

A M E N D M E N T

OFFERED IN THE HOUSE:

By: FINANCE

To: HCS CS HOUSE BILL No. _____

SENATE BILL No. 29 (JUL)

PAGE: 6

LINE: 21

After "reactor:" add "however, nothing in this act shall apply to a facility that mills and refines uranium ore."

THE LEGISLATURE OF THE STATE OF ALASKA
TWELFTH LEGISLATURE

FISCAL NOTE

I. REQUEST
 Bill/Resolution No. HCS CSSB 29 (Jud) am
 Title Relating to disposal of radioactive and hazardous wastes
 Requested by _____ Date _____

II. FISCAL DETAIL
 Agency Affected Department of Environmental Conservation
 Program Category Affected Environmental Conservation
 BRU, Program, or Subprogram(s) Affected Quality Management, Env. Quality Operations
 (Note: If more than one budget component is affected, separate line-item amounts and funding for each component in the analysis section.)

EXPENDITURES (Thousands of Dollars)

	FY 81	FY 82	FY 83	FY 84	FY 85	FY 86
100 PERSONAL SERVICES		273.9				
200 TRAVEL		36.0				
300 CONTRACTUAL		234.3				
400 COMMODITIES		18.3				
500 EQUIPMENT		28.5				
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS, ETC.						
TOTAL		591.0				

FUNDING (Thousands of Dollars)

GENERAL FUND		591.0				
FEDERAL FUNDS						
OTHER (Specify Fund Source)						

POSITIONS

FULL TIME						
PART TIME						
TEMPORARY						

III. ANALYSIS (See Fiscal Note Preparation Instructions, Section III)

IV. DATE 6/18/81 PREPARED BY Albert Adams, Chairman
 AGENCY House Finance Committee
 Original: Legislative Finance PHONE _____
 cc: Budget and Management
 Prime Sponsor (First Legislator Named)

AMENDMENT

OFFERED IN THE HOUSE:

By: FINANCE

To: HCS CS HOUSE BILL No. _____

SENATE BILL No. 29 (Jud)

PAGE: 6

LINE: 21

After "reactor;" add "however, nothing in this act shall apply to a facility that mills and refines uranium ore."

THE LEGISLATURE OF THE STATE OF ALASKA
TWELFTH LEGISLATURE

FISCAL NOTE

I. REQUEST

Bill/Resolution No. HCS CSSB 29 (Jud) am
 Title Relating to disposal of radioactive and hazardous wastes
 Requested by _____ Date _____

II. FISCAL DETAIL

Agency Affected Department of Environmental Conservation
 Program Category Affected Environmental Conservation
 BRU, Program, or Subprogram(s) Affected Quality Management, Env. Quality Operations
 (Note: If more than one budget component is affected, separate line-item amounts and funding for each component in the analysis section.)

EXPENDITURES (Thousands of Dollars)

	FY 81	FY 82	FY 83	FY 84	FY 85	FY 86
100 PERSONAL SERVICES		273.9				
200 TRAVEL		36.0				
300 CONTRACTUAL		234.3				
400 COMMODITIES		18.3				
500 EQUIPMENT		28.5				
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS, ETC.						
TOTAL		591.0				

FUNDING (Thousands of Dollars)

GENERAL FUND		591.0				
FEDERAL FUNDS						
OTHER (Specify Fund Source)						

POSITIONS

FULL TIME						
PART TIME						
TEMPORARY						

III. ANALYSIS (See Fiscal Note Preparation Instructions, Section III)

IV. DATE 6/18/81 PREPARED BY Albert Adams, Chairman
 AGENCY House Finance Committee
 Original: Legislative Finance PHONE _____
 cc: Budget and Management
 Prime Sponsor (First Legislator Named)

012775

PROPOSED AMENDMENTS TO HOUSE COMMITTEE SUBSTITUTE
FOR COMMITTEE SUBSTITUTE FOR SB 29 (FINANCE COMMITTEE)

Amendment No. 1

Section 1 of SB 29 which proports to prohibit all nuclear facilities. Section SEE.18.45.100. NUCLEAR FACILITIES PROHIBITED - a person may not construct a nuclear field production facility, a nuclear utilization facility, a nuclear reprocessing facility, or a nuclear enhancement facility in the state.

EXPLANATION: The above section presents an unconstitutional burden on interstate commerce. Similar statutes have been held on unconstitutional and thus have been nullified. The attorney general's office has also so stated.

Amendment No. 2.

Section 2 - HIGH LEVEL RADIOACTIVE WASTE DISPOSAL FACILITY PERMIT. Would recommend deletion of (c)3 providing for issuance of the permit approval by majority of the registered voters at a general or special state-wide election.

EXPLANATION: The addition of this provides on top of the other obstacles to the construction of a high-level radioactive waste disposal facility will in all likelihood also be declared unconstitutional because the more preconditions imposed upon such a matter that is already in interstate commerce, the greater likelihood it will be declared unconstitutional. Legitimate state interests in this case can be exercised. Such interests do include siting of a facility, but where the exercise of local interest can stop such a project, it becomes illegal. The best way for the state to exercise its legitimate interest is by way of regulation and legislative approval. The more obstacles placed in front of the siting of such a facility, the greater the likelihood that the law itself will be thrown out.

Amendment No. 3

Section 3 - FACILITIES. Recommend the deletion of the term "nuclear fuel production facility" from the list of nuclear facilities to be regulated.

EXPLANATION: The major problem with the term nuclear fuel production facility relates to it overlapping with the term "nuclear enhancement facility" thus leading to the interpretation that the Legislature intended to regulate all forms of radioactive facilities including uranium mills. In essence, the uranium ore goes through several processes from the time it is leaves the ground to the time it becomes useable in a nuclear facility. The problem with this bill is that it sweeps too broadly, and the definition could be read to include simple uranium mill thus virtually stopping the operation of any future uranium mines in the state. The Legislature can effect its goal of exercising legitimate state interest in the regulation of these facilities, but need not go that far.

Amendment No. 4

Recommend the amendment of Section 6, Line 9, by deleting the "." and adding a "," and stating "except as provided under this section."

EXPLANATION: The outright prohibition in Subsection a is inconsistent with the provision in Subsection b that permits such intrastate transportation of radioactive wastes with a permit. This is a simple technical amendment which conforms the legislation.

Amendment No. 5

Section 6. Recommend adding a definition of a nuclear enhancement facility to stipulate that this is intended to apply to uranium enrichment plants.

EXPLANATION: Would recommend tying this definition to that of the federal definition.

Page 6 line 21

AMEND SECTION 18.45.160(4)

(4) "Nuclear fuel production facility" means a facility that purifies radioactive mineral concentrates and fabricates fissionable material to be used in for producing energy in a nuclear reactor; however, nothing in this act shall apply to a facility that mills and refines uranium ore.

EXPLANATION

Ensures that the definition of nuclear fuel production facility applies only to a uranium enrichment plant. The present language could be construed as to include a uranium mill and such facilities are an essential part of any uranium operation.

Original sponsor: Kerttula

Offered: 6/8/81
Referred: Finance

1 IN THE SENATE BY THE JUDICIARY COMMITTEE
2 HOUSE CS FOR CS FOR SENATE BILL NO. 29 (Judiciary)
3 IN THE LEGISLATURE OF THE STATE OF ALASKA
4 TWELFTH LEGISLATURE - FIRST SESSION

5 A BILL

6 For an Act entitled: "An Act relating to hazardous wastes and to nuclear
7 and radioactive facilities and materials; and providing
8 for an effective date."

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

10 * Section 1. AS 18.45 is amended by adding a new section to read:

11 Sec. 18.45.100. NUCLEAR FACILITIES PROHIBITED. A person may not
12 construct a nuclear fuel production facility, a nuclear utilization
13 facility, a nuclear reprocessing facility, or a nuclear enhancement
14 facility in the state.

15 * Sec. 2. AS 18.45 is amended by adding new sections to read:

16 Sec. 18.45.110. HIGH LEVEL RADIOACTIVE WASTE DISPOSAL FACILITY
17 PERMIT. (a) A person may not construct a high level radioactive waste
18 disposal facility in the state unless he has first obtained a permit
19 from the commissioner to construct the facility on land designated by
20 the legislature under (b) of this section.

21 (b) The legislature shall designate by law the land in the state
22 on which a high level radioactive waste disposal facility may be
23 located.

24 (c) A permit may not be issued by the commissioner under this
25 section unless

26 (1) the governor has approved the permit;

27 (2) local approval has been obtained; local approval is
28 obtained

29 (A) if the municipality with jurisdiction over the

1 proposed facility site has approved the permit; or

2 (B) if the facility is to be located in the unorganized
3 borough, a majority of the registered voters who live within 100
4 miles of the proposed facility votes to approve the issuance of
5 the permit at a general election of the state or at a special
6 election of the state called for the purpose; and

7 (3) issuance of the permit is approved by a majority of the
8 registered voters at a general or special statewide election.

9 (d) The commissioner shall adopt regulations governing the issu-
10 ance of permits required by this section.

11 Sec. 18.45.120. PROOF OF FINANCIAL RESPONSIBILITY REQUIRED FOR
12 FACILITY OPERATION. (a) A person may not operate a high level radio-
13 active waste disposal facility unless he has furnished proof to the
14 commissioner of financial ability to care for the radioactive material
15 that will be used in the facility until the material is no longer a
16 threat to health or safety, as determined by the commissioner by regu-
17 lation. Financial responsibility may be demonstrated by self-insurance,
18 insurance, surety, or guarantee, under terms the commissioner may pre-
19 scribe.

20 (b) Acceptance of proof of financial responsibility under this
21 section expires

22 (1) one year from its issuance for self-insurance;

23 (2) on the effective date of a change in the surety bond,
24 guarantee, or insurance agreement; or

25 (3) on the expiration or cancellation of the surety bond,
26 guarantee, or insurance agreement.

27 (c) The person whose proof of financial responsibility is accepted
28 by the commissioner under this section shall notify the commissioner at
29 least 30 days before the effective date of a change, expiration or

1 cancellation in the surety bond, guarantee, or insurance agreement.
2 Application for renewal of acceptance of proof of financial responsi-
3 bility under this section must be filed at least 30 days before the
4 date of expiration.

5 (d) The commissioner, after notice and hearing, may revoke accep-
6 tance of proof of financial responsibility if he determines that

7 (1) acceptance was procured by fraud or misrepresentation;
8 or

9 (2) a change of circumstance has occurred, other than a
10 change specified in (b)(1) - (3) of this section, which would have
11 warranted denial of the application.

12 * Sec. 3. AS 18.45.110(a) is amended to read:

13 Sec. 18.45.110. FACILITIES [HIGH LEVEL RADIOACTIVE WASTE DISPOSAL
14 FACILITY] PERMIT. (a) A person may not construct a nuclear fuel pro-
15 duction facility, nuclear utilization facility, nuclear reprocessing
16 facility, nuclear enhancement facility, or high level radioactive waste
17 disposal facility in the state unless he has first obtained a permit
18 from the commissioner to construct the facility on land designated by
19 the legislature under (b) of this section.

20 * Sec. 4. AS 18.45.110(b) is amended to read:

21 (b) The legislature shall designate by law the land in the state
22 on which a nuclear fuel production, utilization, reprocessing, enhance-
23 ment, or high level radioactive waste disposal facility may be located.

24 * Sec. 5. AS 18.45.120(a) is amended to read:

25 (a) A person may not operate a nuclear fuel production facility,
26 a nuclear utilization facility, a nuclear reprocessing facility, a
27 nuclear enhancement facility, or a high level radioactive waste dis-
28 posal facility unless he has furnished proof to the commissioner of
29 financial ability to care for the radioactive material which will be

1 used in the facility until the material is no longer a threat to health
2 or safety, as determined by the commissioner by regulation. Financial
3 responsibility may be demonstrated by self-insurance, insurance, surety,
4 or guarantee, under terms the commissioner may prescribe.

5 * Sec. 6. AS 18.45 is amended by adding new sections to read:

6 Sec. 18.45.130. TRANSPORTATION OF RADIOACTIVE WASTE MATERIAL.

7 (a) The transportation of high level radioactive waste material,
8 except to a facility approved for operation under this chapter or for
9 purposes of disposal outside the state, is prohibited.

10 (b) A person may not transport radioactive waste material in the
11 state unless he has first obtained a permit from the commissioner. The
12 commissioner shall adopt regulations governing the issuance of permits
13 required by this subsection, and shall establish and implement a system
14 to record by manifest the movement of radioactive waste materials which
15 are transported.

16 (c) This section does not apply to the transportation of radio-
17 active waste material by the federal government. When an agency of the
18 federal government proposes to transport radioactive waste material in
19 the state, the agency shall notify the commissioner and the Department
20 of Public Safety of its plans. When notice is received from the federal
21 agency, the commissioner and the commissioner of public safety may take
22 any action they regard as necessary to protect the health and safety of
23 persons in the vicinity of the route to be used to transport the radio-
24 active waste material. The notice provisions of this subsection do not
25 apply if advance notice would represent a threat to national security.

26 Sec. 18.45.140. PROOF OF RESPONSIBILITY FOR DISPOSAL OF HIGH
27 LEVEL RADIOACTIVE WASTES REQUIRED. (a) A person may not dispose of
28 high level radioactive wastes in the state unless he has furnished
29 proof to the commissioner of financial ability to care for the radio-

1 active waste material. Financial responsibility may be demonstrated by
2 self-insurance, insurance, surety, or guarantee, under terms the commis-
3 sioner may prescribe.

4 (b) Acceptance of proof of financial responsibility under this
5 section expires

6 (1) one year from its issuance for self-insurance;

7 (2) on the effective date of a change in the surety bond,
8 guarantee, or insurance agreement; or

9 (3) on the expiration or cancellation of the surety bond,
10 guarantee, or insurance agreement.

11 (c) The person whose proof of financial responsibility is accepted
12 by the commissioner under this section shall notify the commissioner at
13 least 30 days before the effective date of a change, expiration or
14 cancellation in the surety bond, guarantee, or insurance agreement.
15 Application for renewal of acceptance of proof of financial responsi-
16 bility under this section must be filed at least 30 days before the
17 date of expiration.

18 (d) The commissioner, after notice and hearing, may revoke accep-
19 tance of proof of financial responsibility if he determines that

20 (1) acceptance was procured by fraud or misrepresentation;
21 or

22 (2) a change of circumstance has occurred, other than a
23 change specified in (b)(1) - (3) of this section, which would have
24 warranted denial of the application.

25 Sec. 18.45.150. PENALTIES. (a) A person who violates a provision
26 of AS 18.45.130 is guilty of a class C felony.

27 (b) In addition to the penalty prescribed for a class C felony
28 under AS 12.55.035(b)(2) and (c), a person who violates a provision of
29 AS 18.45.130 - 18.45.140 is subject to

1 (1) a penalty of \$50,000 for each offense; each day that the
2 violation continues constitutes a separate offense;

3 (2) the payment to the state of expenses incurred by the
4 state in removing, correcting, or abating the adverse effects of the
5 violation; and

6 (3) actual damages resulting from the violation.

7 Sec. 18.45.160. DEFINITIONS. In AS 18.45.100 - 18.45.160,

8 (1) "commissioner" means the commissioner of environmental
9 conservation;

10 (2) "high level radioactive waste" means

11 (A) used nuclear reactor fuel;

12 (B) waste produced during the reprocessing of used
13 nuclear reactor fuel; and

14 (C) elements having an atomic number greater than 92
15 and containing 10 or more nanocuries per gram;

16 (3) "manifest" means the form used for identifying the
17 quantity, composition, origin, routing, and destination of radioactive
18 wastes during transportation;

19 (4) "nuclear fuel production facility" means a facility that
20 purifies radioactive mineral concentrates and fabricates fissionable
21 material to be used for producing energy in a nuclear reactor; and

22 (5) "nuclear utilization facility" means an apparatus,
23 device, or equipment in which nuclear fission is sustained in a self-
24 supporting and controlled chain reaction; term does not include an
25 apparatus, device, or equipment used exclusively for educational, medi-
26 cal, or research purposes.

27 * Sec. 7. AS 46.03.250 is amended to read:

28 Sec. 46.03.250. AUTHORITY. The department shall adopt regula-
29 tions

1 (1) establishing standards governing the discharge of low
2 level radioactive materials [RADIONUCLIDES] to the air, water, land,
3 and subsurface land of the state;

4 (2) establishing safeguards for radioactive waste materials
5 that do not constitute a threat to public health or safety and that may
6 be stored or disposed in the state; and

7 (3) establishing procedures for the storage and disposal of
8 radioactive materials used in medicine, education, instruments, indus-
9 trial testing, or scientific research.

10 * Sec. 8. AS 46.03.260 is amended to read:

11 Sec. 46.03.260. USE OF RADIOACTIVE MATERIALS [ATOMIC RADIATION].
12 A person who conducts an operation which results in the discharge of
13 low level radioactive materials [RADIONUCLIDES] to the air, water, land
14 or subsurface land of the state must obtain a permit from the depart-
15 ment before commencing the discharge.

16 * Sec. 9. AS 46.03.900 is amended by adding a new paragraph to read:

17 (30) "low level radioactive materials" means a radioactive
18 waste other than

19 (A) used nuclear reactor fuel;

20 (B) waste produced during the reprocessing of used
21 nuclear reactor fuel; and

22 (C) elements having an atomic number greater than 92
23 and containing 10 or more nanocuries per gram.

24 * Sec. 10. AS 46.03.020(10) is amended by adding a new subparagraph to
25 read:

26 (I) handling, transportation, treatment, storage, and
27 disposal of hazardous wastes;

28 * Sec. 11. AS 46.03.100 is amended by adding a new subsection to read:

29 (c) A permit for disposal of a hazardous waste may not be issued

1 under this section unless the applicant for the permit has furnished
2 proof to the commissioner of financial ability to control the hazardous
3 waste. Proof of financial responsibility may be demonstrated by self-
4 insurance, insurance, surety, or guarantee, under regulations issued by
5 the department. Acceptance of proof of financial responsibility under
6 this subsection expires

7 (1) one year from its issuance for self-insurance;

8 (2) on the effective date of a change in the surety bond,
9 guarantee, or insurance agreement; or

10 (3) on the expiration or cancellation of the surety bond,
11 guarantee, or insurance agreement.

12 * Sec. 12. AS 46.03 is amended by adding new sections to read:

13 ARTICLE 5. RADIATION AND HAZARDOUS WASTE PROTECTION.

14 Sec. 46.03.296. DISPOSAL OF HAZARDOUS WASTES. (a) It is unlawful
15 to dispose of hazardous wastes in the state unless

16 (1) the waste has been treated and disposed of in a manner
17 that uses the maximum degree of reduction of the harmful qualities of a
18 hazardous waste which is subject to this chapter and which the depart-
19 ment, on a case-by-case basis, determines is achievable for the hazar-
20 dous waste by application of production processes and available methods,
21 systems and techniques, taking into account energy, environmental, and
22 economic impacts and other costs; and

23 (2) the waste is disposed of in a manner that will ensure
24 the protection of human health, livestock, wildlife, property, and the
25 environment.

26 (b) The department shall adopt regulations in accordance with the
27 Administrative Procedure Act (AS 44.62) for the treatment, storage, and
28 disposal of hazardous wastes to ensure the protection of human health,
29 livestock, wildlife, property, and the environment.

1 Sec. 46.03.299. CONTROL OF HAZARDOUS WASTES. The department
2 shall, by regulations adopted under the Administrative Procedure Act
3 (AS 44.62), establish a state hazardous waste program; the state hazar-
4 dous waste program shall

5 (1) consistent with the Federal Resource Conservation and
6 Recovery Act of 1976 (P.L. 94-580, 42 U.S.C. 6901-6987),

7 (A) establish criteria to identify the characteristics
8 of hazardous wastes;

9 (B) enumerate specific hazardous wastes subject to the
10 provisions of AS 46.03.302 and 46.03.305; and

11 (C) identify the sources of hazardous wastes enumerated
12 under (B) of this paragraph;

13 (2) qualify the department to receive authorization from the
14 administrator of the Environmental Protection Agency to administer and
15 enforce a hazardous waste program in accordance with the Federal
16 Resource Conservation and Recovery Act;

17 (3) determine the amount of a hazardous waste that is so
18 small as to not present a hazard to public health, livestock, fish,
19 wildlife, and the environment of the state when disposed of;

20 (4) exempt a person who generates, treats, transports,
21 stores, or disposes of a hazardous waste from the provisions of this
22 chapter if the quantity of the hazardous waste is less than the amount
23 identified in (3) of this section;

24 (5) establish

25 (A) criteria for identifying appropriate hazardous
26 waste disposal site locations;

27 (B) procedures by which the public shall have opportun-
28 ity to

29 (i) participate in hazardous waste disposal site

1 locations;

2 (ii) review and comment on issuance of hazardous
3 waste disposal permits by the department; and

4 (6) avoid duplication of federal laws and regulations relat-
5 ing to the control of hazardous wastes.

6 Sec. 46.03.302. HAZARDOUS WASTE PERMIT. (a) A person may not
7 process, transport, store, or dispose of a hazardous waste as defined
8 by the department by regulation unless that person first secures a
9 permit from the department and submits to the department any reports or
10 manifests that the department may require for handling the hazardous
11 wastes.

12 (b) A person who generates hazardous waste is not required to
13 obtain a permit under (a) of this section unless the person also pro-
14 cesses, transports, stores, or disposes of the hazardous waste.

15 Sec. 46.03.305. HAZARDOUS WASTE REPORTS AND MANIFESTS. A person
16 who generates hazardous wastes shall submit to the department reports
17 or manifests that the department may require for handling the hazardous
18 wastes.

19 Sec. 46.03.308. TRANSPORTATION OF HAZARDOUS WASTES. Hazardous
20 wastes may not be transported to a hazardous waste disposal site unless
21 the wastes are accompanied by a report or manifest which the department
22 may require for handling hazardous wastes.

23 Sec. 46.03.311. PUBLIC RECORDS. (a) Permits, permit applica-
24 tions, records, reports, and information and documentation obtained
25 under AS 46.03.302 or 46.03.305 are available to the public for in-
26 spection and copying. However, upon a showing satisfactory to the
27 commissioner that a record, report, permit, application, or information
28 would, if made public, divulge methods or processes entitled to protec-
29 tion as trade secrets, the commissioner shall treat the record, report,

1 permit, application, or information as confidential.

2 (b) Information that is confidential may be transmitted under a
3 continuing restriction of confidentiality to other officers, employees,
4 or authorized representatives of the state or of the United States if

5 (1) the person responsible for furnishing the record,
6 report, permit, application, or information to which such information
7 pertains is informed at least two weeks before the transmittal; and

8 (2) the information has been acquired by the department
9 under the provisions of AS 46.03.296 - 46.03.311.

10 (c) The provisions of this section do not limit the department's
11 authority to release confidential information during emergency situa-
12 tions.

13 * Sec. 13. AS 46.03.790(a) is amended to read:

14 (a) A person who violates or who causes or permits a violation of
15 a provision of this chapter or AS 46.04, or of a regulation, lawful
16 order of the department, or permit, approval, or acceptance, or term or
17 condition of a permit, approval, or acceptance issued under this
18 chapter or AS 46.04 is guilty of a class B misdemeanor [VIOLATION].

19 * Sec. 14. AS 46.03.790(b) is amended to read:

20 (b) A person who wilfully violates a provision of this chapter,
21 or of a regulation, lawful order of the department, or permit, approval,
22 or acceptance, or term or condition of a permit, approval, or accep-
23 tance issued under this chapter or AS 46.04 is guilty of a class A
24 misdemeanor.

25 * Sec. 15. AS 46.03 is amended by adding new sections to read:

26 Sec. 46.03.830. PROOF OF FINANCIAL RESPONSIBILITY REQUIRED FOR
27 PETROCHEMICAL FACILITY OR HAZARDOUS WASTE DISPOSAL SITE OPERATION. (a)
28 A person may not operate a petrochemical facility or a hazardous waste
29 disposal site unless the person has furnished proof to the commissioner

1 of financial ability to control a hazardous waste that will be used in,
2 produced by, or disposed of at the facility or the site. Proof of
3 financial responsibility shall include responsibility for the hazardous
4 waste after the facility or site is closed, and may be demonstrated by
5 self-insurance, insurance, surety, or guarantee, under regulations
6 issued by the department.

7 (b) Acceptance of proof of financial responsibility under this
8 section expires

9 (1) one year from its issuance for self-insurance;

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

12 (3) on the expiration or cancellation of the surety bond,
13 guarantee, or insurance agreement.

14 Sec. 46.03.833. COMPLIANCE WITH FINANCIAL RESPONSIBILITY REQUIRE-
15 MENTS. (a) A person whose proof of financial responsibility is
16 accepted by the department under AS 46.03.830 or under 46.03.100(c)
17 shall notify the department at least 30 days before the effective date
18 of a change, expiration, or cancellation in the surety bond, guarantee,
19 or insurance agreement. Application for renewal of acceptance of proof
20 of financial responsibility under AS 46.03.830 or 46.03.100(c) must be
21 filed at least 30 days before the date of expiration.

22 (b) The department, after notice and hearing, may revoke accept-
23 ance of proof of financial responsibility if it determines that

24 (1) acceptance was procured by fraud or misrepresentation;
25 or

26 (2) a change of circumstance has occurred that warrants
27 revocation under regulations issued by the department.

28 * Sec. 16. AS 46.03.900 is amended by adding new paragraphs to read:

29 (30) "dispose" has the same meaning as the term "disposal" is

1 defined in 42 U.S.C. 6903(3);

2 (31) "hazardous waste" means a waste or combination of wastes
3 which because of quantity, concentration, or physical, chemical, or
4 infectious characteristics may

5 (A) cause, or significantly contribute to, an increase
6 in mortality or an increase in serious irreversible or incapacitating
7 reversible illness; or

8 (B) pose a substantial present or potential hazard to
9 human health or the environment when improperly managed, treated,
10 stored, transported, or disposed of;

11 (32) "manifest" means the form used for identifying the
12 quantity, composition, origin, routing, and destination of a hazardous
13 waste when the hazardous waste is transported;

14 (33) "storage" means the containment of hazardous waste,
15 either on a temporary basis or for a period of years, in a manner that
16 does not constitute disposal of the hazardous waste;

17 (34) "treatment" has the same meaning as the term is defined
18 in 42 U.S.C. 6903(27).

19 * Sec. 17. AS 18.45.010 - 18.45.080 are repealed.

20 * Sec. 18. Sections 1, 2, 6 - 9, and 17 of this Act take effect immedi-
21 ately in accordance with AS 01.10.070(c).

22 * Sec. 19. Sections 3 - 5 of this Act take effect on the date of a final
23 court order ruling AS 18.45.100 as enacted by sec. 1 of this Act invalid or
24 unconstitutional.

25 * Sec. 20. Sections 10 - 16 of this Act take effect July 1, 1981.
26
27
28
29

Original sponsor: Kerttula

Offered: 3/18/81
Referred: Judiciary

1 IN THE SENATE BY THE RESOURCES COMMITTEE

2 HOUSE CS FOR CS FOR SENATE BILL NO. 29 (Resources)

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 TWELFTH LEGISLATURE - FIRST SESSION

5 A BILL

6 For an Act entitled: "An Act relating to nuclear materials and extremely
7 hazardous and hazardous wastes; and providing for an
8 effective date."

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

10 * Section 1. AS 18.45 is amended by adding a new section to read:

11 Sec. 18.45.100. NUCLEAR FACILITIES PROHIBITED. A person may not
12 construct a nuclear fuel production facility, a nuclear utilization
13 facility, a nuclear reprocessing facility, or a nuclear enhancement
14 facility in the state.

15 * Sec. 2. AS 18.45 is amended by adding new sections to read:

16 Sec. 18.45.110. HIGH LEVEL NUCLEAR WASTE DISPOSAL FACILITY SITING
17 PERMIT REQUIRED. (a) A person may not construct a high level nuclear
18 waste disposal facility in the state unless he has first obtained a
19 permit from the department to construct the facility on land designated
20 by the legislature under (b) of this section.

21 (b) The legislature shall designate by law the land in the state
22 on which a high level nuclear waste disposal facility may be located.

23 (c) The department shall adopt regulations governing the issuance
24 of permits required by (a) of this section. However, a permit may not
25 be issued by the department unless

26 (1) the governor has approved the permit;

27 (2) local approval has been obtained; local approval is
28 obtained

29 (A) if the municipality with jurisdiction over the

1 proposed facility site has approved the permit; and
2 (B) if the facility is to be located in the unorganized
3 borough, a majority of the registered voters who live within 100
4 miles of the proposed facility votes to approve the issuance of
5 the permit for the facility at a general or special election of
6 the state called for the purpose; and

7 (3) issuance of the permit is approved by a majority of the
8 registered voters at a general or special statewide election.

9 Sec. 18.45.120. PROOF OF FINANCIAL RESPONSIBILITY REQUIRED FOR
10 FACILITY OPERATION. (a) A person may not operate a high level nuclear
11 waste disposal facility unless he has furnished proof to the commis-
12 sioner of financial ability to care in perpetuity for the nuclear
13 material which will be used in the facility. Financial responsibility
14 may be demonstrated by self-insurance, insurance, surety, or guarantee,
15 under terms the department may prescribe.

16 (b) Acceptance of proof of financial responsibility under this
17 section expires

18 (1) one year from its issuance for self-insurance;

19 (2) on the effective date of a change in the surety bond,
20 guarantee, or insurance agreement; or

21 (3) on the expiration or cancellation of the surety bond,
22 guarantee, or insurance agreement.

23 (c) The person whose proof of financial responsibility is accepted
24 by the department under this section shall notify the department at
25 least 30 days before the effective date of a change, expiration or
26 cancellation in the surety bond, guarantee, or insurance agreement.
27 Application for renewal of acceptance of proof of financial responsi-
28 bility under this section must be filed at least 30 days before the
29 date of expiration.

1 (d) The department, after notice and hearing, may revoke accep-
2 tance of proof of financial responsibility if it determines that

3 (1) acceptance was procured by fraud or misrepresentation;
4 or

5 (2) a change of circumstance has occurred, other than a
6 change specified in (b)(1) - (3) of this section, which would have
7 warranted denial of the application.

8 * Sec. 3. AS 18.45.110(a) is amended to read:

9 Sec. 18.45.110. FACILITIES [HIGH LEVEL NUCLEAR WASTE DISPOSAL
10 FACILITY] SITING PERMIT REQUIRED. (a) A person may not construct a
11 nuclear fuel production facility, nuclear utilization facility, nuclear
12 reprocessing facility, nuclear enhancement facility, or high level
13 nuclear waste disposal facility in the state unless he has first ob-
14 tained a permit from the department to construct the facility on land
15 designated by the legislature under (b) of this section.

16 * Sec. 4. AS 18.45.110(b) is amended to read:

17 (b) The legislature shall designate by law the land in the state
18 on which a nuclear fuel production, utilization, reprocessing, enhance-
19 ment, or high level nuclear waste disposal facility may be located.

20 * Sec. 5. AS 18.45.120(a) is amended to read:

21 (a) A person may not operate a nuclear fuel production facility,
22 a nuclear utilization facility, a nuclear reprocessing facility, a nu-
23 clear enhancement facility, or a high level nuclear waste disposal
24 facility unless he has furnished proof to the commissioner of financial
25 ability to care in perpetuity for the nuclear material which will be
26 used in the facility. Financial responsibility may be demonstrated by
27 self-insurance, insurance, surety, or guarantee, under terms the depart-
28 ment may prescribe.

29 * Sec. 6. AS 18.45 is amended by adding new sections to read:

1 Sec. 18.45.130. TRANSPORTATION OF NUCLEAR WASTE MATERIAL. (a)

2 The transportation of high level nuclear waste material, except for
3 purposes of disposal outside the state, is prohibited.

4 (b) A person may not transport low level nuclear waste material
5 in the state unless he has first obtained a permit from the department.
6 The department shall adopt regulations governing the issuance of permits
7 required by this subsection, and shall establish and implement a system
8 to record by manifest the movement of low level nuclear waste materials
9 which are transported.

10 (c) The provisions of (a) and (b) of this section do not apply to
11 the transportation of nuclear waste material by the federal government.
12 When the federal government proposes to transport nuclear waste material
13 in the state, the agency of the federal government shall notify the
14 commissioner and the Department of Public Safety of its plans. When
15 notification is received from the federal agency, the commissioner and
16 the commissioner of public safety may take any action they regard as
17 necessary to protect the health and safety of persons in the vicinity
18 of the route used to transport the nuclear waste material. The notifi-
19 cation provisions of this subsection do not apply if advance notice to
20 the commissioner would represent a threat to national security.

21 Sec. 18.45.140. STORAGE AND DISPOSAL OF NUCLEAR WASTE MATERIAL.

22 (a) The storage and disposal in the state of nuclear waste material
23 which would constitute a threat to the health or safety of the public
24 is prohibited.

25 (b) The provisions of (a) of this section do not apply to
26 (1) material of a kind or quantity which, when stored or
27 disposed, would not constitute a threat to the health or safety of the
28 public as determined by the department under AS 46.03.250 by regula-
29 tion;

1 (2) radioactive materials used in medicine; and

2 (3) radioactive materials, not exceeding an amount deter-
3 mined by the department by regulation under AS 46.03.250, used in
4 education, x-ray or photographic process testing, security screening,
5 or scientific research which are stored or disposed of in conformity
6 with procedures established by the department by regulation.

7 Sec. 18.45.150. PROOF OF RESPONSIBILITY FOR DISPOSAL OF HIGH
8 LEVEL NUCLEAR WASTES REQUIRED. (a) A person may not dispose of high
9 level nuclear wastes in the state unless he has furnished proof to the
10 commissioner of financial ability to care for the disposed nuclear
11 waste material. Financial responsibility may be demonstrated by self-
12 insurance, insurance, surety, or guarantee, under terms the department
13 may prescribe.

14 (b) Acceptance of proof of financial responsibility under this
15 section expires

16 (1) one year from its issuance for self-insurance;

17 (2) on the effective date of a change in the surety bond,
18 guarantee, or insurance agreement; or

19 (3) on the expiration or cancellation of the surety bond,
20 guarantee, or insurance agreement.

21 (c) The person whose proof of financial responsibility is accepted
22 by the department under this section shall notify the department at
23 least 30 days before the effective date of a change, expiration or
24 cancellation in the surety bond, guarantee, or insurance agreement.
25 Application for renewal of acceptance of proof of financial responsi-
26 bility under this section must be filed at least 30 days before the
27 date of expiration.

28 (d) The department, after notice and hearing, may revoke accept-
29 ance of proof of financial responsibility if it determines that

1 (1) acceptance was procured by fraud or misrepresentation;
2 or

3 (2) a change of circumstance has occurred, other than a
4 change specified in (b)(1) - (3) of this section, which would have
5 warranted denial of the application.

6 Sec. 18.45.160. PENALTIES. (a) A person who violates a provision
7 of AS 18.45.130 - 18.45.140 is guilty of a class C felony.

8 (b) In addition to the penalty prescribed for a class C felony
9 under AS 12.55.035(b)(2) and (c), a corporation which violates a
10 provision of AS 18.45.130 - 18.45.140 is subject to

11 (1) a penalty of \$50,000 for each offense; each day that the
12 violation continues constitutes a separate offense;

13 (2) the payment to the state of expenses incurred by the
14 state in removing, correcting, or abating the adverse effects of the
15 violation; and

16 (3) actual damages resulting from the violation.

17 Sec. 18.45.170. DEFINITIONS. In AS 18.45.100 - 18.45.170,

18 (1) "commissioner" means the commissioner of environmental
19 conservation;

20 (2) "department" means the Department of Environmental
21 Conservation;

22 (3) "high level nuclear waste" means

23 (A) used nuclear reactor fuel;

24 (B) waste produced during the reprocessing of used
25 nuclear reactor fuel; and

26 (C) elements having an atomic number greater than 92
27 and emitting 10 or more nanocuries per gram;

28 (4) "low level nuclear waste" means a radioactive waste
29 other than a high level nuclear waste; and

1 (5) "manifest" means a shipping or storage document contain-
2 ing a list of the contents, value, origin, carrier, and destination of
3 the nuclear waste materials to be transported, required to be carried
4 by the person providing transportation of the wastes.

5 * Sec. 7. AS 46.03.250 is amended to read:

6 Sec. 46.03.250. AUTHORITY. The department shall adopt regula-
7 tions

8 (1) establishing standards governing the discharge of low
9 level radiation [RADIONUCLIDES] to the air, water, land, and subsurface
10 land of the state;

11 (2) defining nuclear waste material which does not consti-
12 tute a threat to public health or safety and which may be stored or
13 disposed in the state; and

14 (3) establishing procedures for the storage and disposal of
15 radioactive materials used in medicine, education, x-ray or photo-
16 graphic process testing, security screening, or scientific research.

17 * Sec. 8. AS 46.03.260 is amended to read:

18 Sec. 46.03.260. USE OF NUCLEAR [ATOMIC] RADIATION. A person who
19 conducts an operation which results in the discharge of low level
20 radiation [RADIONUCLIDES] to the air, water, land or subsurface land of
21 the state must obtain a permit from the department before commencing
22 the discharge.

23 * Sec. 9. AS 46.03.790(a) is amended to read:

24 (a) A person who violates or who causes or permits a violation of
25 a provision of this chapter or AS 46.04, or of a regulation, lawful
26 order of the department, or permit, approval, or acceptance, or term or
27 condition of a permit, approval, or acceptance issued under this chapter
28 or AS 46.04 is guilty of a class B misdemeanor [VIOLATION].

29 * Sec. 10. AS 46.03.790(b) is amended to read:

1 (b) A person who wilfully violates a provision of this chapter,
2 or of a regulation, lawful order of the department, or permit, approval,
3 or acceptance, or term or condition of a permit, approval, or accept-
4 ance issued under this chapter or AS 46.04 is guilty of a class A
5 misdemeanor.

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

7 (30) "low level nuclear waste" means a radioactive waste
8 other than

9 (A) used nuclear reactor fuel;

10 (B) waste produced during the reprocessing of used
11 nuclear reactor fuel; and

12 (C) elements having an atomic number greater than 92
13 and emitting 10 or more nanocuries per gram.

14 * Sec. 12. AS 46.03.020(10)(H) is amended to read:

15 (I) any other purpose which [SUCH OTHER PURPOSES AS]
16 may be required to implement [FOR THE IMPLEMENTATION OF] the
17 policy declared in AS 46.03.010;

18 * Sec. 13. AS 46.03.020(10) is amended by adding a new subparagraph to
19 read:

20 (I) procedures required to handle, transport, treat,
21 store, and dispose of extremely hazardous wastes and hazardous
22 wastes;

23 * Sec. 14. AS 46 is amended by adding a new chapter to read:

24 CHAPTER 32. WASTES.

25 Sec. 46.32.010. DISPOSAL OF EXTREMELY HAZARDOUS WASTES. (a) It
26 is unlawful to dispose of extremely hazardous wastes in the state
27 without a permit issued by the department.

28 (b) A permit may be issued by the department only for the disposal
29 of extremely hazardous wastes which, when disposed of, will ensure the

1 protection of human health, livestock, wildlife, property, and the
2 environment.

3 Sec. 46.32.020. DISPOSAL OF HAZARDOUS WASTES. (a) It is un-
4 lawful to dispose of hazardous waste in the state unless

5 (1) the waste has been processed to remove its harmful
6 properties to the maximum extent feasible; or

7 (2) it is disposed of in a manner which will ensure the
8 protection of human health, livestock, wildlife, property, and the
9 environment.

10 (b) The department shall adopt regulations in accordance with the
11 Administrative Procedure Act (AS 44.62) for the disposal of hazardous
12 wastes to ensure the protection of human health, livestock, wildlife,
13 property, and the environment.

14 Sec. 46.32.030. TRANSPORTATION OF EXTREMELY HAZARDOUS WASTES.

15 (a) The transportation of extremely hazardous wastes, except for
16 purposes of disposal in accordance with AS 46.32.010(b), is prohibited.

17 (b) A person may not transport extremely hazardous wastes in the
18 state unless he first obtains a permit from the department. The depart-
19 ment shall adopt regulations governing the issuance of permits required
20 by this subsection, and shall establish and implement a system to
21 record by manifest the movement of extremely hazardous wastes which are
22 transported.

23 (c) The provisions of (a) and (b) of this section do not apply to
24 the transportation of extremely hazardous wastes by the federal govern-
25 ment. When the federal government proposes to transport extremely
26 hazardous wastes in the state, the agency of the federal government
27 shall notify the commissioner and the Department of Public Safety of
28 its plans. When notification is received from the federal agency, the
29 commissioner and the commissioner of public safety may take any action

1 they regard as necessary to protect the health and safety of persons in
2 the vicinity of the route used to transport the extremely hazardous
3 wastes. The notification provisions of this subsection do not apply if
4 advance notice to the commissioner would represent a threat to national
5 security.

6 Sec. 46.32.040. TRANSPORTATION OF HAZARDOUS WASTES. (a) The
7 department shall establish and implement a system to record by manifest
8 the movement of hazardous wastes in excess of 1,000 kilograms per month
9 which are transported.

10 (b) A person may not transport hazardous wastes in excess of
11 1,000 kilograms per month in the state unless he transports the hazar-
12 dous wastes in accordance with (a) of this section.

13 (c) The provisions of (a) and (b) of this section do not apply to
14 the transportation of hazardous wastes by the federal government. When
15 the federal government proposes to transport hazardous wastes in the
16 state, the agency of the federal government shall notify the commis-
17 sioner and the Department of Public Safety of its plans. When notifica-
18 tion is received from the federal agency, the commissioner and the
19 commissioner of public safety may take any action they regard as neces-
20 sary to protect the health and safety of persons in the vicinity of the
21 route used to transport the hazardous wastes. The notification provi-
22 sions of this subsection do not apply if advance notice to the commis-
23 sioner would represent a threat to national security.

24 Sec. 46.32.050. DEPARTMENT TO DEFINE EXTREMELY HAZARDOUS WASTES
25 AND HAZARDOUS WASTES BY REGULATION. The department shall, by regula-
26 tions adopted in accordance with the Administrative Procedure Act
27 (AS 44.62), classify substances as extremely hazardous wastes and
28 hazardous wastes.

29 Sec. 46.32.060. PENALTY. (a) A person who violates this chapter

1 or a regulation adopted under this chapter is guilty of a class A
2 misdemeanor.

3 (b) In addition to the penalty prescribed for a class A mis-
4 demeanor under AS 12.55.035(b)(3) and (c), a corporation which violates
5 this chapter or a regulation adopted under this chapter is subject to

6 (1) a penalty of \$50,000 for each offense; each day that the
7 violation continues constitutes a separate offense;

8 (2) the payment to the state of expenses incurred by the
9 state in removing, correcting, or abating the adverse effects of the
10 violation; and

11 (3) actual damages resulting from the violation.

12 Sec. 46.32.070. DEFINITIONS. In this chapter

13 (1) "department" means the Department of Environmental
14 Conservation;

15 (2) "extremely hazardous waste" means a hazardous waste or
16 combination of hazardous wastes which will likely cause the death of,
17 or result in disabling personal injury or serious illness to, a person
18 who has been exposed to it;

19 (3) "hazardous waste" means a waste, or combination of
20 wastes, which because of its quantity, concentration, or physical,
21 chemical or infectious characteristics may

22 (A) cause, or significantly contribute to, an increase
23 in mortality or an increase in serious irreversible, or incapacit-
24 ating reversible illness; or

25 (B) pose a substantial present or potential hazard to
26 human health, livestock, wildlife, property, or the environment
27 when improperly disposed of;

28 (4) "manifest" means a shipping or storage document contain-
29 ing a list of the contents, value, origin, carrier, and destination of

1 the extremely hazardous and hazardous wastes to be transported, required
2 to be carried by the person providing transportation of the wastes.

3 (5) "waste" means material for which no use or reuse is
4 intended and which is to be disposed of; the term does not include
5 nuclear waste subject to AS 18.45.

6 * Sec. 15. AS 18.45.010 - 18.45.080 are repealed.

7 * Sec. 16. Sections 1, 2, 6 - 11, and 15 of this Act take effect immedi-
8 ately in accordance with AS 01.10.070(c).

9 * Sec. 17. Sections 3 - 5 of this Act take effect on the date of a
10 final court order ruling AS 18.45.100 as enacted by sec. 1 of this Act
11 invalid or unconstitutional.

12 * Sec. 18. Sections 12 - 14 of this Act take effect July 1, 1981.
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29

Original sponsor: Kerttula

Offered: 2/18/81
Referred: Rules

1 IN THE SENATE

BY THE JUDICIARY COMMITTEE

2

CS FOR SENATE BILL NO. 29 (Judiciary)

3

IN THE LEGISLATURE OF THE STATE OF ALASKA

4

TWELFTH LEGISLATURE - FIRST SESSION

5

A BILL

6 For an Act entitled: "An Act relating to nuclear materials."

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

8

* Section 1. AS 18.45.025 is amended to read:

9

Sec. 18.45.025. FACILITIES SITING PERMIT REQUIRED. (a) A [NO]

10

person may not construct a nuclear fuel production facility, utilization facility, reprocessing facility, or nuclear waste disposal facility in the state unless he has first obtained a permit from the Department of Environmental Conservation to construct the facility on land designated by the legislature under (b) of this section.

11

12

13

14

15

(b) The legislature shall designate by law the land in the state on which a nuclear fuel production, utilization, reprocessing or disposal facility may be located.

16

17

18

(c) The Department of Environmental Conservation shall adopt regulations governing the issuance of [THESE] permits required by (a) of this section. However, a [; HOWEVER, NO] permit may not be issued until

19

20

21

22

[(1) THE LEGISLATURE HAS APPROVED THE REGULATIONS BY A CONCURRENT RESOLUTION CONCURRED IN BY A MAJORITY OF THE MEMBERS OF EACH HOUSE;]

23

24

25

(2) the municipality [LOCAL GOVERNMENT] with jurisdiction over the proposed facility site has approved the permit; and

26

27

[(3) THE LEGISLATURE HAS APPROVED THE PERMIT BY A CONCURRENT RESOLUTION CONCURRED IN BY A MAJORITY OF THE MEMBERS OF EACH HOUSE; AND]

28

29

1 (4) the governor has approved the permit.

2 * Sec. 2. AS 18.45 is amended by adding a new section to read:

3 Sec. 18.45.027. TRANSPORTATION OF NUCLEAR WASTE MATERIAL. (a)

4 The transportation of high level nuclear waste material, except for
5 purposes of disposal outside the state, is prohibited.

6 (b) For purposes of this section, "high level nuclear waste
7 material"

8 (1) means

9 (A) nuclear waste materials produced by nuclear power
10 plants; and

11 (B) material of a kind or quantity which, when stored
12 or disposed, would constitute a threat to the health or safety of
13 the public, as determined by the Department of Environmental
14 Conservation under AS 46.03.250 by regulation;

15 (2) does not include radioactive materials used in medicine,
16 education, or scientific research which are stored or disposed of in
17 conformity with procedures established by the Department of Environmen-
18 tal Conservation by regulation adopted under AS 46.03.250(3).

19 * Sec. 3. AS 46.03.250 is amended to read:

20 Sec. 46.03.250. AUTHORITY. The department shall adopt regulations

21 (1) defining low level radiation;

22 (2) establishing standards governing the discharge of low
23 level radiation [RADIONUCLIDES] to the air, water, land, and subsurface
24 land of the state;

25 (3) defining nuclear waste material which does not consti-
26 tute a threat to public health or safety and which may be stored or
27 disposed in the state; and

28 (4) establishing procedures for the storage and disposal of
29 radioactive materials used in medicine, education, or scientific re-

1 search.

2 * Sec. 4. AS 46.03.260 is amended to read:

3 Sec. 46.03.260. USE OF ATOMIC RADIATION. A person who conducts
4 an operation which results in the discharge of low level radiation
5 [RADIONUCLIDES] to the air, water, land or subsurface land of the state
6 must obtain a permit from the department before commencing the dis-
7 charge.

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

9 Sec. 46.03.843. STORAGE AND DISPOSAL OF HIGH LEVEL NUCLEAR WASTE
10 MATERIAL. (a) The storage and disposal of high level nuclear waste
11 material in the state is prohibited.

12 (b) For purposes of this section, "high level nuclear waste
13 material"

14 (1) means

15 (A) nuclear waste materials produced by nuclear power
16 plants; and

17 (B) nuclear waste material of a kind or quantity which,
18 when stored or disposed, would constitute a threat to the health
19 or safety of the public, as determined by the Department of Envi-
20 ronmental Conservation under AS 46.03.250 by regulation;

21 (2) does not include radioactive materials used in medicine,
22 education, or scientific research which are stored or disposed of in
23 conformity with procedures established by the department by regulation.

24

25

26

27

28

29

Position Paper

On

Committee Substitute for Senate Bill No. 29

An Act entitled: "An act relating to nuclear materials".

Committee substitute for Senate Bill No. 29 repeals requirements for legislative approval of regulations and permits for nuclear facilities siting, prohibits the transportation of high level radioactive waste material in the State except for purposes of disposal outside the State, and prohibits the storage and disposal of high level radioactive waste material in the State.

General Comment

It is recommended that the word "radioactive" replace the word "nuclear" wherever the term makes reference to waste, that is, the term would read "radioactive waste disposal" rather than "nuclear waste disposal". This is a more precise description of the kind of waste under consideration.

Definition of High Level Radioactive Waste

In Section 18.45.027 and Section 46.03.843, the definition of "high level nuclear waste materials" includes materials "of a kind or quantity, which when stored or disposed would constitute a threat to the health or safety of the public." Low level waste, improperly stored, would fall into that definition. The Department recommends against making definition of high level radioactive waste contingent upon factors of storage and disposal. This is contrary to established practice in radiation protection and may be a source of confusion and debate. The following definition is suggested which would replace (b) in Sections 18.45.027 and Section 46.03.843:

- (b) For purposes of this section "high level radioactive waste material" means used reactor fuel, or the radioactive wastes produced during the processing of used reactor fuel.

Use of Term "Low Level Radiation"

Section 46.03.250(2) and Section 46.03.260 refer to the discharge of "low level radiation". The use of the term "low level radiation" in this context is in error. Low level radiation is not discharged to the environment; rather, it is the material which emits the radiation which is discharged, namely, radionuclides. It is suggested that "low level radiation" be replaced by the term "low level radioactive waste".

Definition of Low Level Radioactive Waste

Section 46.03.250 gives the Department authority to adopt regulations defining "low level radiation" (low level radioactive waste). It is suggested that the definition for low level radioactive waste be defined by statute as is done in the case of high level radioactive waste. The following definition is suggested:

"Low level radioactive waste" means all waste other than high level radioactive waste, uranium mine or mill tailings, or transuranic wastes containing more than 10 nanocuries per gram.

Exempt Quantities of Radioactive Waste Materials

Section 46.03.250(3) gives the Department of Environmental Conservation authority to adopt regulations defining nuclear waste material which does not constitute a threat to the public safety and which may be stored or disposed in the State. This appears to have possible conflicts with other provisions of this Bill. This could be interpreted as only allowing disposal of radioactive waste materials which do not constitute a threat to the public's health. Presumably that is not the intent of waste disposal provisions found elsewhere in this Bill. To clarify this possible misunderstanding, the following wording is suggested for lines 25 thru 27, page 3:

- (3) defining quantities of radioactive waste material which are exempt from regulations covering storage and disposal in the State; and

Disposal of Radioactive Materials Used in Medicine, Education and Research

Section 46.03.250(4) establishes procedures for the storage and disposal of radioactive materials used in medicine, education and scientific research. The storage and disposal of radioactive materials is presently covered by existing regulations, 18 AAC 85. Further, Part (4) fails to mention industrial wastes which also should be covered by the Department of Environmental Conservation regulations. Since Part (2) of this Section already covers standards regarding disposal of low level radioactive wastes, it is suggested that Part (4); lines 28 and 29, on page 2, and line 1 on page 3, be deleted.

With incorporation of these recommendations the Department of Health and Social Services takes a neutral stand on the Committee Substitute for Senate Bill No. 29.

Recommended by: David Bruce
David Bruce, Deputy Director
Division of Public Health

Date: March 6, 1981

Approved By: Helen D. Beirne
Helen D. Beirne, Commissioner

Date: 3-18-81

THE LEGISLATURE OF THE STATE OF ALASKA
TWELFTH LEGISLATURE

FISCAL NOTE

I. REQUEST

Bill/Resolution No. Committee Substitute for Senate Bill No. 29
 Title An Act relating to nuclear materials.
 Requested by Commissioner's Office Date March 5, 1981

II. FISCAL DETAIL

Agency Affected _____
 Program Category Affected Division of Public Health
 BRU, Program, or Subprogram(s) Affected Radiological Health Program

(Note: If more than one budget component is affected, separate line-item amounts and funding for each component in the analysis section.)

EXPENDITURES (Thousands of Dollars)

	FY 81	FY 82	FY 83	FY 84	FY 85	FY 86
100 PERSONAL SERVICES	0	0	0	0	0	0
200 TRAVEL	0	0	0	0	0	0
300 CONTRACTUAL	0	0	0	0	0	0
400 COMMODITIES	0	0	0	0	0	0
500 EQUIPMENT	0	0	0	0	0	0
600 LAND & STRUCTURES	0	0	0	0	0	0
700 GRANTS, CLAIMS, ETC.	0	0	0	0	0	0
TOTAL	0	0	0	0	0	0

FUNDING (Thousands of Dollars)

GENERAL FUND	0	0	0	0	0	0
FEDERAL FUNDS	0	0	0	0	0	0
OTHER (Specify Fund Source)	0	0	0	0	0	0
	0	0	0	0	0	0
	0	0	0	0	0	0

POSITIONS

FULL TIME	0	0	0	0	0	0
PART TIME	0	0	0	0	0	0
TEMPORARY	0	0	0	0	0	0

III. ANALYSIS (See Fiscal Note Preparation Instructions, Section III)

IV. DATE March 3, 1981 PREPARED BY Sidney D. Heidersdorf, Rad. Physicist
 AGENCY Dept. of Health & Social Services
 PHONE 465-3019
 Original: Legislative Finance
 cc: Budget and Management
 Prime Sponsor (First Legislator Named) M&B Approval [Signature] Date 3/9/81

THE LEGISLATURE OF THE STATE OF ALASKA
TWELFTH LEGISLATURE

FISCAL NOTE

I. REQUEST

Bill/Resolution No. HCS CSSB-29

Title Act relating to the disposal of radioactive and hazardous wastes

Requested by Kertulla

Date _____

II. FISCAL DETAIL

Agency Affected Department of Environmental Conservation

Program Category Affected Environmental Conservation

BRU, Program, or Subprogram(s) Affected Env. Quality Management, Env. Quality Operations

(Note: If more than one budget component is affected, separate line-item amounts and funding for each component in the analysis section.)

EXPENDITURES (Thousands of Dollars)

	FY 81	FY 82	FY 83	FY 84	FY 85	FY 86
100 PERSONAL SERVICES		388.8	429.4	472.4	519.6	571.6
200 TRAVEL		63.4	55.0	60.5	66.5	73.2
300 CONTRACTUAL		304.4	168.1	184.9	203.4	223.7
400 COMMODITIES		24.7	27.2	29.9	32.9	36.2
500 EQUIPMENT		28.5	31.4	34.5	37.9	41.7
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS, ETC.						
TOTAL		809.8	711.1	782.2	860.3	946.4

FUNDING (Thousands of Dollars)

GENERAL FUND		809.8	711.1	782.2	860.3	946.4
FEDERAL FUNDS		(218.8)				
OTHER (Specify Fund Source)						

POSITIONS

FULL TIME		6	6	6	6	6
PART TIME		4	4	4	4	4
TEMPORARY						

III. ANALYSIS (See Fiscal Note Preparation Instructions, Section III)

I. BACKGROUND:

HCS-CSSB-29 will require the establishment of regulations plus controls, to assure proper disposal and handling of hazardous and radioactive wastes throughout the state. Up to now there has been no systematic state effort in controlling either type of waste.

There is very little radioactive waste in the state. Substantially larger quantities of hazardous wastes are present, with the majority of Alaskan generators being small firms and private individuals. However, there is

IV. DATE 3/17/81

PREPARED BY Thomas R. Hanna

AGENCY Department of Environmental Conservation

PHONE 465-2666

Original: Legislative Finance

cc: Budget and Management

Prime Sponsor (First Legislator Named)

little widespread understanding or recognition of hazardous waste and its problems by either the general public or industry. The national Resource Conservation and Recovery Act places requirements on only the large generators, transporters, and disposers of hazardous waste, of which there are not many in the state now. Future industrial development will substantially increase the quantity of hazardous wastes.

HCS CSSB-29 requires that all hazardous waste be "processed to remove its harmful properties to the maximum extent feasible." Approximately 80-85% of all hazardous wastes can be rendered harmless through incineration and recycling. The remaining wastes would have to be disposed in a "secure landfill, which does not exist in the state now. Costs for determining acceptable locations are included in this fiscal note.

II. ASSUMPTIONS:

- (1) Assume full bill to be enacted.
- (2) Technical assistance, training, and public awareness will be emphasized so that general public and industry will be encouraged to use safe methods and procedures.
- (3) A control effort to handle small hazardous waste users should also regulate industry covered under federal legislation, thus eliminating federal involvement at little additional cost.
- (4) Program is to be 100% supported by state funds, to minimize influence of federal government.
- (5) There are hazardous waste disposal site locations within the state which are accessible, capable of being developed and maintained in an environmentally safe manner for an indefinite time period, and acceptable to the public.
- (6) 10% inflation assumed in all years after FY-82.

III. PERSONAL SERVICES:

- | | |
|--|------|
| A. For the Southeast Regional Office: one environmental field officer to provide technical assistance, public awareness, training and conduct inspections (R17 for 10 months) | 32.9 |
| B. For the Southcentral Regional Office (Including Anchorage-Wasilla-Valdez-Kenai): two environmental field officers to provide technical assistance, public awareness, training conduct inspections (One R19 and R17 for 10 months) | 70.5 |
| C. For the Northern Regional Office (including Fairbanks and Prudhoe Bay) two environmental field officers to provide technical assistance, public awareness, training and conduct inspections (One R19 and one R17 for 10 months). | 80.6 |
| D. For the Central Office, an environmental engineer to develop hazardous waste control guidelines, criteria, regulations, training and technical assistance to regional personnel on the proper ways to handle and dispose of hazardous wastes (R19 for 11 months). | 44.8 |
| E. Half-time clerk-typist to support development and maintenance of regulations, plans, training and technical assistance in the | |

Central Office (R8 for twelve months, half-time)	12.3
F. Clerk Typist support for Regional Offices	32.8
1. Southeast Regional Office (R8 for 10 months, 1/4-time)	6.3
2. Southcentral Regional Office (R8 for 10 months, 1/2-time)	12.3
3. Northern Regional Office (R8 for 10 months, 1/2-time)	14.2
G. Needed: One person-year from the Dept. of Law, to support inspections and investigations as needed by regional personnel (see fiscal note from Dept. of Law)	
SUBTOTAL, PERSONAL SERVICES:	<u>273.9</u>

IV. TRAVEL: In support of each field officer position and central office engineer, a total of \$6,000 will be needed to provide travel, to carry out technical assistance, inspection/investigations and adequately provide for safe handling of hazardous wastes.

V. <u>CONTRACTUAL</u> :	<u>\$36.0</u>
A. Southeast Regional Office (1 position)	
Rent	2.7
Telephone	2.0
Advertising	.5
Repair & maintenance of machines	.5
Equipment Rental (1/4 Lexitron rental)	1.2
Subtotal	<u>6.9</u>
B. Southcentral Regional Office (two positions located in the Cook Inlet area)	
Contractual costs per position will be identical to those shown for the Southeast Regional Office above.	
Subtotal	13.8
C. Northern Regional Office (two positions located in the Fairbanks area)	
Cost per position will be 1.15 times that shown for the Southeast Regional Office above.	
Subtotal	15.6
D. Professional Services - to provide for to investigation of specific disposal conditions and/or to provide for cleanup of environmental hazards due to improperly disposed-of wastes, or from emergency spill conditions.	
Subtotal	\$30.0
E. Engineer and half-time Clerk/Typist in Central Office	
Rent	4.1
Telephone	3.0
Advertising	1.0
Repair & maintenance of machine	1.5
Equipment Rental (1/2 Lexitron at \$400 per month)	2.4
Subtotal	12.0

F. Laboratory Support:

Equipment repair, maintenance service	4.0
Sample analysis	2.0
Subtotal:	6.0
SUBTOTAL CONTRACTUAL	<u>84.3</u>

VI. COMMODITIES:

A. In support of positions (\$.5 times 6.5 positions)	3.3
B. Laboratory and sampling supplies-Regional Offices (\$2.0 times 5 professional regional positions, plus \$5.0 for Laboratory analysis supplies)	15.0
SUBTOTAL COMMODITIES	<u>18.3</u>

VII. EQUIPMENT:

A. \$2.0 per professional position, to provide for sampling supplies (masks, sampling equipment, and protective devices)	12.0
B. \$16.5, for equipment to identify and quantify specific hazardous substances	16.5
SUBTOTAL EQUIPMENT	<u>28.5</u>

VIII. SUMMARY OF NEW FISCAL NEEDS:

Personal services	273.9
Travel	36.0
Contractual	84.3
Commodities	18.3
Equipment	28.5
TOTAL, NEW COSTS NOT INCLUDED IN FY-82 BUDGET	<u>441.0</u>

IX. ADDITIONAL STATE FUNDS TO REPLACE FEDERAL FUNDS IN FY-82 BUDGET

In an effort to avoid unnecessary interference and harassment from the U. S. Environmental Protection Agency, this Fiscal Note replaces all federal funds associated with the hazardous waste control effort. In this way, the state will not be placed under any obligation to carry out unreasonable federal demands for fear of losing grant funds. A tabulation of the hazardous waste federal funds in the FY-82 budget is as follows:

1. Personal Services:

A. 25% of Chief, Air and Solid Waste Management Section	15.6
---	------

B.	25% of Clerk/Typist III (Air and SWM Section)	5.6
C.	100% of Hazardous Waste Engineer (Air and SWM Section)	42.6
D.	42% of Planner, Air and Solid Waste Management Section	15.5
E.	20% of Solid Waste-Landfill Engineer (Air and SWM Sec.)	9.8
F.	75% of Hazardous Waste Ecologist/Engineer position (new position)	<u>25.8</u>
	Subtotal, Personal Services	114.9
2.	<u>Travel:</u>	27.4
3.	<u>Contractual:</u>	70.1
4.	<u>Commodities:</u>	6.4
5.	<u>Equipment:</u>	—
	<u>TOTAL:</u>	218.8

X. PROJECTED EXPENSE FOR PROPERLY TREATING HAZARDOUS WASTE

Section 18.31.010 requires that hazardous wastes be rendered harmless before being disposed of in this state, "to the greatest extent feasible". The only effective ways to accomplish this objective is to recycle and/or incinerate these wastes. Through these means about 80-85% of the total hazardous wastes could be rendered harmless, thereby greatly reducing the amount of hazardous wastes to be handled and disposed. No such devices occur in the state, however, and if the state were to establish and operate such a facility it would have costs as below:

FY-82: Review of incinerator designs, location, and completion of feasibility studies. No additional expense, to be handled within program personnel projected above.

FY-83: Purchase of incinerator (\$500,000), completion of site location and design, and initiation of operation (\$500,000). This cost is not included in fiscal note, because of the possibility that private enterprise might fund and operate this facility.

FY-84: Annual operating expenses of approximately \$150,000 per year. This expense would be covered by fees collected from industrial/commercial users.

XI. SECURE LANDFILL FEASIBILITY STUDY

HCS CSSB-29 allows for in-state disposal of those wastes which could not be recycled or rendered harmless. The only way to safely dispose of those wastes which cannot be recycled is in a "secure landfill", which is a carefully located, designed and operated facility which will assure that the deposited wastes will have no adverse effects on the public health or environment. Oregon currently operates a secure landfill in which Alaskan hazardous wastes are disposed.

However, other states are becoming increasingly reluctant to accept out-of-state hazardous wastes, and this reluctance will be more pronounced in years to come, particularly as the quantities of waste increase as will happen in Alaska. As Alaskan industry develops, there will be a critical need to provide for in-state disposal of hazardous wastes.

During FY-82 a feasibility study to identify suitable sites for a secure landfill is needed. This study would be conducted by consultant under contract from the department, to have several alternative sites selected by January, 1982. The feasibility study will cost \$100,000, plus \$50,000 for sampling of groundwater and soil characteristics at the final candidate site locations (prior to announcing the results of the study).

The costs for development and operation of a secure landfill are not projected in the Fiscal Note because of the possibility that private enterprise and/or industry may operate and fund this facility. The costs are presented for informational purposes only, to provide a full perspective of hazardous waste disposal costs. However, if state funds are needed, a detailed plan of developing the site, including the types of wastes expected to be handled, the means of transportation of the wastes and the associated costs, will be presented to the legislature in the next legislative session.

XII. TOTAL FY-82 COSTS FOR STATE HAZARDOUS WASTE CONTROL PROGRAM

	<u>New Funds</u>	<u>Feasibility Study</u>	<u>State funds to replace federal funds</u>	<u>Total</u>
A. Personal Services	273.9	---	114.9	388.8
B. Travel	36.0	—	27.4	63.4
C. Contractual	84.3	150.0	70.1	304.4
D. Commodities	18.3		6.4	24.7
E. Equipment	<u>28.5</u>	<u> </u>	<u> </u>	<u>28.5</u>
Total	441.0	150.0	218.8	809.8