

HB

1977

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POSITION PAPER

SENATE BILL NO. 503

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

This Bill appears to be a necessary updating of existing statutes to enable the state to obtain federal approval of a state hazardous waste management program. The Bill also designates the Department of Environmental Conservation as the agency with exclusive jurisdiction to adopt and enforce regulations for the control of hazardous wastes in the state. Regulations adopted must be consistent with 42 U.S.C. 6924-6925 and with regulations adopted under those sections by the U.S. Environmental Protection Agency.

The Department is pleased to note the inclusion in AS 46.03.296(b) of transportation of hazardous wastes as liable to regulation. The Department is also gratified to note the inclusion of civil and criminal penalty provisions in the legislation.

The Department of Health and Social Services recognizes the need for this legislation at this time and looks forward to a cooperative relationship with the Department of Environmental Conservation in reviewing proposed regulations for their impact on the health of the people of the state.

Recommended by:

E.S. Rabeau, M.D.
E.S. Rabeau, M.D.
Director
Division of Public Health

Date:

April 16, 1984

Approved by:

Robert London Smith
Robert London Smith, Ph.D.
Commissioner
Department of Health
and Social Services

Date:

4/18/84

STATE OF ALASKA 1984 LEGISLATIVE SESSION
FISCAL NOTE

Revision Date 4/18, 1984

REQUEST
Bill/Resolution No.: SB 503
Title: Hazardous Wastes

Sponsor: Resource Committee
Requestor: Senate Resources
Date of Request: 4/17/84

II. FISCAL DETAIL
Agency Affected: Health & Social Servs.
Program Category Affected: Public Health

BRU, Program of Subprogram(s) Affected:
Public Health Administration

EXPENDITURES/REVENUES: (Thousands of Dollars)

	FY 84	FY 85	FY 86	FY 87	FY 88	FY 89
OPERATING						
100 PERSONAL SERVICES						
200 TRAVEL						
300 CONTRACTUAL						
400 SUPPLIES						
500 EQUIPMENT						
600 LANDS & STRUCTURES						
700 GRANTS, CLAIMS, ETC.						
800 MISCELLANEOUS						
TOTAL OPERATING	0	0	0	0	0	0

CAPITAL	0	0	0	0	0	0
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REVENUE	0	0	0	0	0	0
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FUNDING: (Thousands of Dollars)

GENERAL FUND						
FEDERAL FUNDS						
OTHER						
TOTAL	0	0	0	0	0	0

POSITIONS:

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

SOURCE OF FUNDS TO OFFSET FISCAL IMPACT OF BILL:

ANALYSIS: Attach a separate page for Analysis

Prepared By: Dean Tirador, M.D.
Division: Public Health

JCC
Phone: 465-3090
Date: 4/18/84

Approved by Commissioner: Robert London Smith, M.D.
Agency: DHSS

Date: 4/18/84

Distribution (by Agency preparing fiscal note):

Legislative Finance
Legislative Sponsor
Requestor
Office of Management and Budget
Impacted Agency(ies)

12/1/83



Alaska State Legislature

HOUSE OF REPRESENTATIVES
COMMITTEE ON RESOURCES

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SECTIONAL ANALYSIS

CSHB 197 (Resources)

Section 1: Rewrites the statute dealing with hazardous waste regulations. It provides that the Department of Environmental Conservation must adopt and enforce federal hazardous waste regulations adopted by the Environmental Protection Agency under the Resource Conservation and Recovery Act of 1976. The department has until July 1, 1986 to adopt additional regulations that would take effect a year later. Mining waste and various wastes associated with oil and gas drilling operations would not be covered by the regulations. The department is directed to take the steps necessary to get EPA approval for a state hazardous waste management program. Regulations would cover only hazardous waste generated in amounts of 220 pounds per month or greater, and "acute hazardous waste" in amounts of 2.2 pounds per month or greater. These quantity limits are stricter than federal requirements, but if federal limits were to be made stricter than state limits, the department would be required to extend coverage to match federal requirements. The department, of course, could establish stricter standards at any time. Section 1 also provides that from July 1, 1986 through June 30, 1987 the department will conduct a program to inform effected persons of their responsibilities under the program.

Section 2. requires that anyone transporting hazardous waste in the state must first send a copy of a manifest to the department. The department then must send a copy of the manifest to all state and local public safety agencies in areas through which the waste will be transported.

Section 3. requires the department to set up temporary collection points four times a year to receive hazardous wastes from "small quantity generators" and from "household generators" as those terms are defined by the EPA.

Section 4 requires the department to pick sites for hazardous waste management facilities. These would include dumping sites as well as facilities for storage or treatment of hazardous waste. The section lists specific criteria to guide the department in its selections. These criteria are to be expanded upon in regulations adopted by the department not later than July 1, 1986. Those regulations also must set out application procedures for private parties who wish to run hazardous waste facilities. The department is authorized to approve private facilities if they are consistent with the requirements established for all facilities under the bill. Public hearings must be held in each election district where a facility is proposed to be located. The department has to report back to the legislature and the governor with a preliminary findings by July 1, 1987, and final site selections by July 1, 1989.

Sections 5 - 7 work together to establish separate civil penalties for hazardous waste violations of \$500 to \$100,000 for a violation, with an additional fine of up to \$10,000 per day if the violation continues. Punitive fines may be imposed if necessary to deter further violations.

Section 8 sets out separate criminal penalties of up to \$10,000 per day and up to one year imprisonment. These penalties are made applicable to organizations as well as individuals.

Section 9 defines certain terms added by the bill.

Section 10 provides an immediate effective date.

NOTE: the bill title could be amended back to the existing title, "An Act relating to hazardous waste; and providing for an effective date" since provisions dealing with penalties for violations of AS 46.03 not related to hazardous waste are no longer being changed by the bill, as they would have been by previous drafts of this committee substitute.

Jay Nelson - Env. - Generally Supports This Bill.
Oil Industry - Generally Supports This Bill.

1 IN THE HOUSE

BY THE RESOURCES COMMITTEE

2 CS FOR HOUSE BILL NO. 197 (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 agri-

1 culture and natural resources and opportunities to mitigate or elimi-
2 nate the adverse effects by stipulations, conditions, and requirements
3 relating to the design and operation of a management facility at the
4 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 gover-

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.

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
8 derived 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).

STATE OF ALASKA 1984 LEGISLATIVE SESSION
FISCAL NOTE

Revision Date: April 19, 1984

REQUEST

Bill/Resolution No.: CSHB 197
Title: Hazardous Waste...

Sponsor: House Resources
Requestor: Rep. John Ringstad
Date of Request: April 19, 1984

FISCAL DETAIL

Agency Affected: Environmental Conservation
Program Category Affected: NRMEC

BRU, Program or Subprogram(s) Affected:
Environmental Quality

EXPENDITURES/REVENUES: (Thousands of Dollars)

	FY 84	FY 85	FY 86	FY 87	FY 88	FY 89
OPERATING		6-month				
100 PERSONAL SERVICES		65.9	131.7	131.7		
200 TRAVEL		16.0	16.0	16.0		
300 CONTRACTUAL		8.4	16.8	16.8		
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		105.9	171.7	171.7		
CAPITAL		480.0	--	--		
REVENUE						

FUNDING: (Thousands of Dollars)

GENERAL FUND		585.9	171.7	171.7		
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: Stanley W. Hungerford Phone: 465-2666
Division: Environmental Quality Date: April 19, 1984
Approved by Commissioner: Christopher Noah Date: April 19, 1984
Agency: Environmental Conservation Deputy Commissioner

Distribution (by Agency preparing fiscal note):

Legislative Finance
Legislative Sponsor
Requestor
Office of Management and Budget
Impacted Agency(ies)

12/1/83

ANALYSIS of FISCAL NOTE
CSHB 197 AMENDED
April 19, 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. (75.0 each year)

- 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 a fiscal note in 1986 audit cycle.)
- d) In the sixth/seventh year conduct the public review of at least two sites. (50.0)
- e) Prepare recommendation for the governor and legislature.
- f) No inflation of costs or salaries.

Staffing Needs:

1	Environmental Engineer	(Range 19)	50.0 plus support costs
1	Administrative Assistant	(Range 12)	11.7 plus support costs

- B. Details of the costs for a collection and transportation service for disposal of hazardous wastes 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. (85.0 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.

Staffing needs:

• 1 Environmental Engineer III (Range 19) 50.0 plus support costs

C. Details of the estimated support costs for four positions.

Travel Costs:	<u>1st year</u>	<u>2nd & 3rd years</u>
Moving costs -- of the 2 Environmental Engineer IIIs: the department has found that the specialized expertise required cannot be found in Alaska.	12.0	--
Travel in support of project work (technical assistance and public information)	3.0	12.0
Travel to meet with contractors, local governments, public meetings	1.0	4.0
 Contractual Costs:		
Office costs (5.6 per person -- telephone, xerox, janitor)	8.4	16.8
 Supplies:		
Replace expendable laboratory, safety materials	--	2.0
Office	2.0	2.0
 Equipment:		
Office equipment (desks, chairs, word processor)	5.1	--
Safety equipment and replacements	8.5	3.2