

**SENATE BILL NO. 103**

**IN THE LEGISLATURE OF THE STATE OF ALASKA**

**EIGHTEENTH LEGISLATURE - FIRST SESSION**

**BY THE SENATE RESOURCES COMMITTEE**

**Introduced: 2/5/93**  
**Referred: RES, FIN**

**A BILL**

**FOR AN ACT ENTITLED**

1 "An Act relating to air quality control and the prevention, abatement, and  
2 control of air pollution; and providing for an effective date."

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

4 \* Section 1. AS 46.03.150 is repealed and reenacted to read:

5           Sec. 46.03.150. **CLASSIFICATION OF FACILITIES OR SOURCES;**  
6 **REPORTING.** (a) The department, by regulation, may classify facilities or sources  
7 that, in the department's determination, are likely to cause or contribute to air  
8 pollution, according to the levels and types of emissions and other characteristics that  
9 relate to air quality. The department may make a classification under this subsection  
10 applicable to the state as a whole or to a designated area of the state. The department  
11 shall base the classifications on consideration of health, economic, and social factors,  
12 sensitivity of the receiving environment, and physical effects on property.

13           (b) The department or a local air quality control program authorized under  
14 AS 46.03.212 may require an owner and operator of a facility or source classified

1 under this section to report information to the department or the authorized local  
2 program concerning location, size, and height of contaminant outlets or area sources,  
3 processes employed, fuels used, the nature and time periods or duration of emissions,  
4 and other information relevant to air quality that is available or reasonably capable of  
5 being calculated and compiled.

6 • **Sec. 2.** AS 46.03 is amended by adding new sections to read:

7 **Sec. 46.03.152. PERMITS FOR CONSTRUCTION, MODIFICATION, OR**  
8 **OPERATION.** (a) Before constructing, installing, modifying, reconstructing, or  
9 establishing a facility subject to AS 46.03.154(a), the owner and operator shall obtain  
10 a construction permit under AS 46.03.140 - 46.03.249.

11 (b) Except when considered to be in compliance with AS 46.03.140 -  
12 46.03.249 under a regulation adopted under AS 46.03.156(a)(11) or 46.03.167(c), the  
13 owner and operator shall obtain an operating permit under AS 46.03.140 - 46.03.249  
14 before operating a facility subject to AS 46.03.154(b).

15 (c) A permittee shall comply with the terms and conditions of a permit or a  
16 modifying compliance order issued by the department under AS 46.03.140 - 46.03.249.

17 (d) The department shall ensure that permits issued, modified, amended,  
18 renewed, or revoked and reissued under AS 46.03.140 - 46.03.249 comply with all  
19 applicable federal, state, and local requirements.

20 (e) If the federal administrator exempts a source from the requirements of  
21 42 U.S.C. 7661a(a) (Clean Air Act, sec.502(a)), the commissioner, by regulation, shall  
22 consider the factors used by the administrator in reaching that determination and shall  
23 issue a similar determination unless public health or air quality effects provide a  
24 reasonable basis to regulate the source.

25 **Sec. 46.03.154. FACILITIES REQUIRING PERMITS.** (a) Before  
26 constructing, installing, modifying, reconstructing, or establishing a facility, the owner  
27 and operator shall obtain a construction permit from the department if the facility is  
28 any one of the following:

29 (1) a new facility that emits or has the potential to emit 250 tons per  
30 year (TPY) or more of a regulated air contaminant;

31 (2) a new facility of a type classified under AS 46.03.150 that emits

1 or has the potential to emit 100 TPY or more of a regulated air contaminant;  
2 (3) a new facility of a type classified under AS 46.03.150  
3 (A) as having the potential to violate the ambient air quality  
4 standards; or  
5 (B) under a finding by the department that public health or air  
6 quality effects provide a reasonable basis to regulate the source;  
7 (4) a new facility that emits or has the potential to emit 10 TPY or  
8 more of a hazardous air contaminant or 25 TPY or more, in the aggregate, of two or  
9 more hazardous air contaminants;  
10 (5) an existing facility for which  
11 (A) a modification is proposed that would increase actual  
12 emissions of an air contaminant by an amount equal to or greater than the  
13 emission quantity set out in regulations adopted under AS 46.03.140 or  
14 46.03.156; or  
15 (B) reconstruction is proposed.  
16 (b) The owner and operator of a facility shall obtain an operating permit from  
17 the department if the facility is a facility subject to (a) of this section or a facility that  
18 (1) emits or has the potential to emit 100 TPY or more of a regulated  
19 contaminant;  
20 (2) emits or has the potential to emit 10 TPY or more of a hazardous  
21 air contaminant or 25 TPY or more, in the aggregate, of two or more hazardous air  
22 contaminants;  
23 (3) contains a source subject to federal new source performance  
24 standards under 42 U.S.C. 7411 (Clean Air Act, sec. 111) or national emission  
25 standards for hazardous air pollutants issued under 42 U.S.C. 7412 (Clean Air Act, sec.  
26 112); or  
27 (4) contains another stationary source designated by  
28 (A) the federal administrator by regulation; or  
29 (B) the department under a finding that public health or air  
30 quality effects provide a reasonable basis to regulate the source.  
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1           **Sec. 46.03.156. EMISSION CONTROL PERMIT PROGRAM**  
2 **REGULATIONS. (a) The department shall adopt regulations to address all**  
3 **substantive and procedural elements of the emission control permit program established**  
4 **under AS 46.03.140 - 46.03.249 that are not addressed in statute, except elements that**  
5 **relate only to the internal management of the department and do not affect the public**  
6 **or govern the way the department deals with the public. The regulations must be**  
7 **reasonable and adequate, and provide flexibility in the operation of a facility consistent**  
8 **with 42 U.S.C. 7401 - 7671q (Clean Air Act), as amended, and applicable federal**  
9 **regulations. The regulations must include**

10                   (1) a standard permit application form that meets the requirements of  
11 federal regulations adopted under 42 U.S.C. 7661a(b) (Clean Air Act, sec. 502(b));

12                   (2) procedures for preparation and submission of a monitoring,  
13 reporting, and quality assurance plan and, if required, a compliance schedule describing  
14 how a permitted facility will comply with the applicable requirements of  
15 AS 46.03.140 - 46.03.249;

16                   (3) procedures for

17                           (A) specifying when permit applications and renewal requests  
18 are to be submitted;

19                           (B) specifying the time duration for department review of permit  
20 applications;

21                           (C) processing and reviewing an application;

22                           (D) providing public notice, including opportunity for public  
23 comment and hearing; and

24                           (E) issuing permits, including procedures for issuing permits for  
25 temporary operations or open burn activities;

26                   (4) reasonable standard permit conditions, including conditions for

27                           (A) emission standards and limitations;

28                           (B) monitoring, record keeping, and reporting for facilities  
29 subject to AS 46.03.154;

30                           (C) inspection and entry;

31                           (D) certification of corporate or other business organization

1 reports;

2 (E) annual certification of compliance;

3 (F) excess emission or process deviation reporting; and

4 (G) equipment malfunctions and emergencies;

5 (5) fees and procedures for collecting fees;

6 (6) provisions addressing late payment or nonpayment of fees, which  
7 may include assessment of penalties and interest or refusal to issue, amend, modify,  
8 or renew an air quality control permit;

9 (7) the duration of permits;

10 (8) procedures for modifying or amending a permit that provide  
11 flexibility in the operation of the facility, including procedures to allow changes to a  
12 permitted facility without requiring a permit modification, consistent with the purposes  
13 of AS 46.03.140 - 46.03.249 and with 42 U.S.C. 7401 - 7671q (Clean Air Act);

14 (9) reasonable provisions for renewing, reopening, revoking and  
15 reissuing, and terminating a permit consistent with the purposes of AS 46.03.140 -  
16 46.03.249 and 42 U.S.C. 7401 - 7671q (Clean Air Act);

17 (10) provisions allowing for physical or operational limitations that will  
18 reduce a facility's emissions to levels below those that would make the facility subject  
19 to part or all of AS 46.03.152 and 46.03.154;

20 (11) provisions authorizing facility operation while a permit application  
21 is pending, consistent with 42 U.S.C. 7661b(d) (Clean Air Act, sec. 503(d));

22 (12) provisions for ensuring that compliance with an operating permit  
23 issued under AS 46.03.140 - 46.03.249 will be considered to be compliance with 42  
24 U.S.C. 7661a (Clean Air Act, sec. 502) and other provisions of state or federal law  
25 specifically provided for by the department consistent with 42 U.S.C. 7401 - 7671q  
26 (Clean Air Act) and regulations adopted under state and federal law; and

27 (13) provisions allowing for certification of inspectors who evaluate  
28 compliance with the terms and conditions of a permit, order, regulation, or other  
29 provision of law authorized under AS 46.03.140 - 46.03.249.

30 (b) The absence of, or the department's failure to adopt, a regulation under this  
31 section does not relieve a person from compliance with a permit issued under

1 AS 46.03.140 - 46.03.249 and with other provisions of law, including emission control  
2 requirements.

3 **Sec. 46.03.158. ADMINISTRATIVE ACTIONS REGARDING PERMITS. (a)**

4 Except as provided in AS 46.03.167 or in regulations adopted under  
5 AS 46.03.156(a)(6), after receipt of a complete application, and after notice and  
6 opportunity for public comment and hearing, the department shall issue or deny

7 (1) a construction permit within 30 days after the close of the public  
8 comment period;

9 (2) an operating permit, other than a general operating permit or  
10 temporary operating permit, within 12 months after receipt of the complete application  
11 by the department.

12 (b) Notwithstanding (a) of this section, the department may establish a phased  
13 schedule for acting on operating permit applications submitted within 12 months  
14 following the date on which the federal administrator approves the state program under  
15 42 U.S.C. 7661a(d), or within 12 months after the date on which the facility becomes  
16 subject to AS 46.03.154(b). A phased schedule must ensure that at least one-third of  
17 the applications submitted during the first 12 months of the state's operation of its  
18 permit program after federal approval will be acted on by the department during each  
19 of the next three 12-month periods.

20 (c) Failure by the department to act within the time limits established in or  
21 under (a) or (b) of this section is considered to be a final agency action, but only for  
22 the purpose of judicial review to determine whether the court will require that action  
23 be taken by the department.

24 (d) The department shall give priority to the issuance of permits for new  
25 facilities and modifications of existing facilities.

26 \* Sec. 3. AS 46.03 is amended by adding new sections to read:

27 **Sec. 46.03.161. AUTHORITY OF DEPARTMENT IN CASES OF**

28 **EMERGENCY. (a)** When the commissioner finds that facts and circumstances  
29 necessitate emergency use of an unpermitted source or emergency use of a permitted  
30 source in a manner not authorized by the permit, the commissioner may waive  
31 procedural requirements of AS 46.03.140 - 46.03.249 and may authorize emergency

1 use of the source. When acting under this section, the commissioner shall impose  
2 conditions necessary to protect human health, welfare, and the environment and may  
3 impose other conditions the commissioner finds necessary and appropriate.

4 (b) An authorization issued under this section automatically terminates within  
5 a reasonable time after abatement of the emergency, subject to a maximum of 30 days  
6 from the date of issuance. However, the commissioner may reissue an authorization,  
7 if warranted, that may remain in effect for up to another 30 days. An authorization  
8 may be reissued more than once.

9 (c) The commissioner may delegate the commissioner's authority under this  
10 section to deputy commissioners and division directors in the department.

11 Sec. 46.03.163. REVIEW OF PERMIT ACTION. If aggrieved by a permit  
12 action under AS 46.03.140 - 46.03.249, the owner and operator, a person who  
13 participated in the public comment process, or a person who has a private, substantive,  
14 legally protected interest under state law that may be adversely affected by the permit  
15 action may request an adjudicatory hearing under the department's adjudicatory hearing  
16 procedures. After the issuance of an adjudicatory hearing decision, a party to the  
17 hearing may obtain judicial review of that decision as provided in the Alaska Rules of  
18 Appellate Procedure.

19 Sec. 46.03.165. GENERAL OPERATING PERMITS. After notice and  
20 opportunity for public comment and hearing, the department may, unless the permit  
21 is disapproved by the federal administrator, establish a general operating permit that  
22 would be applicable to all facilities determined by the department to be similar in  
23 source structure. A general operating permit must contain provisions that meet the  
24 requirements of AS 46.03.140 - 46.03.249 that are applicable to operating permits. A  
25 general operating permit issued to a particular person takes effect when the person's  
26 application is determined to be complete unless the department notifies the applicant  
27 that the general permit is not applicable to the person's facility.

28 Sec. 46.03.167. OBJECTION BY FEDERAL ADMINISTRATOR. (a) An  
29 operating permit may not be issued under AS 46.03.140 - 46.03.249 until the federal  
30 administrator approves the permit, or until 45 days after a copy of the final draft  
31 permit has been provided by the department to the federal administrator, whichever is

1 earlier. If, during the 45-day period, the federal administrator files an objection with  
2 the department, the department shall notify the applicant of the objection. The  
3 department may not issue the permit until the objection is resolved or the permit is  
4 revised to meet the objection of the federal administrator. Upon request of an  
5 applicant, the department shall assist the applicant in an effort to resolve promptly an  
6 objection by the federal administrator.

7 (b) Within 60 days after the close of the 45-day period under (a) of this  
8 section and in accordance with procedures established in federal regulations adopted  
9 under 42 U.S.C. 7661d(b)(2) (Clean Air Act, sec. 505(b)(2)), a person may petition the  
10 federal administrator to file an objection to the permit.

11 (c) Regulations adopted under AS 46.03.156(a)(11) may provide that while a  
12 petition under (b) of this section is pending, compliance with an operating permit  
13 issued under (a) of this section is considered to be compliance with AS 46.03.140 -  
14 46.03.249 insofar as those sections require an operating permit.

15 **Sec. 46.03.169. RESPONSIBILITIES OF OWNER AND OPERATOR.**  
16 Notwithstanding use of the conjunctive or disjunctive in a provision of AS 46.03.140 -  
17 46.03.249, before issuance of a permit under AS 46.03.158 both the owner and  
18 operator of a facility are responsible for compliance with AS 46.03.140 - 46.03.249  
19 and regulations adopted under AS 46.03.140 - 46.03.249. If the owner and operator  
20 of the facility are separate persons, only one person is required to discharge a specific  
21 responsibility. Subsequent to issuance of a permit under AS 46.03.158, only the  
22 permittee is responsible for permitted operations. The permittee shall have a  
23 designated agent for service of process in the state.

24 \* Sec. 4. AS 46.03 is amended by adding new sections to read:

25 **Sec. 46.03.171. PERMIT ADMINISTRATION FEES.** (a) The owner or  
26 operator of a facility who is required to apply for a permit under AS 46.03.154 shall  
27 pay to the department all assessed permit administration fees established under (b) of  
28 this section except that the person named in a permit issued under AS 46.03.158 shall  
29 pay assessed permit administration fees incurred after the date the permit is issued.

30 (b) The department shall establish by regulation a permit administration fee  
31 rate. The rate shall be set on the basis of dollars per hour of service provided for a

1 specific permittee. The department may periodically modify a fee rate to reflect  
2 increases or decreases in the actual reasonable costs of providing the services. The  
3 department shall assess permit administration fees on a periodic basis after service is  
4 rendered, but the department may assess a retainer toward this fee at the time work  
5 commences on a permit application or at the time departmental services are requested  
6 for the development of a permit application.

7 (c) For purposes of this section, "permit administration fees" are fees assessed  
8 to recover costs incurred by the department for the following services to a specific  
9 facility that are performed in order to implement the permit program established under  
10 AS 46.03.140 - 46.03.249:

11 (1) providing preapplication consultation, assistance, and completeness  
12 review of applications for a permit, permit amendment, permit modification, or  
13 renewal;

14 (2) reviewing or assisting in preparation of facility specific permit  
15 support documents, including on-site evaluations;

16 (3) receiving, reviewing, preparing, processing, and issuing permits,  
17 permit amendments, modifications, reopenings, renewals and revocations, and  
18 reissuance;

19 (4) preparing general operating permits under AS 46.03.165; however,  
20 costs must be allocated on an equitable basis to each facility covered by the general  
21 operating permit;

22 (5) performing facility inspections and compliance evaluations;

23 (6) reviewing, compiling, and reporting facility specific emission,  
24 ambient monitoring, or process measurement data;

25 (7) preparing, evaluating, or processing plans or documents to obtain  
26 facility compliance or rectify noncompliance with permit terms and conditions, but not  
27 including any enforcement actions; and

28 (8) assessing and collecting delinquent permit administration fees and  
29 emission fees.

30 Sec. 46.03.172. EMISSION FEES. (a) A person named as permittee in a  
31 permit issued under AS 46.03.158 shall pay to the department all assessed emission

1 fees established under this section.

2 (b) The department shall establish by regulation an emission fee rate. The rate  
3 shall be set on the basis of dollars per ton of air contaminant emitted. The department  
4 shall assess emission fees annually on or before July 1 based on a facility's estimated  
5 assessable emissions for the subsequent fiscal year. The department may allow  
6 installment payments of assessed emission fees.

7 (c) For a facility that begins operation during a fiscal year, the department  
8 shall prorate the first year's fee to cover the time period occurring before the next  
9 annual payment date. The owner or operator shall pay the initial emission fee upon  
10 commencement of lawful facility operation unless authorized to pay by installments  
11 under (b) of this section. The first year's emission fee may not duplicate a fee paid  
12 by a permittee under AS 44.46.025 for the same sources for the same time period. If  
13 the fees would otherwise be duplicative, the department shall provide a credit toward  
14 the emission fee in the amount of the unused balance of the fee collected under  
15 AS 44.46.025. The unused balance to be credited shall be based on prorating the total  
16 original fee under AS 44.46.025 for the time period for which an emission fee applies.

17 (d) The department shall design the emission fee rate to distribute the total  
18 annual incurred costs described under (h) of this section in a manner so that each  
19 permittee is assessed an annual emission fee that reflects an equitable apportionment  
20 of the fees paid by each facility type, size, or category. In making an apportionment  
21 under (f) of this section, the department shall consider factors such as exemptions or  
22 reduced rates for small amounts of emissions, limits upon assessable emissions,  
23 exempting small business facilities from the costs of the small business assistance  
24 program established under AS 46.03.176, air pollution prevention efforts, and other  
25 factors that may ensure fair distribution of the costs described under (h) of this section.

26 (e) The department shall set the initial fee rate for the first two years following  
27 approval of the permit program under AS 46.03.140 - 46.03.249 by the federal  
28 administrator on the basis of dollars per ton of assessable emissions. In calculating  
29 assessable emissions for the purpose of this subsection, the department may not include  
30 an amount in excess of 4,000 tons per year of an air contaminant not defined as a  
31 regulated pollutant under 42 U.S.C. 7661a(b)(3)(B)(ii) (Clean Air Act, sec. 502

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(b)(3)(B)(ii).

(f) After the two years described in (e) of this section, the department shall set the emission fee rate in regulation to implement the policy established in (d) of this section. The department shall base the regulation on the findings of a report, which the department shall make available to the public with proper notice before adoption of the regulation, that examines

- (1) fees assessed;
- (2) alternative fee rates or formulas;
- (3) types, sizes, or categories of facilities, their respective emission quantities, and their previous or proposed fee burden;
- (4) apparent inequities encountered in the initial fee rate;
- (5) total costs incurred or anticipated to be incurred under (h) of this section; and
- (6) other factors that ensure fair distribution of the costs described in (h) of this section.

(g) The department shall periodically, and at least every three years, evaluate the fee rate set under this section to determine if it is responsive to the policy established in (d) of this section and shall provide its findings in a report.

(h) In this section,

(1) "assessable emission" means the quantity of each air contaminant for which emission fees are assessed and is the lesser of

(A) the annual rate of emissions, in tons per year, of each air contaminant authorized by the facility's operating permit; or

(B) the projected annual rate of emissions, in tons per year, of each air contaminant by the facility based upon previous actual annual emissions if the permittee can demonstrate to the department its previous actual annual rate of emissions through monitoring, modelling, calculations, or other method acceptable to the department;

(2) "emission fees" mean fees assessed to recover costs incurred by the department for execution of the permit program established under AS 46.03.140 - 46.03.249 that are generally not associated with service provided to a specific facility;

1 the costs may include rent, utilities, permit program management, administrative and  
2 accounting services, and other costs as identified by the department in regulations.

3 Sec. 46.03.173. CLEAN AIR PROTECTION FUND. (a) The clean air  
4 protection fund is established. The fund consists of

5 (1) fees, penalties, and interest collected by the department under  
6 AS 46.03.171 and 46.03.172 and under regulations authorized by AS 46.03.156, as  
7 required by 42 U.S.C. 7661a(b)(3)(C)(iii) (Clean Air Act, sec. 502(b)(3)(C)(iii)) for  
8 state participation in the federal emission control permit program; and

9 (2) appropriations to the fund.

10 (b) The money deposited into the clean air protection fund under (a)(1) of this  
11 section may only be used to cover the reasonable direct and indirect costs required to  
12 support the permit program under AS 46.03.140 - 46.03.249 and the activities of the  
13 small business assistance program that are directed at facilities subject to  
14 AS 46.03.140 - 46.03.249, not including court costs or other costs associated with an  
15 enforcement action.

16 Sec. 46.03.175. SPECIAL ACCOUNT. Civil or criminal penalties, fines,  
17 assessments, or damages, and interest, attorney fees, and costs collected as a result of  
18 a violation relating to AS 46.03.140 - 46.03.249 shall be deposited in the general fund  
19 and credited to a special account called the "clean air protection account."

20 Sec. 46.03.176. SMALL BUSINESS ASSISTANCE PROGRAM. (a) A small  
21 business assistance program is established in the department. The department shall  
22 include the program in the state air quality control plan developed under 42 U.S.C.  
23 7401 - 7671q (Clean Air Act).

24 (b) The small business assistance program shall, by regulation, meet the  
25 requirements of 42 U.S.C. 7661f(a) (Clean Air Act, sec. 507(a)), including the  
26 requirement that a small business advocate be designated.

27 (c) Except as provided in AS 46.03.178(b), the department shall provide  
28 assistance as described in (b) of this section to a requesting facility that is not a small  
29 business concern as defined in 15 U.S.C. 631 but that is subject to the requirements  
30 of AS 46.03.140 - 46.03.249 if the legislature appropriates money from the general  
31 fund for this purpose.

1           **Sec. 46.03.178. POWER TO LIMIT SMALL BUSINESS ASSISTANCE**  
2 **PROGRAM.** (a) After consultation with the federal administrator and the  
3 administrator of the United States Small Business Administration and after providing  
4 notice and opportunity for public hearing, the department may exclude from the scope  
5 of the small business assistance program established in AS 46.03.176 a category or  
6 subcategory of small business facilities that the department finds to have sufficient  
7 technical and financial capabilities to meet the requirements of AS 46.03.140 -  
8 46.03.249 and federal law without the assistance provided under AS 46.03.176 -  
9 46.03.179.

10           (b) Nothing in AS 46.03.176(c) precludes the department from excluding a  
11 business facility or category of business facilities that the department finds to have  
12 sufficient technical and financial capabilities to meet the requirements of  
13 AS 46.03.140 - 46.03.249 without assistance from the department.

14           **Sec. 46.03.179. COMPLIANCE ADVISORY PANEL.** (a) There is  
15 established in the department a compliance advisory panel.

16           (b) The panel consists of

17                   (1) two members who are not owners or representatives of owners of  
18 small business facilities, selected by the governor to represent the general public;

19                   (2) one member selected by the commissioner to represent the  
20 department; and

21                   (3) four members who are owners or representatives of owners of small  
22 business facilities, selected as follows:

23                           (A) one shall be selected by the president of the senate and one  
24 shall be selected by the speaker of the house;

25                           (B) if there are members of the senate who are not part of the  
26 majority caucus of the senate, the leader of the largest nonmajority group shall  
27 select a panel member; if all members of the senate are in the majority caucus,  
28 then the president of the senate shall select a second panel member in addition  
29 to the selection authorized under (A) of this paragraph;

30                           (C) if there are members of the house who are not part of the  
31 majority caucus of the house, the leader of the largest nonmajority group shall

1 select a panel member; if all members of the house are in the majority caucus,  
2 then the speaker of the house shall select a second panel member in addition  
3 to the selection authorized under (A) of this paragraph.

4 (c) The panel members shall serve without compensation but are entitled to  
5 transportation expenses and per diem as authorized for members of boards and  
6 commissions under AS 39.20.180.

7 (d) The compliance advisory panel shall

8 (1) elect a chair and agree upon procedures by which the panel will  
9 function;

10 (2) meet annually and at the call of the chair and give public notice of  
11 panel meetings as required under AS 44.62.310 - 44.62.312;

12 (3) prepare advisory opinions concerning the effectiveness of the small  
13 business assistance program, difficulties encountered in making the program efficient  
14 and effective, and degree of enforcement and severity of air pollution offenses;

15 (4) make periodic reports to the administrator concerning the  
16 compliance of the small business assistance program with requirements of 44 U.S.C.  
17 3501 (Paperwork Reduction Act), 5 U.S.C. 601 (Regulatory Flexibility Act), and 5  
18 U.S.C. 504 (Equal Access to Justice Act);

19 (5) review information designed to assist small business facilities in  
20 complying with AS 46.03.140 - 46.03.249 to ensure that the information is  
21 understandable by the public; and

22 (6) use the assistance of the small business advocate designated under  
23 AS 46.03.176(b) in the development and dissemination of panel reports and advisory  
24 opinions.

25 \* Sec. 5. AS 46.03 is amended by adding a new section to read:

26 Sec. 46.03.185. AIR POLLUTION FROM OUTER CONTINENTAL SHELF  
27 ACTIVITIES. (a) The department shall seek delegation of authority from the federal  
28 administrator to implement and enforce the terms and provisions of 42 U.S.C. 7627  
29 (Clean Air Act, sec. 328) for the Pacific and Arctic Ocean areas offshore of the state.  
30 The department may adopt regulations that are necessary to acquire this delegated  
31 authority.

1 (b) In adopting regulations under this section, the department shall ensure that  
2 facilities located within 25 miles of the seaward boundary of the state are subject to  
3 the same air quality control requirements that would be applicable if the facility were  
4 located in the corresponding onshore area. For purposes of this subsection, facilities  
5 located within 25 miles of the seaward boundary of the state include a vessel servicing  
6 or associated with the facility while at the facility or en route to or from the facility  
7 and within 25 miles of the facility.

8 (c) In this section, "corresponding onshore area" means, with respect to a  
9 facility located within 25 miles of the seaward boundary of the state, the onshore  
10 attainment or nonattainment area that is closest to the facility, unless the commissioner  
11 determines that another area with more stringent requirements relating to control and  
12 abatement of air pollution may reasonably be expected to be affected by emissions  
13 from the offshore facility; this determination shall be based on the potential for air  
14 contaminants from the facility to reach the other onshore area and the potential of the  
15 air contaminants to affect the efforts of the other onshore area to attain or maintain a  
16 federal ambient air quality standard set under 42 U.S.C. 7470 - 7492 (Title I, Part C,  
17 Clean Air Act) or a state equivalent.

18 \* Sec. 6. AS 46.03 is amended by adding new sections to read:

19 Sec. 46.03.212. LOCAL AIR QUALITY CONTROL PROGRAMS. (a) With  
20 the approval of the department, a municipality may establish and administer within its  
21 jurisdiction a local air quality control program that operates in lieu of and is consistent  
22 with all or part of the department's air quality program as established under  
23 AS 46.03.140 - 46.03.249. A first or second class borough may administer an air  
24 quality control program approved by the department under this subsection on an  
25 areawide basis and is not subject to the restrictions for acquiring additional areawide  
26 powers specified in AS 29.35.300 - 29.35.350. A third class borough may administer  
27 a local air quality control program approved by the department under this subsection  
28 only in a service area formed under AS 29.35.490(b) or (c).

29 (b) With the approval of the department, two or more municipalities or other  
30 entities may create a local air quality district for the purpose of jointly administering  
31 a local air quality control program within the boundaries of the air quality district.

1 (c) If the department finds that the location, character, or extent of particular  
2 concentrations of population, air contaminant sources, the geographic, topographic, or  
3 meteorological considerations, or a combination of these factors make impracticable  
4 the maintenance of appropriate levels of air quality without an areawide air pollution  
5 control program, the department may determine the boundaries within which a local  
6 air quality control program is necessary and direct that a local air quality control  
7 program spanning those boundaries is the only acceptable alternative to direct state  
8 administration.

9 (d) A municipality or a local air quality district seeking department approval  
10 for a local air quality control program shall enter into a cooperative agreement with  
11 the department that is designed to avoid unnecessary duplication of responsibilities.  
12 The cooperative agreement must include provisions specifying

13 (1) the respective duties and authority of the department and the  
14 municipality or local air quality district in the administration of the local air quality  
15 control program;

16 (2) the authority of the municipality or the local air quality district to  
17 employ staff to administer the local air quality control program;

18 (3) duties of staff employed under (2) of this subsection;

19 (4) respective enforcement responsibilities of the department and the  
20 municipality or the local air quality district.

21 (e) A local air quality control program shall provide for the exemption of a  
22 locally registered motor vehicle from motor vehicle emission requirements adopted  
23 under AS 46.03.190 if the motor vehicle is not used within the program's jurisdiction.

24 (f) A municipality or a local air quality district administering a program under  
25 this section shall administer its local air quality control program according to  
26 AS 46.03.140 - 46.03.249, regulations adopted under those sections, and its cooperative  
27 agreement under (d) of this section. A municipality or local air quality district's  
28 program may, upon a finding by the local agency and an affirmative agreement by the  
29 department, establish a more stringent requirement than the stationary source permit  
30 program authorized under AS 46.03.140 - 46.03.249 if public health or air quality  
31 effects warrant the additional or more stringent requirement. This subsection does not

1 prohibit a municipality or local air quality control district from establishing a mobile  
2 source program more stringent than the state program without making findings of  
3 public health or air quality effects.

4 (g) A determination, order, permit, or permit action issued under a local air  
5 quality control program is considered to be a determination, order, permit, or permit  
6 action of the department.

7 (h) Notwithstanding any other law or rule of law, the department may not  
8 delegate or enable another department or government entity to establish fee rates or  
9 collect fees under AS 46.03.171 or 46.03.172.

10 Sec. 46.03.214. INADEQUACY OF LOCAL PROGRAM. (a) If a  
11 municipality or a local air quality district has an approved local air quality control  
12 program under AS 46.03.212 and the department determines that the program is being  
13 implemented in a manner that fails to meet the terms of the cooperative agreement or  
14 is otherwise being inappropriately administered, the department shall give written  
15 notice setting out its determination to the municipality or local air quality district.  
16 Within 45 days after giving written notice, the department shall conduct a public  
17 hearing on the matter. The hearing shall be recorded by any means that ensures an  
18 accurate record.

19 (b) If, after the hearing, the department upholds the determination made in the  
20 written notice, the department shall provide the municipality or local air quality district  
21 with a written finding setting out the nature of the deficiencies and a description of the  
22 necessary action to be taken to ensure that the local air quality control program  
23 prevents or controls air pollution. The department shall provide its finding to the  
24 municipality or district within 45 days after closure of the public hearing record. The  
25 department shall set a reasonable period of time for the municipality or local air  
26 quality district to take corrective action in response to the department's finding.

27 (c) If the municipality or local air quality district fails to take corrective action  
28 within the time period set by the department under (b) of this section, the department  
29 shall terminate the cooperative agreement and resume management of air quality  
30 control in the affected jurisdiction. If the municipality or the local air quality district  
31 partially remedies, to the department's satisfaction, the deficiencies found in the

1 determination, the department shall amend the cooperative agreement to reflect a  
2 modified allocation of responsibilities between the department and municipality or the  
3 local air quality district.

4 (d) A municipality or local air quality district that has had its cooperative  
5 agreement terminated may, with the department's approval, resume a local air quality  
6 control program if the municipality or district agrees to comply with AS 46.03.212 and  
7 with any corrective action plan required by the department.

8 (e) If the department finds that control of a particular class of facility or  
9 source, because of its complexity or magnitude, is beyond the reasonable capability of  
10 the municipality or the local air quality district or may be more efficiently and  
11 economically controlled at the state level, the department may assume and retain  
12 jurisdiction over the class of facility or source. Classifications under this subsection  
13 may be based on the nature of facilities or sources involved, their size relative to the  
14 size of the communities in which they are located, or another basis established by the  
15 department.

16 \* Sec. 7. AS 46.03.230 is repealed and reenacted to read:

17 Sec. 46.03.230. STATE AND FEDERAL AID. (a) A municipality or local air  
18 quality district with a local air quality control program may apply for, receive,  
19 administer, and spend state aid for the control of air emissions or the development and  
20 administration of the program if an application is first submitted to and approved by  
21 the department. Subject to available money appropriated by the legislature for the  
22 purpose of this section, the department may approve an application if it is consistent  
23 with the terms and conditions of the applicable cooperative agreement and meets the  
24 requirements of AS 46.03.140 - 46.03.249.

25 (b) A municipality or local air quality district with a local air quality control  
26 program may apply for, receive, administer, and spend federal aid for the control of  
27 air emissions or the development and administration of the program.

28 \* Sec. 8. AS 46.03 is amended by adding a new section to read:

29 Sec. 46.03.249. DEFINITIONS. Notwithstanding AS 46.03.900, in  
30 AS 46.03.140 - 46.03.249,

31 (1) "air contaminant" means a regulated air contaminant or a hazardous

1 air contaminant;

2 (2) "ambient air" means that portion of the atmosphere, external to  
3 buildings, to which the general public has access;

4 (3) "ambient air quality standard" means a standard, other than an  
5 emission standard, adopted under AS 46.03.140, 46.03.156, 46.03.212(f), or 42 U.S.C.  
6 7409 (Clean Air Act, sec. 109);

7 (4) "construct" or "construction" means to fabricate, erect, or install, or  
8 to make a physical change, that would result in emissions;

9 (5) "construction permit" means a permit under AS 46.03.154(a);

10 (6) "contaminant outlet" includes exhaust stacks, flares, vents, and other  
11 openings in a facility from which an air contaminant could be emitted;

12 (7) "emission" means a release of one or more air contaminants to the  
13 atmosphere;

14 (8) "emission limitation" and "emission standard" mean a requirement  
15 established by the department or the federal administrator, other than an ambient air  
16 quality standard, that limits the quantity, rate, or concentration of emission of an air  
17 contaminant, including a requirement relating to the operation or maintenance of a  
18 source to ensure sustained emission reduction, and design, equipment, work practice,  
19 or operational standard adopted under AS 46.03.140 - 46.03.249 or 42 U.S.C. 7401 -  
20 7671q (Clean Air Act);

21 (9) "facility" means one or more structures, buildings, installations, or  
22 properties upon which a source or sources are located, that are contiguous or adjacent,  
23 and that are owned or operated by the same person or by persons under common  
24 control;

25 (10) "federal administrator" means the administrator of the United  
26 States Environmental Protection Agency;

27 (11) "fugitive emissions" means emissions of an air contaminant that  
28 could not reasonably be emitted from a contaminant outlet;

29 (12) "hazardous air contaminant" means a pollutant listed in or under  
30 42 U.S.C. 7412(b) (Clean Air Act, sec. 112(b));

31 (13) "local air quality control program" means a program authorized

1 under AS 46.03.212 to implement some or all of the provisions of AS 46.03.140 -  
2 46.03.249;

3 (14) "modification" or "modify" means to make a change or a series  
4 of changes in operation, or any physical change or addition to a facility or source, that  
5 increases the actual emissions of an air contaminant;

6 (15) "operating permit" means a permit under AS 46.03.154(b);

7 (16) "operator" means a person or persons who direct, control, or  
8 supervise a facility or source that has the potential to emit an air contaminant to the  
9 atmosphere;

10 (17) "owner" means a person or persons with a proprietary or  
11 possessory interest in a facility or source that has the potential to emit an air  
12 contaminant to the atmosphere;

13 (18) "person" has the meaning given in AS 01.10.060 and also includes  
14 an agency of the United States, a municipality, the University of Alaska, the Alaska  
15 Railroad Corporation, and other departments, agencies, instrumentalities, units, and  
16 corporate authorities of the state;

17 (19) "potential to emit" means the maximum quantity of a release of  
18 an air contaminant, considering a facility's physical or operation and design, based on  
19 continual operation of all sources within the facility for 24 hours a day, 365 days a  
20 year, reduced by the effect of pollution control equipment and approved state or  
21 federal limitations on the capacity of the facility's sources or the facility to emit an air  
22 contaminant, including limitations such as restrictions on hours or rates of operation  
23 and type or amount of material combusted, stored, or processed; "potential to emit"  
24 does not include

25 (A) a one-time, accidental release of an air contaminant; or

26 (B) the fugitive emissions specifically exempted under the  
27 department's regulations;

28 (20) "reconstruct" means to replace components of a facility with new  
29 components to such an extent that the fixed capital cost of the new components  
30 exceeds 50 percent of the fixed capital cost that would be required to construct a  
31 comparable entirely new facility;

1 (21) "regulated air contaminant" means  
2 (A) a material, compound, or element for which a national or  
3 state ambient air quality standard has been adopted;  
4 (B) oxides of nitrogen;  
5 (C) a volatile organic compound; and  
6 (D) a pollutant that is addressed by a standard adopted under  
7 42 U.S.C. 7411 - 7412 (Clean Air Act, sec. 111 - 112);

8 (22) "small business facility" means a facility that  
9 (A) is owned or operated by a person who employs 100 or  
10 fewer individuals;  
11 (B) is a small business concern as defined in 15 U.S.C. 631  
12 (Small Business Act); and  
13 (C) emits less than 100 TPY of regulated air contaminants;

14 (23) "source" means a device, process, activity, or equipment that  
15 causes, or could cause, a release of an air contaminant;

16 (24) "TPY" means tons per year.

17 \* Sec. 9. AS 46.03.760(a) is amended to read:

18 (a) Except as provided in (f) of this section, a [A] person who violates or  
19 causes or permits to be violated a provision of this chapter [OTHER THAN  
20 AS 46.03.250 - 46.03.314,] or a provision of AS 46.04 or AS 46.09, or a regulation,  
21 a lawful order of the department, or a permit, approval, or acceptance, or term or  
22 condition of a permit, approval, or acceptance issued under this chapter or AS 46.04  
23 or AS 46.09 is liable, in a civil action, to the state for a sum to be assessed by the  
24 court of not less than \$500 nor more than \$100,000 for the initial violation, nor more  
25 than \$5,000 for each day after that on which the violation continues, and that shall  
26 reflect, when applicable,

27 (1) reasonable compensation in the nature of liquidated damages for  
28 any adverse environmental effects caused by the violation, which shall be determined  
29 by the court according to the toxicity, degradability and dispersal characteristics of the  
30 substance discharged, the sensitivity of the receiving environment, and the degree to  
31 which the discharge degrades existing environmental quality;

1 (2) reasonable costs incurred by the state in detection, investigation, and  
2 attempted correction of the violation;

3 (3) the economic savings realized by the person in not complying with  
4 the requirement for which a violation is charged.

5 \* Sec. 10. AS 46.03.760(f) is amended to read:

6 (f) A person who violates or causes or permits to be violated a provision of  
7 AS 46.03.140 - 46.03.245, 46.03.250 - 46.03.314 [AS 46.03.250 - 46.03.314], or a  
8 regulation, a lawful order of the department, or a permit, approval, or acceptance, or  
9 term or condition of a permit, approval, or acceptance issued under AS 46.03.140 -  
10 46.03.245 or 46.03.250 - 46.03.314 [AS 46.03.250 - 46.03.314] is liable, in a civil  
11 action, to the state for a sum to be assessed by the court of not less than \$500 nor  
12 more than \$100,000 for the initial violation, nor more than \$10,000 for each day after  
13 that on which the violation continues, and that shall reflect, when applicable,

14 (1) reasonable compensation in the nature of liquidated damages for  
15 any adverse environmental effects caused by the violation, that shall be determined by  
16 the court according to the toxicity, degradability and dispersal characteristics of the  
17 substance discharged, the sensitivity of the receiving environment, and the degree to  
18 which the discharge degrades existing environmental quality;

19 (2) reasonable costs incurred by the state in detection, investigation, and  
20 attempted correction of the violation;

21 (3) the economic savings realized by the person in not complying with  
22 the requirement for which a violation is charged; and

23 (4) the need for an enhanced civil penalty to deter future  
24 noncompliance.

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

26 (a) Except as provided in AS 46.03.791 or (d) of this section, a person is  
27 guilty of a class A misdemeanor if the person with criminal negligence

28 (1) violates a provision of this chapter, AS 46.04, or AS 46.09, a  
29 regulation or order of the department, or a permit, approval, or acceptance, or a term  
30 or condition of a permit, approval, or acceptance issued under this chapter, AS 46.04,  
31 or AS 46.09;

1 (2) fails to provide information or provides false information required  
2 by AS 46.03.755, AS 46.04, or AS 46.09, or by a regulation adopted by the  
3 department under AS 46.03.755, AS 46.04, or AS 46.09; or

4 (3) makes a false statement or representation in an application, label,  
5 manifest, record, report, permit, or other document filed, maintained, or used for  
6 purposes of compliance with AS 46.03.250 - 46.03.314 applicable to hazardous wastes  
7 or a regulation adopted by the department under AS 46.03.250 - 46.03.314.

8 • Sec. 12. AS 46.03 is amended by adding a new section to read:

9 Sec. 46.03.791. CRIMINAL PENALTIES FOR AIR POLLUTION. (a) After  
10 receiving a certified notice from the department that the conduct may be punishable  
11 by criminal sanctions, a person is guilty of a class A misdemeanor if the person, with  
12 criminal negligence,

13 (1) fails to provide material information or provides false material  
14 information, or makes a false material statement or certification in an application,  
15 notice, record, report, permit, or other document filed, maintained, or used for purposes  
16 of compliance with AS 46.03.140 - 46.03.249 or a regulation adopted under those  
17 sections;

18 (2) falsifies, disables, or fails to install a monitoring device required to  
19 be maintained under AS 46.03.140 - 46.03.249, a regulation adopted under those  
20 sections, or a permit issued by the department or a local air quality control program  
21 under those sections;

22 (3) violates a material condition of a permit issued under  
23 AS 46.03.140 - 46.03.249 and the violation is not otherwise described in (1) or (2) of  
24 this subsection.

25 (b) A person is guilty of a class A felony if the person knowingly releases, or  
26 causes to be released into the ambient air, an air contaminant without a permit issued  
27 under AS 46.03.140 - 46.03.249, or in excess of permitted levels, and knows at the  
28 time that the release places another person in imminent danger of death or serious  
29 bodily injury.

30 (c) A person is guilty of a class C felony if that person recklessly releases or  
31 causes to be released into the ambient air an air contaminant without a permit issued

1 under AS 46.03.140 - 46.03.249 or in excess of permitted levels and thereby recklessly  
2 places another person in imminent danger of death or serious bodily injury.

3 (d) A person is guilty of a class A misdemeanor if that person with criminal  
4 negligence emits or causes to be emitted air contaminants without a permit required  
5 under AS 46.03.140 - 46.03.249 unless the emission is otherwise authorized under  
6 AS 46.03.140 - 46.03.249 or 42 U.S.C. 7401 - 7671q (Clean Air Act).

7 (e) Each day on which a violation described in this section occurs is  
8 considered a separate violation.

9 (f) It is an affirmative defense to a prosecution that the conduct charged was  
10 freely consented to by the person endangered and that the danger and conduct charged  
11 were reasonably foreseeable hazards of

12 (1) an occupation, a business, or a profession; or

13 (2) medical treatment or medical or scientific experimentation  
14 conducted by professionally approved methods and the endangered person had been  
15 made aware of the risks involved before giving consent; the defendant may establish  
16 an affirmative defense under this paragraph by a preponderance of the evidence.

17 (g) For purposes of (a) of this section, a person is considered to have received  
18 notice if the certified notice was signed by a responsible corporate official or other  
19 official who, with apparent or actual authority, represents the person. The certification  
20 must include a representation that the notice will be displayed and communicated by  
21 the official.

22 (h) Notwithstanding AS 12.55.035(b), upon conviction of an offense under (a)  
23 of this section, a defendant who is not an organization may be sentenced to pay a fine  
24 of not more than \$10,000 for each separate offense.

25 (i) In this section,

26 (1) "criminal negligence" has the meaning given in AS 11.81.900(a);

27 (2) "knowingly" has the meaning given in AS 11.81.900(a); however,  
28 in determining whether a person acted knowingly under this section,

29 (A) the person charged is responsible only for actual awareness  
30 or actual belief possessed; and

31 (B) knowledge possessed by a person other than the defendant,

1 but not by the defendant, may not be attributed to the defendant; except that  
2 in proving a person's possession of actual knowledge, circumstantial evidence  
3 may be used, including evidence that a defendant took affirmative steps to be  
4 shielded from relevant information;

5 (3) "recklessly" has the meaning given in AS 11.81.900(a).

6 • Sec. 13. AS 28.10.041(a) is amended to read:

7 (a) The department may refuse to register a vehicle if

8 (1) the application contains a false or fraudulent statement;

9 (2) the applicant fails to furnish information required by the  
10 department;

11 (3) the applicant is not entitled to the issuance of a certificate of title  
12 or registration under this chapter;

13 (4) the vehicle is determined to be mechanically unsafe to be driven or  
14 moved on a highway, vehicular way or area, or other public property in the state;

15 (5) the department has reasonable grounds to believe that the vehicle  
16 was stolen or fraudulently acquired or that the granting of registration would be a fraud  
17 against the rightful owner or other person having a valid lien upon the vehicle;

18 (6) the registration of the vehicle has been suspended or revoked for  
19 any reason under the laws of the state;

20 (7) the required fees or taxes have not been paid;

21 (8) the vehicle or applicant fails to comply with this chapter or  
22 regulations implementing this section;

23 (9) the vehicle is without a certificate of inspection required under  
24 AS 28.32.010;

25 (10) the vehicle is subject to a state-approved [LOCAL] emission  
26 inspection program adopted [BY MUNICIPAL ORDINANCE] under AS 46.03.190 or  
27 46.03.212 [AS 46.03.210], and the vehicle does not meet the standards of that  
28 program, unless the vehicle uses a fuel source that does not primarily emit carbon  
29 monoxide;

30 (11) the applicant fails to certify to the department the existence of a  
31 motor vehicle liability policy that complies with AS 28.22.101 for the vehicle being

1 registered unless the owner of the vehicle qualifies as a self-insurer under  
2 AS 28.20.400 or is exempted from obtaining liability insurance under AS 28.22.011.

3 \* Sec. 14. AS 28.10.423 is amended to read:

4 Sec. 28.10.423. EMISSION CONTROL INSPECTION PROGRAM FEES. In  
5 addition to the annual registration fee specified in AS 28.10.421, a \$1 fee is imposed  
6 upon every vehicle required to be inspected under an emission control program  
7 established under AS 46.03.190 or 46.03.212 [AS 46.03.210]. This fee shall be  
8 collected at the same time and in the same manner as the registration fee.

9 \* Sec. 15. AS 29.10.200 is amended by adding a new paragraph to read:

10 (51) AS 29.35.055 (local air quality control program).

11 \* Sec. 16. AS 29.35 is amended by adding a new section to read:

12 Sec. 29.35.055. LOCAL AIR QUALITY CONTROL PROGRAM. A  
13 municipality may establish a local air quality control program as provided in  
14 AS 46.03.212 only if the municipality has obtained the consent of its governing body  
15 through an ordinance authorizing the participation. This section applies to home rule  
16 and general law municipalities.

17 \* Sec. 17. AS 29.35.200(b) is amended to read:

18 (b) A first class borough may by ordinance exercise the following powers on  
19 an areawide basis:

20 (1) provide transportation systems;

21 (2) provide water pollution control;

22 (3) provide air pollution control under AS 46.03.212 [IN  
23 ACCORDANCE WITH AS 46.03.140 - 46.03.230];

24 (4) license day care facilities;

25 (5) license, impound, and dispose of animals.

26 \* Sec. 18. AS 29.35.210(a) is amended to read:

27 (a) A second class borough may by ordinance exercise the following powers  
28 on a nonareawide basis:

29 (1) provide transportation systems;

30 (2) regulate the offering for sale, exposure for sale, sale, use, or  
31 explosion of fireworks;

- 1 (3) license, impound, and dispose of animals;
- 2 (4) subject to AS 29.35.050, provide garbage, solid waste, and septic
- 3 waste collection and disposal;
- 4 (5) provide air pollution control under AS 46.03.212 [IN
- 5 ACCORDANCE WITH AS 46.03.140 - 46.03.230];
- 6 (6) provide water pollution control;
- 7 (7) participate in federal or state loan programs for housing
- 8 rehabilitation and improvement for energy conservation;
- 9 (8) provide for economic development;
- 10 (9) provide for the acquisition and construction of local service roads
- 11 and trails under AS 19.30.111 - 19.30.251;
- 12 (10) establish an emergency services communication center under
- 13 AS 29.35.130;
- 14 (11) subject to AS 28.01.010, regulate the licensing and operation of
- 15 motor vehicles and operators;
- 16 (12) engage in activities authorized under AS 29.47.460;
- 17 (13) contain, clean up, or prevent a release or threatened release of oil
- 18 or a hazardous substance, and exercise a power granted to a municipality under
- 19 AS 46.04, AS 46.08, or AS 46.09; the borough shall exercise its authority under this
- 20 paragraph in a manner that is consistent with a regional master plan prepared by the
- 21 Department of Environmental Conservation under AS 46.04.210.

22 \* Sec. 19. AS 29.35.210(b) is amended to read:

- 23 (b) A second class borough may by ordinance exercise the following powers
- 24 on an areawide basis:
- 25 (1) provide transportation systems;
- 26 (2) license, impound, and dispose of animals;
- 27 (3) provide air pollution control under AS 46.03.212 [IN
- 28 ACCORDANCE WITH AS 46.03.140 - 46.03.230];
- 29 (4) provide water pollution control;
- 30 (5) license day care facilities.

31 \* Sec. 20. AS 37.05.146(4) is amended by adding a new subparagraph to read:

1 (R) clean air protection fund (AS 46.03.173).

2 \* Sec. 21. AS 44.46.025(a) is amended to read:

3 (a) The Department of Environmental Conservation may adopt regulations that  
4 prescribe reasonable fees, and establish procedures for the collection of the fees, to  
5 cover the direct costs of the following services provided by the department:

6 (1) inspections, permit administration, plan review and approval, and  
7 other related services provided under AS 03.05, AS 17.20, and AS 18.35;

8 (2) certificates of inspection for motor vehicles under AS 46.03.190  
9 or 46.03.212 [AIR QUALITY PERMITS UNDER AS 46.03.140 AND 46.03.160];

10 (3) hazardous waste permits under AS 46.03.299 and 46.03.302;

11 (4) plan approvals and permits for sewerage system and treatment  
12 works and wastewater disposal systems, and plan approvals for drinking water systems,  
13 under AS 46.03.720;

14 (5) oil discharge financial responsibility approvals under AS 46.04.040;

15 (6) oil discharge contingency plan approvals under AS 46.04.030;

16 (7) water and wastewater operator training under AS 46.30.

17 \* Sec. 22. AS 44.46.025 is amended by adding a new subsection to read:

18 (c) The department may adopt regulations that prescribe reasonable fees to  
19 cover the direct and indirect costs of air quality permit programs under AS 46.03.140 -  
20 46.03.249 and may establish procedures for the collection of those fees.

21 \* Sec. 23. AS 45.45.400(a) is amended to read:

22 (a) A person engaged in the business of selling used motor vehicles may not  
23 transfer or assign the owner's title or interest in the used vehicle to a person who  
24 resides in an area subject to a state-approved emission inspection [A  
25 MUNICIPALITY THAT HAS AN AIR POLLUTION CONTROL] program  
26 established under AS 46.03.190 or 46.03.212 [AS 46.03.210] and who intends to use  
27 the vehicle in that area [MUNICIPALITY], unless the vehicle has a certificate of  
28 compliance or noncompliance as required under the air pollution control requirements  
29 applicable in that area [MUNICIPALITY].

30 \* Sec. 24. AS 46.35.200(4)(A) is amended to read:

31 (A) emission control [AIR EMISSIONS] permit -

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AS 46.03.152, [AS 46.03.150,] 18 AAC 50.120;

\* Sec. 25. AS 46.35.200(8) is amended to read:

(8) "state agency" means a state department, commission, board, or other agency of the state; for the purposes of this chapter, "state agency" also means a local or regional air pollution control authority established under AS 46.03.212 [AS 46.03.210].

\* Sec. 26. AS 46.03.170, 46.03.210, 46.03.220, and 46.03.225 are repealed.

\* Sec. 27. AS 46.03.160 is repealed on the day after the day the federal administrator approves the state's program under 42 U.S.C. 7661a(d) (Clean Air Act, sec. 502(d)).

\* Sec. 28. REGULATIONS. The Department of Environmental Conservation may adopt regulations as authorized by this Act, and other statutory authority, to implement changes made by this Act. Regulations adopted under this section may not take effect until the corresponding enabling statute takes effect under sec. 29 or sec. 30 of this Act.

\* Sec. 29. Sections 1, 7, 9 - 28 and AS 46.03.152(a) and (c) - (e), 46.03.154(a)(1) - (3) and (5), 46.03.156, and 46.03.158, enacted by sec. 2 of this Act; AS 46.03.161, 46.03.163, and 46.03.169, enacted by sec. 3 of this Act; AS 46.03.176, 46.03.178, and 46.03.179, enacted by sec. 4 of this Act; AS 46.03.185, enacted by sec. 5 of this Act; and AS 46.03.212 and 46.03.214, enacted by sec. 6 of this Act take effect immediately under AS 01.10.070(c).

\* Sec. 30. Section 8 and AS 46.03.152(b), 46.03.154(a)(4) and (b), enacted by sec. 2 of this Act; AS 46.03.165 and 46.03.167, enacted by sec. 3 of this Act; AS 46.03.171, 46.03.172, 46.03.173, and 46.03.175, enacted by sec. 4 of this Act, take effect on the day after the day the federal administrator approves the state program under 42 U.S.C. 7661a(d) (Clean Air Act, sec. 502(d)). The commissioner shall immediately notify the lieutenant governor and the revisor of statutes of the day of the federal administrator's approval.