 and recreation, Department of Environmental Affairs.

13 * Sec. 103. AS 44.19.023 is repealed.

14 * Sec. 104. AS 44.19.360 is amended to read:

15 Sec. 44.19.360. COMPOSITION. The State Geographic Board consists
16 of the director of the Local Affairs Agency, the curator of the state
17 museum, the state historical librarian, the commissioner of the Depart-
18 ment of Highways, the commissioner of the Department of Environmental
19 Affairs [NATURAL RESOURCES], the commissioner of the Department of Edu-
20 cation, the director of the division of land planning and classification
21 [LANDS], and one other person appointed by the governor.

22 * Sec. 105. AS 44.19.410(5) is amended to read:

23 (5) the commissioner of environmental affairs [NATURAL
24 RESOURCES];

25 * Sec. 106. AS 44.27.020(2) is repealed.

26 * Sec. 107. AS 44.37.020 is amended to read:

27 Sec. 44.37.020. DUTIES OF DEPARTMENT WITH RESPECT TO NATURAL
28 RESOURCES. The Department of Natural Resources shall administer the
29 state program for the [CONSERVATION AND] development of natural

1 resources, including forests, [PARKS, AND RECREATIONAL AREAS,] lands,
2 waters, [AGRICULTURE, SOIL CONSERVATION] and minerals (including
3 petroleum and natural gas), but excluding commercial fisheries, sport
4 fish, game, and fur-bearing animals in their natural state.

5 * Sec. 108. AS 44.37.030 is repealed.

6 * Sec. 109. AS 44.45.030 is amended to read:

7 Sec. 44.45.030. COOPERATION WITH THE COMMISSIONERS OF OTHER
8 DEPARTMENTS AND OFFICE OF GOVERNOR. The department, with the approval
9 of the governor, may call upon the commissioners of natural resources,
10 public works, labor, environmental affairs and fish and game for assis-
11 tance and cooperation in ^{n carry} out sec. 20(b) of this chapter.

12 * Sec. 110. AS 44.62.330 ~~(a)(9)~~ ⁽⁹⁾ is amended to read:

13 (9) Division of Land Planning and Classification and the
14 Department of Natural Resources [LANDS] under Alaska Land Act where
15 applicable

16 * Sec. 111. AS 44.62.330(a)(18) is amended to read:

17 (18) Department of Natural Resources and Department of
18 Environmental Affairs, as to functions relating to the conservation of
19 oil and gas

20 * Sec. 112. AS 44.62.330(a)(26) is amended to read:

21 (26) Department of Environmental Affairs [HEALTH AND WEL-
22 FARE], under Radiation Protection Act

23 * Sec. 113. AS 44.62.330(a)(29) is amended to read:

24 (29) Department of Environmental Affairs [HEALTH AND WEL-
25 FARE], under Alaska Water Pollution Control Act

26 * Sec. 114. AS 44.62.330(a)(30) is amended to read:

27 (30) Department of Environmental Affairs [HEALTH AND WEL-
28 FARE], under AS 18.35.010 - 18.35.090, concerning the regulation of
29 tourist and trailer camps, motor courts, and motels

1 * Sec. 115. AS 46.05.160 is amended to read:

2 Sec. 46.05.160. CONSTRUCTION OF CERTAIN FACILITIES PROHIBITED.

3 No person may construct, extend, install or operate a sewage system or
4 treatment works, or any part of a sewage system or treatment works
5 until plans for it are submitted to the department for review, and the
6 department approves them in writing and issues a written permit. [THE
7 DEPARTMENT MAY WAIVE THE REQUIREMENT THAT PLANS BE SUBMITTED TO IT.]

8 * Sec. 116. AS 46.05.225 is amended to read:

9 Sec. 46.05.225. ENFORCEMENT. This chapter may be enforced by
10 authorized enforcement agents of the department, any peace officer in
11 the state and by authorized protection officers of the Department of
12 Fish and Game.

13 * Sec. 117. AS 46.05.230(1) is amended to read:

14 (1) "department" means the Department of Environmental
15 Affairs [HEALTH AND WELFARE];

16 * Sec. 118. AS 46.10.010(b) is amended to read:

17 (b) A person who neglects or refuses to abate the nuisance upon
18 order of a health officer or agent of the department is guilty of a
19 misdemeanor and is punishable as provided in sec. 20 of this chapter.
20 In addition to this punishment, the court shall assess judgment against
21 the defendant for the expense of abating the nuisance. The judgment
22 shall be enforced in the same manner as an execution in a civil action.

23 * Sec. 119. AS 46.15.010 is amended to read:

24 Sec. 46.15.010. DETERMINATION OF WATER RIGHTS. The Department of
25 Environmental Affairs [NATURAL RESOURCES] shall determine and adjudicate
26 rights in the waters of the state, and in its appropriation and distri-
27 bution.

28 * Sec. 120. AS 46.15.020(a)(3) is amended to read:

29 3. establish a division of water in the department

1 [DEPARTMENT OF NATURAL RESOURCES] and assign to that division the
2 responsibility for carrying out the provisions of this chapter.

3 * Sec. 121. AS 46.15.020(b)(1) is amended to read:

4 1. adopt procedural and substantive regulations to carry out
5 the provisions of this chapter, taking into consideration the responsi-
6 bilities of the [DEPARTMENT OF HEALTH AND WELFARE UNDER AS 46.05.010 -
7 46.05.240 AND THE] Department of Fish and Game under AS 16;

8 * Sec. 122. AS 46.15.040(c) is amended to read:

9 (c) All applications to the commissioner for a permit to appropri-
10 ate water, filed subsequent to the effective date of this chapter, shall
11 be considered as having been simultaneously filed with the Department
12 of Fish and Game under AS 16 [AND THE DEPARTMENT OF HEALTH AND WELFARE
13 UNDER AS 46.05].

14 * Sec. 123. AS 46.15.070(b) is amended to read:

15 (b) The commissioner shall publish the notice at the applicant's
16 expense in one issue of a newspaper of general distribution in the
17 area of the state in which the water is to be appropriated. The com-
18 missioner shall also have notice served personally or by certified mail
19 upon an appropriator of water or applicant for or holder of a permit
20 who, according to the records of the division of land planning and
21 classification [LANDS] may be affected by the proposed appropriation
22 and may serve notice upon any governmental agency, political subdivi-
23 sion or person, provided, however, that notice shall be served upon the
24 Department of Fish and Game [AND THE DEPARTMENT OF HEALTH AND WELFARE].

25 * Sec. 124. AS 46.15.190 is amended to read:

26 Sec. 46.15.190. THE WATER RESOURCES BOARD. There is created the
27 Water Resources Board composed of seven members having a general know-
28 ledge of the use and requirements for use of the waters of the state
29 and the conservation and protection thereof. The commissioner of

1 environmental affairs [NATURAL RESOURCES] shall act as the executive
2 secretary of the board, and shall provide clerical staff for the board.
3 Members of the board are appointed by the governor, subject to confirma-
4 tion by a majority of the members of the legislature in joint session.

5 * Sec. 125. AS 46.15.260(6) is amended to read:

6 (6) "commissioner" means the commissioner of environmental
7 affairs [NATURAL RESOURCES];

8 * Sec. 126. AS 46.15.260(7) is amended to read:

9 (7) "director" means the director of the division of land
10 planning and classification, Department of Environmental Affairs [LANDS,
11 DEPARTMENT OF NATURAL RESOURCES];

12 * Sec. 127. AS 46.15.260 is amended by adding a new subsection to read:

13 (9) "department" means the Department of Environmental
14 Affairs.

15 * Sec. 128. AS 46.26.030(b) is amended to read:

16 (b) The commissioners of natural resources, fish and game, econo-
17 mic development and environmental affairs [HEALTH AND WELFARE] shall
18 serve as nonvoting ex officio members.

19 * Sec. 129. AS 14.56.010 is amended to read:

20 CHAPTER 56. THE STATE LIBRARY [AND HISTORICAL
21 LIBRARY AND MUSEUM].

22 Sec. 14.56.010. DEPARTMENT OF EDUCATION TO GOVERN LIBRARY. The
23 Department of Education shall manage and have complete charge of all
24 of the property contained in the institution [INSTITUTIONS] known as
25 the state library [AND STATE HISTORICAL LIBRARY]. The state library
26 [AND STATE HISTORICAL LIBRARY] shall be maintained in the state capital.

27 * Sec. 130. AS 14.56.080 is repealed.

28 * Sec. 131. All litigations, hearings, investigations and other proceed-
29 ings whatsoever, pending under any law amended or functions which have been

1 transferred by this Act, shall continue in full effect, and may be continued
2 and completed under the provisions of this Act. All certificates, orders,
3 rules or regulations issued or filed under a law amended or functions which
4 have been transferred by this Act and in full effect upon the effective date
5 of this Act, shall remain in full effect for the term issued, or until
6 revoked, vacated, or modified under the provisions of this Act. All existing
7 contracts and obligations created by any law amended or functions which have
8 been transferred by this Act, and in effect upon the effective date of this
9 Act, shall remain in full effect until revoked, vacated, or modified under
10 the provisions of this Act.

11 * Sec. 132. This Act takes effect on July 1, 1970.
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