

Introduced: 1/29/71
Referred: State Affairs,
Resources and Finance

BY THE RULES COMMITTEE
BY REQUEST OF THE
LEGISLATIVE COUNCIL

1 IN THE HOUSE

2 HOUSE BILL NO. 114

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 SEVENTH LEGISLATURE - FIRST 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 paragraph to read:

10 (16) Department of Environmental Affairs

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

12 CHAPTER 04. DEPARTMENT OF ENVIRONMENTAL AFFAIRS.

13 ARTICLE 1. GENERAL DUTIES AND ORGANIZATION.

14 Sec. 41.04.010. 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
17 administrator and a recognized expert in the field of ecology and
18 environmental control. The commissioner shall be appointed by the
19 governor with the consent of the legislature for a term of five years.

20 Sec. 41.04.020. 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
27 necessary to carry out the provisions of this chapter and otherwise
28 consistent with law.

29 Sec. 41.04.030. 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 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) study, develop, and describe appropriate alternatives
4 to recommended courses of action in any proposal which involves unre-
5 solved conflicts concerning alternative uses of land, water, or air;

6 (10) review statutory authority, administrative regulations,
7 and current policies and procedures for conformity to the purposes and
8 provisions of this chapter and propose to the governor and to the
9 legislature those measures considered desirable to effectuate the pro-
10 visions and purposes of this chapter.

11 Sec. 41.04.040. DIVISIONS OF DEPARTMENT. (a) The department
12 shall have the following divisions:

13 (1) the division of ecology; and

14 (2) the division of pollution control;

15 (b) The commissioner may create other divisions and sections
16 which he considers necessary to carry out the provisions of this chap-
17 ter. Subject to the supervision and control of the commissioner, the
18 divisions in this section shall have the duties and powers described
19 in secs. 50 - 60 of this chapter.

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

23 ARTICLE 2. DEPARTMENTAL STRUCTURE.

24 Sec. 41.04.050. DIVISION OF ECOLOGY. The division of ecology
25 shall

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

28 (2) initiate and utilize ecological information in the plan-
29 ning and development of resource-oriented projects;

1 (3) perform other duties as provided by law or that the com-
2 missioner sees fit to place in the division's trust.

3 Sec. 41.04.060. DIVISION OF POLLUTION CONTROL. The division of
4 pollution control shall

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

6 (2) have the primary responsibility for controlling and pre-
7 venting pollution of the state's air, water and surface and subsurface
8 land areas;

9 (3) perform other duties as provided by law or that the com-
10 missioner sees fit to place in the division's trust.

11 * Sec. 3. AS 18.05.040(11) and (12) are repealed.

12 * Sec. 4. AS 18.30.015 - 18.30.070 are repealed.

13 * Sec. 5. AS 18.30.080 is amended to read:

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

17 (1) adopt regulations implementing this chapter;

18 (2) hold hearings relating to any aspect of the administra-
19 tion of this chapter and in that regard compel the attendance of witnesses
20 and the production of evidence;

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

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

26 (5) secure necessary scientific, technical, administrative
27 and operational services, including laboratory facilities, by contract
28 or otherwise;

29 (6) prepare and develop a comprehensive plan or plans for

1 the prevention, abatement and control of air pollution in the state;

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

4 (8) encourage local units of government to handle air
5 pollution problems within their respective jurisdictions and on a
6 cooperative basis, and provide technical and consultative assistance
7 for this;

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

11 (10) determine by means of field studies and sampling
12 the degree of air contamination and air pollution in the several
13 areas of the state;

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

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

20 (13) collect and disseminate information and conduct
21 educational and training programs relating to air contamination
22 and air pollution;

23 (14) advise, consult, contract and cooperate with other
24 agencies of the state, local governments, industries, other states,
25 interstate or interlocal agencies, the federal government and with
26 interested persons or groups;

27 (15) consult, upon request, with any person proposing
28 to construct, install, or otherwise acquire an air contaminant
29 source or a device or system for its control, concerning the efficacy

1 of the device or system or the air pollution problem which may
2 be related to the source, device or system; nothing in this consul-
3 tation may be construed to relieve a person from compliance with
4 this chapter, rules and regulations in force under it or other pro-
5 visions of law;

6 (16) accept and administer grants or other funds or
7 gifts from public and private sources, including the federal govern-
8 ment, for carrying out the purposes of this chapter.

9 * Sec. 6. AS 18.30.090 is amended to read:

10 Sec. 18.30.090. CLASSIFICATION AND REPORTING. (a) The
11 department [COMMISSION] by rule or regulation may classify air con-
12 taminant sources, which in its judgment may cause or contribute
13 to air pollution, according to levels and types of emissions and
14 other characteristics which relate to air pollution, and may re-
15 quire reporting for the classifications. Classifications made
16 under this subsection may be for application to the state as a
17 whole or to a designated area of the state and shall be made with
18 special reference to effects on health, economics and social factors
19 and physical effects on property.

20 (b) A person operating or responsible for the operation of
21 air contaminant sources of a class for which the regulations of
22 the department [COMMISSION] require reporting shall make reports
23 containing the information required by the department [COMMISSION]
24 concerning location, size and height of contaminant outlets,
25 processes employed, fuels used and the nature and time periods
26 or duration of emissions, and other information relevant to air
27 pollution and available or reasonably capable of being assembled.

28 * Sec. 7. AS 16.30.100 is amended to read:

29 Sec. 18.30.100. ADDITIONAL CONTAMINANT CONTROL MEASURES.

1 (a) The department [COMMISSION] may require that notice be
2 given to it before the undertaking of the construction, installa-
3 tion or establishment of particular types or classes of new air
4 contaminant sources specified in its regulations. Within 15 days
5 of its receipt of the notice, the department [COMMISSION] may require,
6 as a condition precedent to this undertaking, the submission of plans
7 and other information it considers necessary in order to determine
8 whether the proposed undertaking will be in accord with applicable
9 regulations in force under this chapter. If within 30 days of
10 the receipt of these plans and information the department [COM-
11 MISSION] determines that the proposed undertaking will not be
12 in accord with the requirements of this chapter and applicable regu-
13 lations, it shall issue an order prohibiting the undertaking.
14 Failure to issue the order within the time prescribed shall be
15 considered an approval of the plans and information and the under-
16 taking may proceed in accordance with them.

17 (b) A person subject to an order of prohibition as prescribed
18 in (a) of this section, upon written request in accordance with
19 regulations of the department [COMMISSION], is entitled to a
20 hearing on the order. This procedure must be followed before
21 invoking other available legal remedies. Following the hearing
22 the order may be affirmed, modified or withdrawn.

23 (c) For the purposes of this chapter, addition to or
24 enlargement or replacement of an air contaminant source, or a major
25 alteration of one, shall be construed as an undertaking for the
26 construction, installation or establishment of a new air contaminant
27 source.

28 (d) Features, machines and devices constituting parts
29 of or called for by plans or other information submitted under (a)

1 of this section shall be maintained in good working order.

2 (e) Nothing in this section may be construed to authorize
3 the department [COMMISSION] to require the use of machinery,
4 devices or equipment from a particular supplier or produced by a
5 particular manufacturer if the required performance standards may
6 be met by machinery, devices or equipment available from other
7 sources.

8 (f) The absence of or the department's [COMMISSION's]
9 failure to issue a regulation or order under this section does not
10 relieve a person from compliance with emission control requirements
11 or other provisions of law.

12 (g) The department [COMMISSION] may require the payment
13 of a reasonable fee for the review of plans and information re-
14 quired to be submitted. No fee for a single review may exceed
15 \$25.

16 * Sec. 8. AS 18.30.110 is amended to read:

17 Sec. 18.30.110. INSPECTION. For the purpose of ascertain-
18 ing the state of compliance with this chapter and appropriate
19 regulations an authorized officer, employee or representative of
20 the department [COMMISSION] may, at a reasonable time, enter
21 and inspect the property and premises where an air contaminant
22 source is located or is being constructed. No person may re-
23 fuse entry or access to an authorized representative of the
24 department [COMMISSION] who requests entry for purposes of in-
25 spection and who presents appropriate credentials; nor may a
26 person interfere with the inspection. The department [COM-
27 MISSION] shall give the person who owns or is in control of
28 the premises a report setting out all facts found which relate
29 to compliance status. Inspection of private dwelling is not

1 permitted without a search warrant.

2 * Sec. 9. AS 18.30.120 is amended to read:

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

10 * Sec. 10. AS 18.30.130 is amended to read:

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

23 (b) In the absence of a generalized condition of air pollu-
24 tion of the type referred to in (a) of this section, but if the
25 commissioner [DIRECTOR] finds that emissions from the operation
26 of one or more air contaminant sources is causing imminent danger
27 to human health or safety, he may order the person responsible
28 for the operation in question to reduce or discontinue emissions
29 immediately, without regard to sec. 220 of this chapter. If

1 an order is issued, the hearing requirements of (a) of this section
2 apply.

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

7 * Sec. 11. 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 period 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 made 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 Act
29 (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 capri-
2 cious.

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. 12. 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. 13. 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. 14. 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. 15. 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. 16. 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. 17. 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 mainte-
14 nance 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,
26 including 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. 18. AS 18.30.210 is repealed.

8 * Sec. 19. 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. 20. 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. 21. AS 18.30.250(3) is repealed.

17 * Sec. 22. AS 18.30.250 is amended by adding a new subsection to read:

18 (6) "department" means Department of Environmental Affairs.

19 * Sec. 23. AS 18.35.090(2) is amended to read:

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

22 * Sec. 24. 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. 25. AS 18.60.560(1) is amended to read:

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

1 * Sec. 26. AS 19.05.010 is amended to read:

2 Sec. 19.05.010. DEPARTMENT TO SUPERVISE HIGHWAY SYSTEM. The
3 department, subject to AS 41.04, is responsible for the planning, con-
4 struction, maintenance, protection and control of the state highway
5 system.

6 * Sec. 27. AS 19.05.030 is amended to read:

7 Sec. 19.05.030. DUTIES OF DEPARTMENT. Subject to AS 41.04, 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. 28. AS 19.05.040 is amended to read:

17 Sec. 19.05.040. POWERS OF DEPARTMENT. Subject to AS 41.04, 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. 29. AS 27.05.010 is amended to read:

9 Sec. 27.05.010. DEPARTMENT RESPONSIBLE FOR MINERAL RESOURCES.
10 Subject to AS 41.04, 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. 30. 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 41.04, 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 41.04, 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 41.04, 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 41.04, 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. 31. AS 31.05.040(a) is amended to read:

10 (a) The department, subject to AS 41.04, shall prescribe rules
11 and regulations governing practice and procedure before it under this
12 chapter.

13 * Sec. 32. 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. 33. 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. 34. 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. 35. AS 31.05.170(3) is amended to read:

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

1 * Sec. 36. AS 35.05.010 is amended to read:

2 Sec. 35.05.010. PLANNING AND CONSTRUCTION. The department,
3 subject to AS 41.04, is responsible for the planning and construction
4 of public works.

5 * Sec. 37. AS 35.05.020 is amended to read:

6 Sec. 35.05.020. RULES AND REGULATIONS. The department, subject
7 to AS 41.04, shall adopt rules and regulations which it considers
8 necessary to carry out the purpose of this title.

9 * Sec. 38. AS 35.05.040 is amended to read:

10 Sec. 35.05.040. POWERS OF DEPARTMENT. The department, subject
11 to AS 41.04, 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. 39. 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 AS 41.04, and the provisions
29 of secs. 145 - 180 of this chapter. In applying the acreage limitations

1 the commissioner may apply the rule of approximation. The uses of the
2 rule of approximation made before March 31, 1960, by the commissioner
3 are ratified.

4 * Sec. 40. AS 38.05.150(b) and (c) are amended to read:

5 (b) Thereafter the commissioner may, subject to AS 41.04 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 41.04, 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 ~~recovery~~ 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. 41. AS 38.05.155(a) is amended to read:

26 (a) The commissioner, subject to AS 41.04, 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. 42. AS 38.05.160(a) is amended to read:

6 (a) The commissioner, subject to AS 41.04, 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-
13 minate periods upon the conditions imposed by the commissioner.

14 * Sec. 43. AS 38.05.165(a) is amended to read:

15 (a) The commissioner, subject to AS 41.04, 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 41.04, 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. 44. AS 38.05.170(a) is amended to read:

6 (a) Subject to AS 41.04 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. 45. AS 38.05.175(a) is amended to read:

24 (a) Subject to AS 41.04 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. 46. AS 38.05.180(a), (h), (j), (k), and (r) are amended
16 to read:

17 (a) Subject to AS 41.04, 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 41.04 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 41.04, 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 41.04, 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
11 the director of the division of lands of the amount of the highest
12 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
15 adjoining federal lease, including extended terms, and shall terminate
16 if the federal lease is terminated for any reason. The lease shall pro-
17 vide for annual rental at the rate of \$100 a unit of 640 acres or part
18 thereof of the lands included within the federal lease until agreement
19 is 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 (r) To avoid waste or to promote conservation of natural re-
25 sources, the commissioner, subject to AS 41.04, may authorize the sub-
26 surface storage of oil or gas whether or not produced from state lands,
27 in lands leased or subject to lease under this section. This authori-
28 zation may provide for the payment of a storage fee or rental on the
29 stored oil or gas, or, instead of the fee or rental, for a royalty

1 other than that prescribed in the lease when the stored oil or gas is
2 produced in conjunction with oil or gas not previously produced. A
3 lease on which storage is so authorized shall be extended at least for
4 the period of storage and so long thereafter as oil or gas not previ-
5 ously produced is produced in paying quantities.

6 * Sec. 47. AS 38.05.245(a) is amended to read:

7 (a) Subject to AS 41.04 and before [BEFORE] the discovery of
8 valuable minerals, an exclusive right to prospect by geophysical, geo-
9 chemical and similar methods may be acquired by marking boundaries
10 and posting a notice of location of a prospecting site in a manner and
11 containing such information as the commissioner requires. A pros-
12 pecting site may not exceed 2,640 feet in its longest dimension and
13 its boundaries shall run in the four cardinal directions. A certifi-
14 cate of location shall be filed for record in the recording district
15 where the prospecting site is located within 90 days after posting the
16 notice of location, and a copy of the certificate shall also be
17 mailed to the director within the 90 day period. The locator of a
18 prospecting site has the exclusive right to stake mining claims or
19 leasehold locations within the boundaries of his site.

20 * Sec. 48. AS 38.05.250(a) is amended to read:

21 (a) Subject to AS 41.04, the [THE] exclusive right to prospect
22 for deposits of minerals subject to secs. 185 - 275 of this chapter
23 in or on tide and submerged state lands may be granted by a permit
24 issued by the director. Permits shall be granted to the first qualified
25 applicant. No permit may include an area larger than 2,560 acres,
26 subject to the rule of approximation. Lands subject to a prospecting
27 permit shall be as compact in form as possible taking into consideration
28 the area involved. The term of the permit shall be 10 years. Prospect-
29 ing permits shall be conditioned upon payment of rental against which

1 credit shall be given for useful expenditures on land covered by
2 the permit or group of contiguous permits under common ownership or
3 assignment. The rental shall be \$1 per acre for the first two-year
4 period of the permit, payable at the end of the period, and \$1 per
5 acre for each year thereafter, payable at the end of each year. No
6 minerals from lands under a prospecting permit may be mined and marketed
7 or used, except for limited amounts necessary for sampling or testing.

8 * Sec. 49. AS 38.05.255 is amended to read:

9 Sec. 38.05.255. SURFACE USE. Surface uses of land or waters
10 included within mining properties by owners of those properties shall
11 be limited to those necessary for the prospecting for, extraction of,
12 or basic processing of mineral deposits and shall be subject to
13 AS 41.04 and reasonable concurrent uses. Subject to AS 41.04, permits
14 [PERMITS] for millsites and tailings disposal may be granted by the
15 director. The permits shall be conditioned upon payment of a reasonable
16 charge for the use and continuance of the limited use. Timber from
17 lands open to mining without lease, except timberlands, may be used
18 by a mining claimant or prospecting site locator for the mining or
19 development of his location or adjacent claims under common ownership.
20 On other lands, timber may be acquired as provided elsewhere in this
21 chapter. Use of water shall be made in accordance with sec. 260 of
22 this chapter and rules and regulations adopted under it or in accordance
23 with any law amending or superseding that section.

24 * Sec. 50. AS 38.05.330 is amended to read:

25 Sec. 38.05.330. PERMITS. Subject to AS 41.04 the [THE] director,
26 without the prior approval of the commissioner, may issue permits,
27 rights-of-way or easements on state lands for secondary roads, trails,
28 ditches, pipelines, telephone and transmission lines, log storage,
29 oil well drilling sites and production facilities for the purposes of

1 recovering minerals from adjacent lands under valid lease, and other
2 similar uses or improvements, or for the limited personal use of timber
3 or materials. The commissioner, upon recommendation of the director,
4 shall establish a reasonable rate or fee schedule to be charged for
5 these uses. In the granting, suspension or revocation of a permit or
6 easement of lands, the director shall give preference to that use of
7 the land which will be of greatest economic benefit to the state and
8 the development of its resources. However, first preference shall be
9 granted to the upland owner for the use of a tract of tideland, or
10 tideland and contiguous submerged land, which is seaward of the up-
11 land property of the upland owner and which is needed by the upland
12 owner for any of the purposes for which the use may be granted.

13 * Sec. 51. AS 38.07.010(a) is amended to read:

14 (a) Subject to AS 41.04 the [THE] commissioner may select areas
15 of state land classified as agricultural and contract for the land to
16 be cleared or drained or both at state expense. In this selection and
17 contracting, the commissioner shall be guided by the recommendations
18 of the U. S. Soil Conservation Service and the Department of Environ-
19 mental Affairs.

20 * Sec. 52. AS 38.07.030(a) is amended to read:

21 (a) An owner of agricultural land, or a lessee from the state of
22 agricultural land, in the general vicinity of the land to be cleared or
23 drained under sec. 10(a) of this chapter may apply to the commissioner
24 to have his land cleared or drained or both along with the state land.
25 The applicant's land shall be included in the contract of land to be
26 cleared or drained if, in the discretion of the commissioner and subject
27 to AS 41.04, the inclusion is feasible and furthers the agricultural
28 policies of the division.

29 * Sec. 53. AS 38.07.050 is amended to read:

1 Sec. 38.07.050. REGULATIONS. The commissioner shall, guided by
2 recommendations of the U. S. Soil Conservation Service and the Depart-
3 ment of Environmental Affairs, promulgate regulations necessary to
4 carry out the purpose of this chapter.

5 * Sec. 54. AS 38.10.050 is amended to read:

6 Sec. 38.10.050. RULES, REGULATIONS AND PROCEDURES. Subject to
7 AS 41.04 the [THE] commissioner of natural resources, upon recommenda-
8 tion of the director, may establish reasonable procedures and adopt
9 reasonable rules and regulations necessary to carry out this chapter.

10 * Sec. 55. AS 41.05.020 is amended to read:

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

14 (1) collect, record, evaluate, and distribute data on the
15 quantity, quality and location of underground, surface and coastal
16 waters of the state;

17 (2) publish or have published data on the waters of the
18 state;

19 (3) require the filing with it of the results and findings
20 of surveys of water quality, quantity and location, including water
21 well drilling logs, pumping tests, flow measurements, type of aquifer,
22 tidal currents and physical characteristics, and volume determinations;

23 (4) accept and expend funds for the purposes of secs. 10 -
24 30 of this chapter and enter into agreements with individuals, public
25 or private agencies, communities, private industry, state agencies and
26 agencies of the federal government.

27 * Sec. 56. AS 41.05.030 is amended to read:

28 Sec. 41.05.030. REGULATIONS BY DEPARTMENT OF ENVIRONMENTAL AFFAIRS
29 [HEALTH AND WELFARE]. The Department of Environmental Affairs [HEALTH

1 AND WELFARE.] may adopt regulations relating to and providing for the
2 systematic collection, recording and distribution of data on the waters
3 of the state.

4 * Sec. 57. AS 41.20.020 is amended to read:

5 Sec. 41.20.020. DUTIES OF DEPARTMENT OF NATURAL RESOURCES. Sub-
6 ject to AS 41.04 the [THE] Department of Natural Resources shall

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

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

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

17 (4) control, develop and maintain state parks and recreation-
18 al areas;

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

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

27 (7) cooperate with the United States and its agencies and
28 local subdivisions of the state to secure the effective supervision,
29 improvement, development, extension, and maintenance of state parks,

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

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

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

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

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

13 * Sec. 58. AS 41.20.050 is amended to read:

14 Sec. 41.20.050. SELECTION OF SITES. Subject to AS 41.04 the [THE]
15 Department of Public Works and the Department of Natural Resources,
16 jointly, shall select sites of 10 acres or less for their historic or
17 scenic value, or for recreation beaches along waterways, roadside
18 rests for travelers resting, camping, or parking, and determine what
19 facilities are necessary or desirable at these sites. Selection of the
20 sites for roadside rests and recreation beaches shall be based upon the
21 flow of traffic and distances to and between facilities otherwise pro-
22 vided. Insofar as possible, sites shall be located on, or adjacent
23 to, highway rights-of-way and small boat waterways. The Department of
24 Natural Resources may acquire the sites jointly selected by grant,
25 gift, purchase, lease, dedication or prescription and hold them in the
26 name of the state.

27 * Sec. 59. AS 44.19.410(5) is amended to read:

28 (5) the commissioner of environmental affairs [NATURAL
29 RESOURCES];

1 * Sec. 60. AS 44.37.020 is amended to read:

2 Sec. 44.37.020. DUTIES OF DEPARTMENT WITH RESPECT TO NATURAL
3 RESOURCES. Subject to AS 41.04 the [THE] Department of Natural Re-
4 sources shall administer the state program for the conservation and
5 development of natural resources, including forests, parks, and recre-
6 ational areas, lands, waters, agriculture, soil conservation and minerals
7 (including petroleum and natural gas), but excluding commercial fisheries,
8 sport fish, game, and fur-bearing animals in their natural state.

9 * Sec. 61. AS 44.45.030 is amended to read:

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

15 * Sec. 62. AS 44.62.330(a)(18) is amended to read:

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

19 * Sec. 63. AS 44.62.330(a)(26) is amended to read:

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

22 * Sec. 64. AS 44.62.330(a)(29) is amended to read:

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

25 * Sec. 65. AS 44.62.330(a)(30) is amended to read:

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

29 * Sec. 66. AS 46.05.160 is amended to read:

1 Sec. 46.05.160. CONSTRUCTION OF CERTAIN FACILITIES PROHIBITED.

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

7 * Sec. 67. AS 46.05.225 is amended to read:

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

12 * Sec. 68. AS 46.05.230(1) is amended to read:

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

15 * Sec. 69. AS 46.10.010(b) is amended to read:

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

22 * Sec. 70. AS 46.15.010 is amended to read:

23 Sec. 46.15.010. DETERMINATION OF WATER RIGHTS. Subject to AS 41.04
24 the [THE] Department of Natural Resources shall determine and adjudicate
25 rights in the waters of the state, and in its appropriation and distri-
26 bution.

27 * Sec. 71. AS 46.15.020(b)(1) is amended to read:

28 (1) adopt procedural and substantive regulations to carry out
29 the provisions of this chapter, taking into consideration the responsi-

1 bilities of the Department of Environmental Affairs [HEALTH AND WEL-
2 FARE] under AS 46.05.010 - 46.05.240 and the Department of Fish and
3 Game under AS 16;

4 * Sec. 72. AS 46.15.040(c) is amended to read:

5 (c) All applications to the commissioner for a permit to appropri-
6 ate water, filed subsequent to the effective date of this chapter, shall
7 be considered as having been simultaneously filed with the Department
8 of Fish and Game under AS 16 and the Department of Environmental Affairs
9 [HEALTH AND WELFARE] under AS 46.05.

10 * Sec. 73. AS 46.15.070(b) is amended to read:

11 (b) The commissioner shall publish the notice at the applicant's
12 expense in one issue of a newspaper of general distribution in the
13 area of the state in which the water is to be appropriated. The com-
14 missioner shall also have notice served personally or by certified mail
15 upon an appropriator of water or applicant for or holder of a permit
16 who, according to the records of the division of lands may be affected
17 by the proposed appropriation and may serve notice upon any governmental
18 agency, political subdivision or person, provided, however, that notice
19 shall be served upon the Department of Fish and Game and the Department
20 of Environmental Affairs [HEALTH AND WELFARE].

21 * Sec. 74. AS 46.26.030(b) is amended to read:

22 (b) The commissioners of natural resources, fish and game, economi:
23 development and environmental affairs [HEALTH AND WELFARE] shall serve
24 as nonvoting ex officio members.

25 * Sec. 75. All litigations, hearings, investigations and other proceed-
26 ings whatsoever, pending under any law amended or functions which have been
27 transferred by this Act, shall continue in full effect, and may be continued
28 and completed under the provisions of this Act. All certificates, orders,
29 rules or regulations issued or filed under a law amended or functions which

1 have been transferred by this Act and in full effect upon the effective date
2 of this Act, shall remain in full effect for the term issued, or until
3 revoked, vacated, or modified under the provisions of this Act. All existing
4 contracts and obligations created by any law amended or functions which have
5 been transferred by this Act, and in effect upon the effective date of this
6 Act, shall remain in full effect until revoked, vacated, or modified under
7 the provisions of this Act.

8 * Sec. 76. This Act takes effect on July 1, 1971.
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