

COMMITTEE REPORT

HOUSE

(11)

FURTHER:

5/18/84

Date: 5-24-84

The Committee on FINANCE has had SSSB 503 (Fin)

"An Act relating to hazardous waste and certain public contracts concerning hazardous waste; changing penalties for environmental pollution violations; and providing for an effective date."

under consideration and recommends:

- do pass do not pass
- do pass with attached amendments(s)
- replace with CS for _____ same title
- and recommends _____ new title
- AND attaches a "Letter of Intent" New Fiscal Note
- reports it back without recommendation Zero Fiscal Note Attached
- referred to the _____ Committee

MEMBERS SIGNING
DO PASS

Robert P. Adams

Walt Furnice

MILTON H. FRITZ

MEMBERS HAVING
OTHER RECOMMENDATIONS:

John ...

...

Robert P. Adams
CHAIRMAN

HOUSE JOURNAL

HOUSE FINANCE COMMITTEE
LETTER OF INTENT
FOR
COMMITTEE SUBSTITUTE FOR SENATE BILL 503 (FINANCE)

It is the intent of the legislature that the Department of Environmental Conservation obtain from the United States Environmental Protection Agency authorization to administer and enforce a hazardous waste program in Alaska. The department should focus its efforts so that the state's final application for full management control be complete by July 1, 1986.

To this end and with respect to the mandate to be codified at AS 46.03.299 (a), the department is instructed to adopt regulations relating to the management of hazardous waste that exhibit the characteristics of toxicity, persistence, or carcinogenicity and other characteristics of hazardous waste as identified by EPA. The department shall evaluate the most appropriate mechanism by which to identify a waste characteristic as identified as hazardous by EPA. This evaluation must include the methods described in the proposed state regulations dated October 26, 1983 that identify hazardous wastes by the characteristics mentioned above. Regulations developed under AS 46.03.299 (a) must incorporate the results of this analysis.

The regulations ultimately adopted by the state are to take effect three years from this bill's enactment, July 1, 1987. The department is to develop and implement a program to educate those effected by this legislation about the requirements of this act during the third year.

In order to gain experience managing a hazardous waste program, the department should assume through cooperative agreement with EPA as much active control as feasible of the currently operating hazardous waste program. The assumption of these duties by the department should begin immediately.

The exemptions for mining waste and waste associated with oil and gas production as defined should be effective until the completion of the studies indicated in the legislation. After each study has been completed and the findings of these studies and proposed federal regulations have been considered by the department, the department may terminate the exemption or promulgate amendments to the state's hazardous waste regulations.

Al Adams, Chairman
House Finance Committee

~~DRAFT~~ FINAL ~~XXX~~

STATE OF ALASKA 1984 LEGISLATIVE SESSION
FISCAL NOTE

Revision Date: May 10, 1984

<u>REQUEST</u> Bill/Resolution No.: <u>CSSB 503 (FIN)</u> Title: <u>Hazardous Waste...</u>	<u>FISCAL DETAIL</u> Agency Affected: <u>Environmental Conservation</u> Program Category Affected: <u>NRMEC</u>
Sponsor: <u>Senate Resources</u> Requestor: _____ Date of Request: _____	BRU, Program or Subprogram(s) Affected: <u>Environmental Quality Management</u> <u>Air and Solid Waste Management</u>

EXPENDITURES/REVENUES: (Thousands of Dollars)

	FY 84	FY 85	FY 86	FY 87	FY 88	FY 89
OPERATING		6 months				
100 PERSONAL SERVICES		65.9	131.7	131.7		
200 TRAVEL		16.0	16.0	16.0		
300 CONTRACTUAL		123.4	101.8	116.8		
400 SUPPLIES		2.0	4.0	4.0		
500 EQUIPMENT		13.6	3.2	3.2		
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS						
800 MISCELLANEOUS						
TOTAL OPERATING		220.9	256.7	271.7		
CAPITAL						
REVENUE						

FUNDING: (Thousands of Dollars)

GENERAL FUND		220.9	256.7	271.7		
FEDERAL FUNDS						
OTHER						
TOTAL						

POSITIONS:

FULL-TIME		3.0	3.0	3.0		
PART-TIME						
TEMPORARY						

SOURCE OF FUNDS TO OFFSET FISCAL IMPACT OF BILL:

ANALYSIS: Attach a separate page for analysis

Prepared By: [Signature] Phone: _____
 Division: _____ Date: _____

Approved by Commissioner: _____ Date: _____
 Agency: _____

Distribution (by Agency preparing fiscal note):
 Legislative Finance
 Legislative Sponsor
 Requestor
 Office of Management and Budget
 Impacted Agency(ies)

ANALYSIS OF FISCAL NOTE
CSSB 503
MAY 10, 1984

- A. Details of the costs for recommending the site and type of state owned/ sponsored hazardous waste management facility.

Assumptions:

- (a) The project will take six to seven years to complete through contracts managed by the Department of Environmental Conservation.
- (b) In the first year, develop the specific details of siting criteria, the appropriate types of facilities to be evaluated based on industries regulated and types of waste, and five or more general areas for evaluation.

In the second and third years, identify five potential sites, the type(s) of facility to be located at each, and begin physical evaluations of the sites.

- (c) In the next three to four years, conduct detailed evaluations of the five sites, including such parameters as meteorology, geology, hydrology, access, and socioeconomic factors. The cost could range from 500.0 to 2 million per site - an average of 1.25 million is estimated to justify each site to the public. Excess funds would be reserved for the design of the facility after approval of the site by the governor and legislature. (To be included in fiscal note in the 1986 fiscal audit cycle.)
 - (d) In the sixth/seventh year conduct the public review of at least two sites.
 - (e) Prepare recommendation for the governor and legislature.
 - (f) No inflation of costs or salaries.
- B. Details of the costs for a collection and transportation service for disposal of hazardous waste from small quantity generators and households.

Assumptions:

- (a) The project will be for at least three and one half years.
- (b) There will be "cleanups" in four or more cities per year.
- (c) No inflation of transportation or disposal costs.
- (d) An aggressive program of technical assistance to the small quantity generator to assure conformance to RCRA (Applicable Federal Hazardous Waste regulations).
- (e) A comprehensive public information campaign each year to maximize legal collection and disposal of hazardous wastes.
- (f) Analysis of the types, quantities and sources of hazardous wastes to provide information for the state hazardous waste facility siting project.

(g) Site for the collection activity and security will be provided by local government.

C. Details of the amounts in the fiscal note.

(1) Personal Services.

1	Environmental Engineer (Range 19) (for siting of hazardous waste facility)	50.0	
1	Administrative Assistant (Range 12) (for siting of hazardous waste facility)	31.7	
1	Environmental Engineer III (Range 19) (for education and hazardous waste collection efforts)	50.0	
	<u>Total</u>		
		FY 85	65.9
		FY 86	131.7
		FY 87	131.7

(2) Travel

Moving costs of the 2 environmental Engineers: the department has found that the specialized expertise required cannot be found in Alaska	12.0	FY 85
Travel in support of project work (technical assistance and public information)	3.0	FY 85
	12.0	FY 86
	12.0	FY 87
Travel to meet with contractors, local governments, public meetings	1.0	FY 85
	4.0	FY 86
	4.0	FY 87
<u>Total</u>		
	FY 85	16.0
	FY 86	16.0
	FY 87	16.0

(3) Contractual

Office costs (5.6 per person -- telephone, xerox, janitor)	8.4	FY 85
	16.8	FY 86
	16.8	FY 87
Inventory the types, amounts and location of hazardous waste generated in Alaska as regulated by proposed state regulations	10.0	FY 85
Determine the type(s) and capacity(ies) of hazardous waste management facilities needed		

to provide an economic means for managing wastes including transportation, storage, chemical treatment, recycling and disposal facilities with particular emphasis on encouraging alternatives to land disposal. 35.0 FY 85

Develop regulations requiring by AS 46.03. 313(b)(2) interpreting and clarifying siting criteria and establishing the public process for determining approvability of a site 45.0 FY 85

Determine five or more areas which are suitable for the types of facilities proposed in the siting of a hazardous waste facility. 50.0 FY 86

Based on the criteria in the inventory done in FY 85, determine the suitability of three or more specific sites for facilities. 75.0 FY 87

Identify alternative models of industrial and governmental financing for the proposed facilities and incentives/inducements to encourage community acceptance of a facility. 10.0 FY 86

Incremental amount needed over FY 85 operating budget funds for increased "cleanups" in four sites. 25.0 FY 85
25.0 FY 86
25.0 FY 87

<u>Total</u>	FY 85	123.4
	FY 86	101.8
	FY 87	116.8

(4) Supplies

Replace expendable laboratory, safety materials 2.0 FY 86
2.0 FY 87

office 2.0 FY 85
2.0 FY 86
2.0 FY 87

(5) Equipment

Office equipment 5.1 FY 85

Safety equipment and replacements 8.5 FY 85
3.2 FY 86
3.2 FY 87

<u>Total</u>	FY 85	13.6
	FY 86	3.2
	FY 87	3.2

Alaska State Legislature

BETTYE FAHRENKAMP, Chairman
ROBERT H. ZIEGLER, SR., Vice Chairman
DICK ELIASON
PAUL FISCHER
VIC FISCHER
BOB MULCAHY
ARLISS STURGULEWSKI



POUGH V
STATE CAPITAL
JUNEAU, ALASKA 99811
(907) 465-3834
(907) 465-3835

Senate

Committee on Resources

CSSB 503 - AN ACT RELATING TO HAZARDOUS WASTE AND CERTAIN PUBLIC CONTRACTS CONCERNING HAZARDOUS WASTE; CHANGING PENALTIES FOR ENVIRONMENTAL POLLUTION VIOLATIONS; AND PROVIDING FOR AN EFFECTIVE DATE."

SECTIONAL ANALYSIS.

Section 1. Regulation of hazardous Waste

- (a) This section directs the Department of Environmental Conservation to adopt regulations for the management of hazardous waste. These regulations must meet the minimum Environmental Protection Agency's requirements as well as regulate those hazardous wastes that are toxic, persistent, or carcinogenic. The federal program ignores the carcinogenic and toxic effects of a waste on human health and the environment. Regulations should be developed no later than July 1 1986 and effective on July 1, 1987.
- (b) Mining waste, oil and gas production wastes are temporarily excluded in this section until federal studies on these wastes have been completed. DEC will consider the report results in the development of regulations for these wastes.
- (c) This section instructs the state to take actions necessary to receive EPA authorization for the hazardous waste program.
- (d) The quantities of waste which will be managed as hazardous are established in this section.
- (e) This section requires the Department to conduct an education program about the regulations for those affected.

Section 2. Transportation of hazardous waste.

Before a hazardous waste can be transported, a manifest (already required under federal law) which includes information about the type of material, disposal site, and handling procedures must be sent to DEC. DEC then sends a copy of this manifest to the highest local elected official and the local and state public safety agencies.

Section 3. Temporary collection of hazardous waste.

This section institutionalizes the very successful program currently offered by DEC, known as "hazardous waste clean-ups." Temporary collection and transfer operations will be held for small quantity and household generators of hazardous waste four times a year.

SECTIONAL ANALYSIS OF SB 503 CONTINUED.

Section 4. Hazardous waste management facilities and sites.

This section outlines the criteria and public comment procedures DEC should use to determine hazardous waste management sites and facilities in Alaska. Recommendations to the Governor and Legislature should be submitted not later than July 1, 1987. Final sites and facilities should be submitted two years later.

Section 5 - 8. Penalties for violations.

These sections include the technical amendments on criminal and civil penalties which are needed to satisfy the federal requirements to obtain final authorization of the state's hazardous waste program.

Section 9. Definitions.

This section defines various terms found in the legislation.

Section. 10. Hazardous waste contracts.

This section prohibits a legislative staff member from soliciting or receiving a contract concerning hazardous waste from a state agency following the session during which the staff member worked for the legislature.

Alaska State Legislature

BETTYE FAHRINKAMP, Chairman
ROBERT H. ZIEGLER, SR., Vice Chairman
DICK ELIASSON
PAUL FISCHER
VIC FISCHER
BOB MULCAHY
ARLISS STURGULEWSKI



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Senate

SENATE LETTER OF INTENT

CS FOR SENATE BILL NO. 503 (FIN)

It is the intent of the Legislature that the Department of Environmental Conservation obtain from the United States Environmental Protection Agency authorization to administer and enforce a hazardous waste program in Alaska. The Department should focus its efforts so that the state's final application for full management control be complete by July 1, 1986.

To this end and with respect to the mandate to be codified at AS 46.02.299 (a)(2), the Department is instructed to adopt regulations relating to the management of hazardous waste that exhibit the characteristics of toxicity, persistence, or carcinogenicity and other characteristics of hazardous waste as identified by EPA. The department shall evaluate the most appropriate mechanism by which to identify a waste characteristic of toxicity, persistence or carcinogenicity and other characteristic as identified as hazardous by EPA. This evaluation must include the methods described in the proposed state regulations dated October 26, 1983 that identify hazardous wastes by the characteristics mentioned above. Regulations developed under AS 46.299(a)(2) must incorporate the results of this analysis.

The regulations ultimately adopted by the state are to take effect three years from this bill's enactment, July 1, 1987. The department is to develop and implement a program to educate those effected by this legislation about the requirements of this act during the third year.

In order to gain experience managing a hazardous waste program, the department should assume through cooperative agreement with EPA as much active control as feasible of the currently operating hazardous waste program. The assumption of these duties by the department should begin immediately.

The exemptions for mining waste and waste associated with oil and gas production as defined should be effective until the completion of the studies indicated in the legislation. After each study has been completed and the findings of these studies and proposed federal regulations have been considered by the department, the department may terminate the exemption or promulgate amendments to the state's hazardous waste regulations.

Adopted by the Senate May 17, 1984.

SB 503 - An Act Relating to Hazardous Waste

A Brief History.

In 1981, legislation (SB 29) was passed that directed the state to seek EPA authorization to administer and enforce a hazardous waste program in Alaska. The program would otherwise be managed by EPA.

Over two years later at the end of 1983, with the proposed regulations and other aspects of the authorization package nearly completed, it became apparent that the penalty sections of the current Alaska statute would have to be amended to meet EPA specifications.

Two bills SB 498 - Rules by Request of the Governor and SB 503 Resources were introduced at the beginning of the session to meet this obligation. The Governor's legislation provided the amendments to the penalty sections only, and as such was an endorsement of the hazardous waste regulation developed by the Department of Environmental Conservation. In its proposed regulations, DEC was attempting to develop a hazardous waste management program that made sense for Alaska and did not simply mimic the federal approach. SB 503 also included similar language regarding changes to the penalty codes, but limited the development of the state hazardous waste program to be the same as the federal program.

These two bills represented divergent and contradictory approaches. All interested agreed that the state should take over the management of the hazardous waste program. However, there was disagreement as to how this should be accomplished.

CSSB 503 Hazardous Waste Legislation, History

In addition, two other bills relating to hazardous waste were introduced at the start of this session. These are SB 450 - Vic Fischer regarding the disposal of hazardous waste, and SB 486 - Josephson providing the public the right to know about the storage and disposal of hazardous materials and wastes.

All four items were referred to Senate Resources Committee, which combined them into one mega-workdraft in the form of a committee substitute for SB 503. The workdraft was sent to over 30 groups and individuals to seek their comments including business, labor, environmental, health, resource development, government, and civic interests. After this review was complete, the Resources Committee then convened a meeting on April 9, 1984 of these same interested parties to hammer out compromise legislation.

After a full day of intense negotiation, agreement was reached by all the work group participants. Alaska Oil and Gas Association, Associated General Contractors, environmentalists, Alaska District Council of Laborers, Municipality of Anchorage, and various legislative and state government offices were represented. The result is the committee substitute for SB 503 before this committee.

TESTIMONY OF CHRIS NOAH
DEPUTY COMMISSIONER OF THE
DEPARTMENT OF ENVIRONMENTAL CONSERVATION

Before the Senate Resources Committee
Alaska State Legislature
Regarding: CS for SB 503

April 17, 1984

Madam Chairman, other members of the committee, my name is Chris Noah, Deputy Commissioner of the Department of Environmental Conservation. I am here to testify on the committee substitute for Senate Bill 503, entitled: "An act relating to hazardous waste; changing penalties for environmental pollution violations; and providing for an effective date."

I am here primarily to endorse this bill and urge its passage in its present form. The bill is the result of negotiations and compromise on the part of various organizations and persons concerned with the manner by which waste is classified as hazardous and managed in this state. It also incorporates the essential statutory changes contained in SB 498 which had been introduced by the Governor. The changes contained in SB 498 were based on the determination by the United States Environmental Protection Agency that certain statutory changes were necessary before the state could obtain final authorization from EPA to carry out its responsibilities under the Resource Conservation and Recovery Act of 1976. With regard to these statutory changes, we have been advised by the Attorney General's Office that the present bill (CS for SB 503) does indeed include the changes required by EPA. Specifically, these are the changes to both the criminal and civil penalties contained in Sections 5, 6 and 7 of the present bill.

It is the other parts of the bill which were the subject of discussion and compromise by various persons and organizations. In particular, it is the result of an agreement reached at an informal meeting on Monday, April 9, 1984. This administration participated in these discussions and is in accord with the agreement which is now before you in the form of this bill. The bill is one which I believe all parties can live with. Further, and most importantly, it is one which will result in a hazardous waste management program which is both effective and reasonable. However, I should state and point out that the new duties which the bill would impose on the department cannot be fulfilled without adequate funding. It is my hope, therefore, that the agency operating budget and companion appropriation to this bill will also be approved by the legislature.

Thank you for this opportunity.

CN/DD/af

U.S. ENVIRONMENTAL PROTECTION AGENCY
REGION X

1200 SIXTH AVENUE
SEATTLE, WASHINGTON 98101



REPLY TO
ATTN OF: M/S 533

MAY 14 1984

Honorable Bettye Fahrenkamp
Chairman
Senate Committee on Resources
Pouch V
Juneau, Alaska 99811

Dear Ms. Fahrenkamp:

In your letter of April 30, 1984, you requested that the Environmental Protection Agency review Alaska's proposed hazardous waste legislation to determine whether it meets Federal requirements for authorization of State programs. The following discussion is offered relative to the May 7, 1984 draft of Senate Bill 503.

It is our belief that the bill as proposed will provide adequate statutory authority for Alaska to develop and implement a program which can receive authorization under the Resource Conservation and Recovery Act. We have had numerous discussions with the Alaska Department of Environmental Conservation (ADEC) and the Department of Law regarding the requirements for statutory authority. Most recently, we have provided several comments to ADEC (copies enclosed) on aspects of Senate Bill 503 which might benefit from clarification. However, none of the issues we raised would appear to necessitate further amendments to the bill in order to establish adequate statutory authority.

We wish to note that a formal opinion on Alaska's statutory authority can not be rendered until a complete application for final authorization has been submitted by the State. In particular, we will look to the Attorney General's statement, a required component of the application, to demonstrate the adequacy of statutory and regulatory authority. However, we do not envision encountering any problems with Alaska's statutory authority if Senate Bill 503 is adopted.

Sincerely,

Alexandra B. Smith

Alexandra B. Smith, Director
Air & Waste Management Division

Enclosures

A FIN

COMM Bill FILE

SB 503

Offered: 5/16/84
Referred: Rules

Original sponsor: Resources Committee

1 IN THE SENATE

BY THE FINANCE COMMITTEE

2

CS FOR SENATE BILL NO. 503 (Finance)

3

IN THE LEGISLATURE OF THE STATE OF ALASKA

4

THIRTEENTH LEGISLATURE - SECOND SESSION

5

A BILL

6

For an Act entitled: "An Act relating to hazardous waste and certain public contracts concerning hazardous waste; changing penalties for environmental pollution violations; and providing for an effective date."

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

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* Section 1. AS 46.03.299 is repealed and reenacted to read:

12

Sec. 46.03.299. REGULATION OF HAZARDOUS WASTE. (a) The department shall develop regulations for the identification and management of hazardous waste as defined by the Environmental Protection Agency and hazardous waste that exhibits the characteristic of toxicity, persistence, or carcinogenicity. The department shall adopt these regulations not later than July 1, 1986, in accordance with the Administrative Procedure Act (AS 44.62). These regulations shall take effect July 1, 1987.

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(b) Regulations adopted under (a) of this section shall exempt from their coverage mining waste and waste associated with the exploration, development, or production of crude oil, natural gas, or geothermal energy until studies required under 42 U.S.C. 6982(f) and (u.) are completed. The department, after considering the findings in the reports of these studies, may terminate or amend the exemptions.

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(c) The department shall take all actions necessary to receive authorization from the administrator of the Environmental Protection Agency to administer and enforce a hazardous waste program in accordance with 42 U.S.C. 6901 - 6987 (Resource Conservation and Recovery

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1 Act of 1976).

2 (d) Regulations adopted under (a) of this section shall cover
3 (1) hazardous waste, not otherwise exempted by law, that is generated
4 in any month by a single generator in an amount of 220 pounds or more,
5 and (2) acute hazardous wastes identified in 40 C.F.R. 261.33(e), not
6 otherwise exempted by law, that are generated in any month by a single
7 generator in an amount of 2.2 pounds or more. The department shall
8 extend the regulations to manage smaller quantities of hazardous waste
9 if the quantities specified in this subsection exceed the quantities
10 regulated under the authority of 42 U.S.C. 6921 - 6934, as amended.
11 The department may at any time extend coverage of regulations adopted
12 under (a) of this section to small quantities of hazardous waste and
13 acute hazardous waste.

14 (e) During the period July 1, 1986 through June 30, 1987 the
15 department shall conduct a program to inform persons of their re-
16 sponsibilities under regulations adopted under (a) of this section.

17 * Sec. 2. AS 46.03.303 is repealed and reenacted to read:

18 Sec. 46.03.308. TRANSPORTATION OF HAZARDOUS WASTE. (a) Hazard-
19 ous waste may not be transported in the state unless the waste is
20 accompanied by a manifest and the generator has delivered a copy of
21 the manifest to the department before the transportation begins.

22 (b) The department shall send a copy of each manifest received
23 under (a) of this section to

24 (1) the state and local public safety agencies with juris-
25 diction over areas covered by a hazardous waste transportation route;
26 and

27 (2) the highest elected local official representing each
28 area covered by a hazardous waste transportation route.

29 * Sec. 3. AS 46.03 is amended by adding a new section to read:

1 Sec. 46.03.309. TEMPORARY COLLECTION OF HAZARDOUS WASTE. The
2 department shall provide for the temporary collection of hazardous
3 waste to be prepared for shipment to a federally approved hazardous
4 waste disposal site. The department shall establish four periods in
5 each calendar year during which it shall collect hazardous waste. A
6 collection point may accept hazardous waste only from small quantity
7 generators and household generators as defined by the Environmental
8 Protection Agency.

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

10 Sec. 46.03.313. HAZARDOUS WASTE MANAGEMENT FACILITIES AND SITES.

11 (a) The department shall evaluate and select potential sites for
12 hazardous waste management facilities in the state. In evaluating and
13 selecting sites for management facilities, the department shall con-
14 sider at least the following factors:

15 (1) economic feasibility, including proximity to concen-
16 trations of generators of the types of hazardous waste likely to be
17 proposed and permitted for management;

18 (2) intrinsic suitability of the sites;

19 (3) federal and state pollution control and environmental
20 protection regulations;

21 (4) the risk and effect for local residents, units of
22 government, and the local public health, safety, and welfare, includ-
23 ing such dangers as an accidental release of waste during transporta-
24 tion to a facility or at a facility, water, air, and land pollution,
25 and fire or explosion;

26 (5) the consistency of a facility with, and its effect on,
27 existing and planned local land use and development; local laws,
28 ordinances, and permits; and local public facilities and services; and

29 (6) the adverse effects of a facility at the site on agri-

1 nor and the legislature a preliminary report that includes

2 (1) proposals for the siting of hazardous waste management
3 facilities in the state;

4 (2) proposals for the methods of financing and operating
5 the facilities;

6 (3) proposals for the types of facilities that should be
7 constructed, such as chemical processing facilities, incineration
8 facilities, and transfer and storage facilities; and

9 (4) information about private hazardous waste management
10 sites and facilities approved by the department.

11 (b) Not later than July 1, 1989, the department shall submit to
12 the governor and the legislature a final report that includes

13 (1) identification of sites selected by the department for
14 hazardous waste management facilities;

15 (2) recommendations for the methods of financing and oper-
16 ating facilities at the sites listed in (1) of this subsection;

17 (3) recommendations for the types of facilities that should
18 be constructed at sites listed in (1) of this subsection; and

19 (4) information about private hazardous waste management
20 sites and facilities approved by the department.

21 * Sec. 5. AS 46.03.760(a) is amended to read:

22 (a) A person who violates or causes or permits to be violated a
23 provision of this chapter other than AS 46.03.250 - 46.03.314, or a
24 provision of [OR] AS 46.04, or a regulation, a lawful order of the
25 department, or a permit, approval, or acceptance, or term or condition
26 of a permit, approval, or acceptance issued under this chapter or
27 AS 46.04 is liable, in a civil action, to the state for a sum to be
28 assessed by the court of not less than \$500 nor more than \$100,000 for
29 the initial violation, nor more than \$5,000 for each day after that

1 [THEREAFTER] on which the violation continues, and that [WHICH] shall
2 reflect, when applicable,

3 (1) reasonable compensation in the nature of liquidated
4 damages for any adverse environmental effects caused by the violation,
5 that [WHICH] shall be determined by the court according to the toxi-
6 city, degradability and dispersal characteristics of the substance
7 discharged, the sensitivity of the receiving environment, and the
8 degree to which the discharge degrades existing environmental quality;

9 (2) reasonable costs incurred by the state in detection,
10 investigation, and attempted correction of the violation; [AND]

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

13 * Sec. 6. AS 46.03.760(b) is amended to read:

14 (b) Except as determined by the court under (f)(4) of this
15 section, actions [ACTIONS] under this section may not be used for
16 punitive purposes, and sums assessed by the court must be compensatory
17 and remedial in nature.

18 * Sec. 7. AS 46.03.760 is amended by adding a new subsection to read:

19 (f) A person who violates or causes or permits to be violated a
20 provision of AS 46.03.250 - 46.03.314, or a regulation, a lawful order
21 of the department, or a permit, approval, or acceptance, or term or
22 condition of a permit, approval, or acceptance issued under AS 46.-
23 03.250 - 46.03.314 is liable, in a civil action, to the state for a
24 sum to be assessed by the court of not less than \$500 nor more than
25 \$100,000 for the initial violation, nor more than \$10,000 for each day
26 after that on which the violation continues, and that shall reflect,
27 when applicable,

28 (1) reasonable compensation in the nature of liquidated
29 damages for any adverse environmental effects caused by the violation.

1 that shall be determined by the court according to the toxicity,
2 degradability and dispersal characteristics of the substance dis-
3 charged, the sensitivity of the receiving environment, and the degree
4 to which the discharge degrades existing environmental quality;

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

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

9 (4) the need for an enhanced civil penalty to deter future
10 noncompliance.

* Sec. 8. AS 46.03.790 is amended to read:

11 Sec. 46.03.790. CRIMINAL PENALTIES. (a) Except as provided in
12 (d) - (f) of this section, a [A] person who negligently violates [OR
13 WHO CAUSES OR PERMITS A VIOLATION OF] a provision of this chapter or
14 AS 46.04, or of a regulation, lawful order of the department, or
15 permit, approval, or acceptance, or term or condition of a permit,
16 approval, or acceptance issued under this chapter or AS 46.04 is
17 guilty of a class B misdemeanor.

18 (b) Except as provided in (d) - (f) of this section, a [A]
19 person who knowingly [WILFULLY] violates a provision of this chapter
20 or AS 46.04, or of a regulation, lawful order of the department, or
21 permit, approval, or acceptance, or term or condition of a permit,
22 approval, or acceptance issued under this chapter or AS 46.04 is
23 guilty of a class A misdemeanor.

24 (c) Each day on which a violation described in [(a) OR (b) OF]
25 this section occurs is considered a separate violation.

26 (d) Notwithstanding (a) and (b) of this section, a [A] person
27 who fails to provide or falsely states information required under
28 AS 46.03.05 or AS 46.04 is guilty of a misdemeanor and, upon convic-
29

1 tion, is punishable by a fine of not more than \$25,000, or by
2 imprisonment for not more than one year, or by both. Each unlawful
3 act constitutes a separate offense.

4 (e) Notwithstanding (a) and (b) of this section, a person who
5 knowingly (1) transports any hazardous waste to a facility without a
6 permit required under AS 46.03.250 - 46.03.314; (2) treats, stores, or
7 disposes of hazardous waste without a permit required under AS 46.-
8 03.250 - 46.03.314; or (3) makes a false statement or representation
9 in an application, label, manifest, record, report, permit, or other
10 document filed, maintained, or used for purposes of compliance with
11 the hazardous waste provisions of AS 46.03.250 - 46.03.314 or regu-
12 lations adopted under those provisions, is punishable by a fine of not
13 more than \$10,000 per day or by imprisonment for not more than one
14 year, or both.

15 (f) Notwithstanding the penalty provisions of (a) - (e) of this
16 section, a defendant that is an organization is, upon conviction of a
17 violation of any of the provisions listed in this section, subject to
18 the penalties set out in AS 12.55.035(c).

19 * Sec. 9. AS 46.03.900 is amended by adding new paragraphs to read:

20 (36) "mining waste" means solid waste from the extraction,
21 beneficiation and processing of ores and minerals, including coal, and
22 including phosphate rock and overburden from the mining of uranium
23 ore;

24 (37) "waste associated with the exploration, development, or
25 production of crude oil, natural gas, or geothermal energy" means (A)
26 waste, including drilling muds, cuttings, hydrocarbons, brine, acid,
27 sand, and emulsions or mixtures of fluids produced from and unique to
28 the operation or maintenance of a well, whether naturally occurring or
29 added for the operation or productivity of the well; and (B) waste

1 that is derived intrinsically from primary field operations; "waste
2 associated with the exploration, development, or production of crude
3 oil, natural gas, or geothermal energy" does not include spent sol-
4 vents and oils from equipment maintenance activities, discarded chemi-
5 cal products, or fuels;

6 (38) "waste derived intrinsically from primary field op-
7 erations" means waste produced from a well, and removed (A) at the
8 drill site; or (B) at crude oil production facilities by crude oil or
9 wastewater treatment process before custody transfer of the crude oil.

10 * Sec. 10. AS 24.60 is amended by adding a new section to read:

11 Sec. 24.60.045. HAZARDOUS WASTE CONTRACTS. A legislative staff
12 member may not solicit or receive a contract concerning hazardous
13 waste from a state agency or department other than the legislature
14 during the interim following a session in which the person worked.
15 This section applies to legislative staff members range 18 or higher.
16 In this section "hazardous waste" has the meaning given in
17 AS 46.03.900.

18 * Sec. 11. This Act takes effect immediately in accordance with AS 01.-
19 10.070(c).

1 (d) Regulations adopted under (a) of this section shall cover
2 (1) hazardous waste, not otherwise exempted by law, that is generated
3 in any month by a single generator in an amount of 220 pounds or more,
4 and (2) acute hazardous wastes identified in 40 C.F.R. 261.33(e), not
5 otherwise exempted by law, that are generated in any month by a single
6 generator in an amount of 2.2 pounds or more. The department shall
7 extend the regulations to manage smaller quantities of hazardous waste
8 if the quantities specified in this subsection exceed the quantities
9 regulated under the authority of 42 U.S.C. 6921 - 6934, as amended.
10 The department may at any time extend coverage of regulations adopted
11 under (a) of this section to small quantities of hazardous waste and
12 acute hazardous waste.

13 (e) During the period July 1, 1986 through June 30, 1987 the
14 department shall conduct a program to inform persons of their re-
15 sponsibilities under regulations adopted under (a) of this section.

16 * Sec. 2. AS 46.03.308 is repealed and reenacted to read:

17 Sec. 46.03.308. TRANSPORTATION OF HAZARDOUS WASTE. (a) Hazard-
18 ous waste may not be transported in the state unless the waste is
19 accompanied by a manifest and the generator has delivered a copy of
20 the manifest to the department before the transportation begins.

21 (b) The department shall send a copy of each manifest received
22 under (a) of this section to

23 (1) the state and local public safety agencies with juris-
24 diction over areas covered by a hazardous waste transportation route;
25 and

26 (2) the highest elected local official representing each
27 area covered by a hazardous waste transportation route.

28 * Sec. 3. AS 46.03 is amended by adding a new section to read:

29 Sec. 46.03.309. TEMPORARY COLLECTION OF HAZARDOUS WASTE. The

1 department shall provide for the temporary collection of hazardous
2 waste to be prepared for shipment to a federally approved hazardous
3 waste disposal site. The department shall establish four periods in
4 each calendar year during which it shall collect hazardous waste. A
5 collection point may accept hazardous waste only from small quantity
6 generators and household generators as defined by the Environmental
7 Protection Agency.

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

9 Sec. 46.03.313. HAZARDOUS WASTE MANAGEMENT FACILITIES AND SITES.

10 (a) The department shall evaluate and select potential sites for
11 hazardous waste management facilities in the state. In evaluating and
12 selecting sites for management facilities, the department shall con-
13 sider at least the following factors:

14 (1) economic feasibility, including proximity to concen-
15 trations of generators of the types of hazardous waste likely to be
16 proposed and permitted for management;

17 (2) intrinsic suitability of the sites;

18 (3) federal and state pollution control and environmental
19 protection regulations;

20 (4) the risk and effect for local residents, units of
21 government, and the local public health, safety, and welfare, includ-
22 ing such dangers as an accidental release of waste during transporta-
23 tion to a facility or at a facility, water, air, and land pollution,
24 and fire or explosion;

25 (5) the consistency of a facility with, and its effect on,
26 existing and planned local land use and development; local laws,
27 ordinances, and permits; and local public facilities and services; and

28 (6) the adverse effects of a facility at the site on agri-
29 culture and natural resources and opportunities to mitigate or

1 eliminate the adverse effects by stipulations, conditions, and re-
2 quirements relating to the design and operation of a management facil-
3 ity at the proposed site.

4 (b) By July 1, 1986, the department shall adopt regulations that

5 (1) interpret and clarify the factors listed in (a) of this
6 section; and

7 (2) establish procedures for processing, reviewing, and
8 approving or disapproving applications for the siting and operation of
9 privately owned hazardous waste management facilities.

10 (c) The department may authorize the siting and operation of
11 privately owned hazardous waste management facilities in accordance
12 with factors and requirements established under this section.

13 (d) The department shall hold public hearings in each election
14 district in which a hazardous waste management facility site is pro-
15 posed to be located. The department shall give reasonable public
16 notice of the time, date, and place of each public hearing at least 30
17 days before the hearing. The public shall be afforded an opportunity
18 at each hearing to submit written and oral testimony concerning a
19 potential site. The department shall consider the testimony submitted
20 at public hearings when it prepares reports under AS 46.03.314.

21 (e) For purposes of this section, "intrinsic suitability" of a
22 site means that, based on existing data on the inherent and natural
23 attributes, physical features, and location of the site, there is no
24 known reason why a waste management facility that may be located in
25 the site could not reasonably be expected to qualify for a permit
26 under AS 46.03.302.

27 Sec. 46.03.314. REPORTS ON MANAGEMENT SITES AND FACILITIES. (a)
28 Not later than July 1, 1987, the department shall submit to the gover-
29 nor and the legislature a preliminary report that includes

1 (1) proposals for the siting of hazardous waste management
2 facilities in the state;

3 (2) proposals for the methods of financing and operating
4 the facilities;

5 (3) proposals for the types of facilities that should be
6 constructed, such as chemical processing facilities, incineration
7 facilities, and transfer and storage facilities; and

8 (4) information about private hazardous waste management
9 sites and facilities approved by the department.

10 (b) Not later than July 1, 1989, the department shall submit to
11 the governor and the legislature a final report that includes

12 (1) identification of sites selected by the department for
13 hazardous waste management facilities;

14 (2) recommendations for the methods of financing and oper-
15 ating facilities at the sites listed in (1) of this subsection;

16 (3) recommendations for the types of facilities that should
17 be constructed at sites listed in (1) of this subsection; and

18 (4) information about private hazardous waste management
19 sites and facilities approved by the department.

20 * Sec. 5. AS 46.03.760(a) is amended to read:

21 (a) A person who violates or causes or permits to be violated a
22 provision of this chapter other than AS 46.03.250 - 46.03.314, or a
23 provision of [OR] AS 46.04, or a regulation, a lawful order of the
24 department, or a permit, approval, or acceptance, or term or condition
25 of a permit, approval, or acceptance issued under this chapter or
26 AS 46.04 is liable, in a civil action, to the state for a sum to be
27 assessed by the court of not less than \$500 nor more than \$100,000 for
28 the initial violation, nor more than \$5,000 for each day after that
29 [THEREAFTER] on which the violation continues, and that [WHICH] shall

1 reflect, when applicable.

2 (1) reasonable compensation in the nature of liquidated
3 damages for any adverse environmental effects caused by the violation,
4 that [WHICH] shall be determined by the court according to the toxi-
5 city, degradability and dispersal characteristics of the substance
6 discharged, the sensitivity of the receiving environment, and the
7 degree to which the discharge degrades existing environmental quality;

8 (2) reasonable costs incurred by the state in detection,
9 investigation, and attempted correction of the violation; [AND]

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

12 * Sec. 6. AS 46.03.760(b) is amended to read:

13 (b) Except as determined by the court under (f)(4) of this
14 section, actions [ACTIONS] under this section may not be used for
15 punitive purposes, and sums assessed by the court must be compensatory
16 and remedial in nature.

17 * Sec. 7. AS 46.03.760 is amended by adding a new subsection to read:

18 (f) A person who violates or causes or permits to be violated a
19 provision of AS 46.03.250 - 46.03.314, or a regulation, a lawful order
20 of the department, or a permit, approval, or acceptance, or term or
21 condition of a permit, approval, or acceptance issued under AS 46.-
22 03.250 - 46.03.314 is liable, in a civil action, to the state for a
23 sum to be assessed by the court of not less than \$500 nor more than
24 \$100,000 for the initial violation, nor more than \$10,000 for each day
25 after that on which the violation continues, and that shall reflect,
26 when applicable,

27 (1) reasonable compensation in the nature of liquidated
28 damages for any adverse environmental effects caused by the violation,
29 that shall be determined by the court according to the toxicity,

1 degradability and dispersal characteristics of the substance dis-
2 charged, the sensitivity of the receiving environment, and the degree
3 to which the discharge degrades existing environmental quality;

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

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

8 (4) the need for an enhanced civil penalty to deter future
9 noncompliance.

10 * Sec. 8. AS 46.03.790 is amended to read:

11 Sec. 46.03.790. CRIMINAL PENALTIES. (a) Except as provided in
12 (d) - (f) of this section, a [A] person who negligently violates [OR
13 WHO CAUSES OR PERMITS A VIOLATION OF] a provision of this chapter or
14 AS 46.04, or of a regulation, lawful order of the department, or
15 permit, approval, or acceptance, or term or condition of a permit,
16 approval, or acceptance issued under this chapter or AS 46.04 is
17 guilty of a class B misdemeanor.

18 (b) Except as provided in (d) - (f) of this section, a [A]
19 person who knowingly [WILFULLY] violates a provision of this chapter
20 or AS 46.04, or of a regulation, lawful order of the department, or
21 permit, approval, or acceptance, or term or condition of a permit,
22 approval, or acceptance issued under this chapter or AS 46.04 is
23 guilty of a class A misdemeanor.

24 (c) Each day on which a violation described in [(a) OR (b) OF]
25 this section occurs is considered a separate violation.

26 (d) Notwithstanding (a) and (b) of this section, a [A] person
27 who fails to provide or falsely states information required under
28 AS 46.03.755 or AS 46.04 is guilty of a misdemeanor and, upon convic-
29 tion, is punishable by a fine of not more than \$25,000, or by

1 imprisonment for not more than one year, or by both. Each unlawful
2 act constitutes a separate offense.

3 (e) Notwithstanding (a) and (b) of this section, a person who
4 knowingly (1) transports any hazardous waste to a facility without a
5 permit required under AS 46.03.250 - 46.03.314; (2) treats, stores, or
6 disposes of hazardous waste without a permit required under AS 46.-
7 03.250 - 46.03.314; or (3) makes a false statement or representation
8 in an application, label, manifest, record, report, permit, or other
9 document filed, maintained, or used for purposes of compliance with
10 the hazardous waste provisions of AS 46.03.250 - 46.03.314 or regu-
11 lations adopted under those provisions, is punishable by a fine of not
12 more than \$10,000 per day or by imprisonment for not more than one
13 year, or both.

14 (f) Notwithstanding the penalty provisions of (a) - (e) of this
15 section, a defendant that is an organization is, upon conviction of a
16 violation of any of the provisions listed in this section, subject to
17 the penalties set out in AS 12.55.035(c).

18 * Sec. 9. AS 46.03.900 is amended by adding new paragraphs to read:

19 (36) "mining waste" means solid waste from the extraction,
20 beneficiation and processing of ores and minerals, including coal, and
21 including phosphate rock and overburden from the mining of uranium
22 ore;

23 (37) "waste associated with the exploration, development, or
24 production of crude oil, natural gas, or geothermal energy" means (A)
25 waste, including drilling muds, cuttings, hydrocarbons, brine, acid,
26 sand, and emulsions or mixtures of fluids produced from and unique to
27 the operation or maintenance of a well, whether naturally occurring or
28 added for the operation or productivity of the well; and (B) waste
29 that is derived intrinsically from primary field operations; "waste

1 associated with the exploration, development, or production of crude
2 oil, natural gas, or geothermal energy" does not include spent sol-
3 vents and oils from equipment maintenance activities, discarded chemi-
4 cal products, or fuels;

5 (38) "waste derived intrinsically from primary field op-
6 erations" means waste produced from a well, and removed (A) at the
7 drill site; or (B) at crude oil production facilities by crude oil or
8 wastewater treatment process before custody transfer of the crude oil.

9 * Sec. 10. This Act takes effect immediately in accordance with AS 01.-
10 10.070(c).

Offered: 4/24/84
Referred: Judiciary

Original sponsor: Resources Committee

1 IN THE SENATE BY THE RESOURCES COMMITTEE
2 CS FOR SENATE BILL NO. 503 (Resources)
3 IN THE LEGISLATURE OF THE STATE OF ALASKA
4 THIRTEENTH LEGISLATURE - SECOND SESSION
5 A BILL
6 For an Act entitled: "An Act relating to hazardous waste; changing pen-
7 alties for environmental pollution violations; and
8 providing for an effective date."
9 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:
10 * Section 1. AS 46.03.299 is repealed and reenacted to read:
11 Sec. 46.03.299. REGULATION OF HAZARDOUS WASTE. (a) The depart-
12 ment shall, in accordance with the Administrative Procedure Act
13 (AS 44.62),
14 (1) adopt by reference and enforce regulations relating to
15 hazardous waste management adopted by the federal government under
16 42 U.S.C. 6921 - 6934, as amended; and
17 (2) not later than July 1, 1986, adopt other regulations
18 that take effect July 1, 1987, for the management of hazardous waste,
19 including waste that exhibits the characteristic of toxicity, persis-
20 tence, or carcinogenicity, or other characteristics identified as
21 hazardous by the Environmental Protection Agency.
22 (b) Regulations adopted under (a) of this section shall exempt
23 from their coverage mining waste and waste associated with the explo-
24 ration, development, or production of crude oil, natural gas, or
25 geothermal energy until studies required under 42 U.S.C. 6982(f) and
26 (m) are completed. The department, after considering the findings in
27 the reports of these studies, may terminate or amend the exemptions.
28 (c) The department shall take all actions necessary to receive
29 authorization from the administrator of the Environmental Protection

1 Agency to administer and enforce a hazardous waste program in accor-
2 dance with 42 U.S.C. 6901 - 6987 (Resource Conservation and Recovery
3 Act of 1976).

4 (d) Regulations adopted under (a) of this section shall cover
5 (1) hazardous waste, not otherwise exempted by law, that is generated
6 in any month by a single generator in an amount of 220 pounds or more,
7 and (2) acute hazardous wastes identified in 40 C.F.R. 261.33(e), not
8 otherwise exempted by law, that are generated in any month by a single
9 generator in an amount of 2.2 pounds or more. The department shall
10 extend the regulations to manage smaller quantities of hazardous waste
11 if the quantities specified in this subsection exceed the quantities
12 regulated under the authority of 42 U.S.C. 6921 - 6934, as amended.
13 The department may at any time extend coverage of regulations adopted
14 under (a)(2) of this section to small quantities of hazardous waste
15 and acute hazardous waste.

16 (e) During the period July 1, 1986 through June 30, 1987 the
17 department shall conduct a program to inform persons of their re-
18 sponsibilities under regulations adopted under (a)(2) of this section.

19 * Sec. 2. AS 46.03.308 is repealed and reenacted to read:

20 Sec. 46.03.308. TRANSPORTATION OF HAZARDOUS WASTE. (a) Hazard-
21 ous waste may not be transported in the state unless the waste is
22 accompanied by a manifest and the generator or transporter has de-
23 livered a copy of the manifest to the department before the transpor-
24 tation begins.

25 (b) The department shall send a copy of each manifest received
26 under (a) of this section to the state and local public safety agen-
27 cies with jurisdiction over areas covered by a hazardous waste trans-
28 portation route.

29 * Sec. 3. AS 46.03 is amended by adding a new section to read:

1 Sec. 46.03.309. TEMPORARY COLLECTION OF HAZARDOUS WASTE. The
2 department shall provide for the temporary collection of hazardous
3 waste to be prepared for shipment to a federally approved hazardous
4 waste disposal site. The department shall establish four periods in
5 each calendar year during which it shall collect hazardous waste. A
6 collection point may accept hazardous waste only from small quantity
7 generators and household generators as defined by the Environmental
8 Protection Agency.

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

10 Sec. 46.03.313. HAZARDOUS WASTE MANAGEMENT FACILITIES AND SITES.

11 (a) The department shall evaluate and select potential sites for
12 hazardous waste management facilities in the state. In evaluating and
13 selecting sites for management facilities, the department shall con-
14 sider at least the following factors:

15 (1) economic feasibility, including proximity to concen-
16 trations of generators of the types of hazardous waste likely to be
17 proposed and permitted for management;

18 (2) intrinsic suitability of the sites;

19 (3) federal and state pollution control and environmental
20 protection regulations;

21 (4) the risk and effect for local residents, units of
22 government, and the local public health, safety, and welfare, includ-
23 ing such dangers as an accidental release of waste during transporta-
24 tion to a facility or at a facility, water, air, and land pollution,
25 and fire or explosion;

26 (5) the consistency of a facility with, and its effect on,
27 existing and planned local land use and development; local laws,
28 ordinances, and permits; and local public facilities and services; and

29 (6) the adverse effects of a facility at the site on

1 agriculture and natural resources and opportunities to mitigate or
2 eliminate the adverse effects by stipulations, conditions, and re-
3 quirements relating to the design and operation of a management facil-
4 ity at the proposed site.

5 (b) By July 1, 1986, the department shall adopt regulations that

6 (1) interpret and clarify the factors listed in (a) of this
7 section; and

8 (2) establish procedures for processing, reviewing, and
9 approving or disapproving applications for the siting and operation of
10 privately owned hazardous waste management facilities.

11 (c) The department may authorize the siting and operation of
12 privately owned hazardous waste management facilities in accordance
13 with factors and requirements established under this section.

14 (d) The department shall hold public hearings in each election
15 district in which a hazardous waste management facility site is pro-
16 posed to be located. The department shall give reasonable public
17 notice of the time, date, and place of each public hearing at least 30
18 days before the hearing. The public shall be afforded an opportunity
19 at each hearing to submit written and oral testimony concerning a
20 potential site. The department shall consider the testimony submitted
21 at public hearings when it prepares reports under AS 46.03.314.

22 (e) For purposes of this section, "intrinsic suitability" of a
23 site means that, based on existing data on the inherent and natural
24 attributes, physical features, and location of the site, there is no
25 known reason why a waste management facility that may be located in
26 the site could not reasonably be expected to qualify for a permit
27 under AS 46.03.302.

28 Sec. 46.03.314. REPORTS ON MANAGEMENT SITES AND FACILITIES. (a)
29 Not later than July 1, 1987, the department shall submit to the

1 governor and the legislature a preliminary report that includes

2 (1) proposals for the siting of hazardous waste management
3 facilities in the state;

4 (2) proposals for the methods of financing and operating
5 the facilities;

6 (3) proposals for the types of facilities that should be
7 constructed, such as chemical processing facilities, incineration
8 facilities, and transfer and storage facilities; and

9 (4) information about private hazardous waste management
10 sites and facilities approved by the department.

11 (b) Not later than July 1, 1989, the department shall submit to
12 the governor and the legislature a final report that includes

13 (1) identification of sites selected by the department for
14 hazardous waste management facilities;

15 (2) recommendations for the methods of financing and oper-
16 ating facilities at the sites listed in (1) of this subsection;

17 (3) recommendations for the types of facilities that should
18 be constructed at sites listed in (1) of this subsection; and

19 (4) information about private hazardous waste management
20 sites and facilities approved by the department.

21 * Sec. 5. AS 46.03.760(a) is amended to read:

22 (a) A person who violates or causes or permits to be violated a
23 provision of this chapter other than AS 46.03.250 - 46.03.314, or a
24 provision of [OR] AS 46.04, or a regulation, a lawful order of the
25 department, or a permit, approval, or acceptance, or term or condition
26 of a permit, approval, or acceptance issued under this chapter or
27 AS 46.04 is liable, in a civil action, to the state for a sum to be
28 assessed by the court of not less than \$500 nor more than \$100,000 for
29 the initial violation, nor more than \$5,000 for each day after that

1 [THEREAFTER] on which the violation continues, and that [WHICH] shall
2 reflect, when applicable,

3 (1) reasonable compensation in the nature of liquidated
4 damages for any adverse environmental effects caused by the violation,
5 that [WHICH] shall be determined by the court according to the toxi-
6 city, degradability and dispersal characteristics of the substance
7 discharged, the sensitivity of the receiving environment, and the
8 degree to which the discharge degrades existing environmental quality;

9 (2) reasonable costs incurred by the state in detection,
10 investigation, and attempted correction of the violation; [AND]

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

13 * Sec. 6. AS 46.03.760(b) is amended to read:

14 (b) Except as determined by the court under (f)(4) of this
15 section, actions [ACTIONS] under this section may not be used for
16 punitive purposes, and sums assessed by the court must be compensatory
17 and remedial in nature.

18 * Sec. 7. AS 46.03.760 is amended by adding a new subsection to read:

19 (f) A person who violates or causes or permits to be violated a
20 provision of AS 46.03.250 - 46.03.314, or a regulation, a lawful order
21 of the department, or a permit, approval, or acceptance, or term or
22 condition of a permit, approval or acceptance issued under AS 46.-
23 03.250 - 46.03.314 is liable, in a civil action, to the state for a
24 sum to be assessed by the court of not less than \$500 nor more than
25 \$100,000 for the initial violation, nor more than \$10,000 for each day
26 after that on which the violation continues, and that shall reflect,
27 when applicable,

28 (1) reasonable compensation in the nature of liquidated
29 damages for any adverse environmental effects caused by the violation,

1 that shall be determined by the court according to the toxicity,
2 degradability and dispersal characteristics of the substance dis-
3 charged, the sensitivity of the receiving environment, and the degree
4 to which the discharge degrades existing environmental quality;

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

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

9 (4) the need for an enhanced civil penalty to deter future
10 noncompliance.

11 * Sec. 8. AS 46.03.790 is amended to read:

12 Sec. 46.03.790. CRIMINAL PENALTIES. (a) Except as provided in
13 (d) - (f) of this section, a [A] person who negligently violates [OR
14 WHO CAUSES OR PERMITS A VIOLATION OF] a provision of this chapter or
15 AS 46.04, or of a regulation, lawful order of the department, or
16 permit, approval, or acceptance, or term or condition of a permit,
17 approval, or acceptance issued under this chapter or AS 46.04 is
18 guilty of a class B misdemeanor.

19 (b) Except as provided in (d) - (f) of this section, a [A]
20 person who knowingly [WILFULLY] violates a provision of this chapter
21 or AS 46.04, or of a regulation, lawful order of the department, or
22 permit, approval, or acceptance, or term or condition of a permit,
23 approval, or acceptance issued under this chapter or AS 46.04 is
24 guilty of a class A misdemeanor.

25 (c) Each day on which a violation described in [(a) OR (b) OF]
26 this section occurs is considered a separate violation.

27 (d) Notwithstanding (a) and (b) of this section, a [A] person
28 who fails to provide or falsely states information required under
29 AS 46.03.755 or AS 46.04 is guilty of a misdemeanor and, upon convic-

1 tion, is punishable by a fine of not more than \$25,000, or by impri-
2 sonment for not more than one year, or by both. Each unlawful act
3 constitutes a separate offense.

4 (e) Notwithstanding (a) and (b) of this section, a person who
5 knowingly (1) transports any hazardous waste to a facility without a
6 permit required under AS 46.03.250 - 46.03.314; (2) treats, stores, or
7 disposes of hazardous waste without a permit required under AS 46.-
8 03.250 - 46.03.314; or (3) makes a false statement or representation
9 in an application, label, manifest, record, report, permit, or other
10 document filed, maintained, or used for purposes of compliance with
11 the hazardous waste provisions of AS 46.03.250 - 46.03.314 or regu-
12 lations adopted under those provisions, is punishable by a fine of not
13 more than \$10,000 per day or by imprisonment for not more than one
14 year, or both.

15 (f) Notwithstanding the penalty provisions of (a) - (e) of this
16 section, a defendant that is an organization is, upon conviction of a
17 violation of any of the provisions listed in this section, subject to
18 the penalties set out in AS 12.55.035(c).

19 * Sec. 9. AS 46.03.900 is amended by adding new paragraphs to read:

20 (36) "mining waste" means solid waste from the extraction,
21 beneficiation and processing of ores and minerals, including coal, and
22 including phosphate rock and overburden from the mining of uranium
23 ore;

24 (37) "waste associated with the exploration, development, or
25 production of crude oil, natural gas, or geothermal energy" means

26 (A) waste, including drilling mud, cuttings, hydro-
27 carbons, brine, acid, sand, and emulsions or mixtures of fluids
28 produced from and unique to the operation or maintenance of a
29 well, whether naturally occurring or added for the operation or

1 productivity of the well; and

2 (B) waste that is derived intrinsically from primary
3 field operations;

4 (38) "waste derived intrinsically from primary field op-
5 erations" means waste produced from a well, and removed (A) at the
6 drill site by crude oil and wastewater treatment process; or (B) at
7 crude oil production facilities before custody transfer; "waste de-
8 rived intrinsically from primary field operations" does not include
9 spent solvent from equipment maintenance activities, discarded chemi-
10 cal products, or fuel.

11 * Sec. 10. This Act takes effect immediately in accordance with AS 01.-
12 10.070(c).

Introduced: 2/14/84
Referred: Resources and
Judiciary

1 IN THE SENATE

BY THE RESOURCES COMMITTEE

2

SENATE BILL NO 503

3

IN THE LEGISLATURE OF THE STATE OF ALASKA

4

THIRTEENTH LEGISLATURE - SECOND SESSION

5

A BILL

6 For an Act entitled: "An Act relating to hazardous wastes."

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

8 * Section 1. AS 46.03.100(c) is amended to read:

9 (c) A permit for disposal of a hazardous waste may not be issued
10 under this section unless the applicant for the permit satisfies those
11 department regulations that are consistent with and equivalent to
12 regulations of the Environmental Protection Agency adopted under
13 42 U.S.C. 6924 - 6925 and has furnished proof to the commissioner of
14 financial ability to control the hazardous waste. [PROOF OF FINANCIAL
15 RESPONSIBILITY MAY BE DEMONSTRATED BY SELF-INSURANCE, INSURANCE,
16 SURETY, OR GUARANTEE, UNDER REGULATIONS ISSUED BY THE DEPARTMENT.
17 ACCEPTANCE OF PROOF OF FINANCIAL RESPONSIBILITY UNDER THIS SUBSECTION
18 EXPIRES

19 (1) ONE YEAR FROM ITS ISSUANCE FOR SELF-INSURANCE;

20 (2) ON THE EFFECTIVE DATE OF A CHANGE IN THE SURETY BOND,
21 GUARANTEE, OR INSURANCE AGREEMENT; OR

22 (3) ON THE EXPIRATION OR CANCELLATION OF THE SURETY BOND,
23 GUARANTEE, OR INSURANCE AGREEMENT.]

24 * Sec. 2. AS 46.03.250 is amended to read:

25 Sec. 46.03.250. AUTHORITY. (a) The department shall adopt
26 regulations

27 (1) establishing standards governing the discharge of low
28 level radioactive materials to the air, water, land, and subsurface
29 land of the state;

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

4 (3) establishing procedures for the storage and disposal of
5 radioactive materials used in medicine, education, instruments, indus-
6 trial testing, or scientific research; and

7 (4) required by regulations adopted by the Environmental
8 Protection Agency under 42 U.S.C. 6926 for approval of a state
9 hazardous waste management program.

10 (b) The department has exclusive jurisdiction to adopt and
11 enforce regulations for the control of hazardous wastes in the state.

12 * Sec. 3. AS 46.03.296(b) is amended to read:

13 (b) The department shall adopt regulations in accordance with
14 the Administrative Procedure Act (AS 44.62) for the treatment, stor-
15 age, transportation, and disposal of hazardous wastes to ensure the
16 protection of human health, livestock, wildlife, property, and the
17 environment.

18 * Sec. 4. AS 46.03.299 is repealed and reenacted to read:

19 Sec. 46.03.299. CONTROL OF HAZARDOUS WASTES. (a) The depart-
20 ment shall facilitate coordination with federal, state, and local
21 agencies in adopting regulations under the Administrative Procedure
22 Act (AS 44.62) for a comprehensive state hazardous waste program
23 consistent with 42 U.S.C. 6901 - 6987 and regulations adopted under
24 those sections by the Environmental Protection Agency.

25 (b) The department shall

26 (1) identify the characteristics of hazardous wastes, as
27 identified in regulations of the Environmental Protection Agency
28 adopted under 42 U.S.C. 6921(b);

29 (2) establish

- 1 (A) criteria for listing hazardous wastes;
- 2 (B) requirements for hazardous waste that is used,
3 re-used, recycled, or reclaimed; and
- 4 (C) exclusions;
- 5 (3) adopt as a preliminary list the lists of hazardous
6 wastes identified by the Environmental Protection Agency in regulations
7 adopted under 42 U.S.C. 6921(b);
- 8 (4) identify the sources of hazardous wastes listed under
9 (3) of this subsection or enumerated under (c) of this section;
- 10 (5) qualify the department to receive authorization from
11 the administrator of the Environmental Protection Agency to administer
12 and enforce a hazardous waste program in accordance with 42 U.S.C.
13 6901 - 6987;
- 14 (6) determine the amount of a hazardous waste that is so
15 small as to not present a hazard to public health, livestock, fish,
16 wildlife, and the environment of the state when disposed of;
- 17 (7) adopt preliminary requirements for hazardous waste
18 produced by small quantity generators as specified under 42 U.S.C.
19 6921 - 6922;
- 20 (8) adopt, in accordance with 42 U.S.C. 6924,
 - 21 (A) criteria for identifying appropriate hazardous
22 waste disposal site locations;
 - 23 (B) procedures by which the public shall have oppor-
24 tunit to
 - 25 (i) participate in hazardous waste disposal site
26 locations; and
 - 27 (ii) review and comment on issuance of hazardous
28 waste disposal permits by the department.
 - 29 (c) Two years after the date on which the Environmental

1 Protection Agency approves the state hazardous waste program, the
2 department may

3 (1) develop new regulations for small quantity generators
4 if the Environmental Protection Agency fails to revise 40 C.F.R.
5 261.5, dated April 1, 1983; and

6 (2) enumerate specific hazardous wastes, within the meaning
7 of AS 46.03.900(32), subject to the provisions of AS 46.03.302 and
8 46.03.305; however, the department may not list as hazardous a waste
9 that has not been listed as a hazardous waste by the United States
10 Environmental Protection Agency under 42 U.S.C. 6921, unless the
11 commissioner first determines that the waste is hazardous as defined
12 in this chapter.

13 * Sec. 5. AS 46.03.311(b) is amended to read:

14 (b) Information that is confidential may be transmitted under a
15 continuing restriction of confidentiality to other officers, employ-
16 ees, or authorized representatives of the state or of the United
17 States if

18 (1) the person responsible for furnishing the record,
19 report, permit, application, or information to which such information
20 pertains is informed at least two weeks before the transmittal, except
21 that information obtained under AS 46.03.296 - 46.03.311 shall be made
22 available under a claim of confidentiality to the Environmental Pro-
23 tection Agency upon request of the agency; and

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

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

27 Sec. 46.03.312. CIVIL REMEDIES AND PENALTIES. (a) In the
28 enforcement of AS 46.03.296 - 46.03.311 the department may

29 (1) petition the superior court for injunctive relief to

1 restrain a person from engaging in an unauthorized activity that is
2 endangering or damaging the public health or the environment;

3 (2) assess a civil fine under (b) of this section; or

4 (3) bring an action in the superior court seeking civil
5 penalties under (b) of this section.

6 (b) A violation of a provision of AS 46.03.296 - 46.03.311 is
7 punishable by a civil fine of not less than \$10,000 and not more than
8 \$100,000 for the first day of the offense, and a civil fine of not
9 more than \$10,000 per day for each day the offense continues.

10 Sec. 46.03.313. CRIMINAL PENALTIES. A person who knowingly
11 transports a hazardous waste to an unpermitted facility, or who know-
12 ingly treats, stores, or disposes of a hazardous waste without a
13 permit, or who knowingly makes a false statement or a misrepresenta-
14 tion in an application, label, manifest, record, report, permit, or
15 other document filed, maintained, or used for the purposes of AS 46.-
16 03.296 - 46.03.311, is guilty of a class B misdemeanor and shall be
17 sentenced to a fine of not less than \$10,000 per day and not more than
18 \$50,000 per day for each day during which the offense continued and to
19 a term of imprisonment of not less than 180 days.

20 Sec. 46.03.314. DUTIES OF THE DEPARTMENT. The department shall

21 (1) investigate and respond in writing to a complaint filed
22 by a citizen in accordance with the provisions of 42 U.S.C. 6901 -
23 6987; and

24 (2) provide public notice and a public comment period of
25 not less than 30 days for a proposed settlement of a department en-
26 forcement action.

27 * Sec. 7. AS 46.03.760(a) is amended to read:

28 (a) A person who violates or causes or permits to be violated a
29 provision of this chapter, other than AS 46.03.296 - 46.03.311, or

1 AS 46.04, or a regulation, a lawful order of the department, or a
2 permit, approval, or acceptance, or term or condition of a permit,
3 approval, or acceptance issued under this chapter or AS 46.04 is
4 liable, in a civil action, to the state for a sum to be assessed by
5 the court of not less than \$500 nor more than \$100,000 for the initial
6 violation, nor more than \$5,000 for each day thereafter on which the
7 violation continues, and which shall reflect, when applicable,

8 (1) reasonable compensation in the nature of liquidated
9 damages for any adverse environmental effects caused by the violation,
10 which shall be determined by the court according to the toxicity,
11 degradability and dispersal characteristics of the substance dis-
12 charged, the sensitivity of the receiving environment, and the degree
13 to which the discharge degrades existing environmental quality;

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

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

18 * Sec. 8. AS 46.03.790(a) is amended to read:

19 (a) A person who violates or who causes or permits a violation
20 of a provision of this chapter other than AS 46.03.296 - 46.03.311 or
21 AS 46.04, or of a regulation, lawful order of the department, or
22 permit, approval, or acceptance, or term or condition of a permit,
23 approval, or acceptance issued under a provision of this chapter other
24 than AS 46.03.296 - 46.03.311 or under AS 46.04 is guilty of a class B
25 misdemeanor.

26 * Sec. 9. AS 46.03.790(b) is amended to read:

27 (b) A person who wilfully violates a provision of this chapter
28 other than AS 46.03.296 - 46.03.311, or of a regulation, lawful order
29 of the department, or permit, approval, or acceptance, or term or

1 condition of a permit, approval, or acceptance issued under a provi-
2 sion of this chapter other than AS 46.03.296 - 46.03.311 or under
3 AS 46.04 is guilty of a class A misdemeanor.