

HB

524

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February 25, 2004

The Honorable Pete Kott
Speaker of the House
Alaska State Legislature
State Capitol, Room 208
Juneau, AK 99801-1182

Dear Speaker Kott:

Under the authority of article III, section 18, of the Alaska Constitution, and in the interest of reducing duplication in and otherwise improving regulatory processes, I am transmitting a bill relating to regulation of waste management and disposal that would:

1. reorganize and supplement existing statutory authority to provide flexibility in the regulatory tools used to control the treatment and disposal of waste;
2. streamline certain aspects of the permitting process; and
3. provide explicit statutory authority for proof of financial responsibility for certain types of municipal solid waste and mining waste treatment and disposal facilities.

Under existing state law, the Department of Environmental Conservation (DEC) regulates a broad universe of waste and wastewater disposal activities. In addition to regulating discharges to surface waters, the DEC regulates discharges to groundwater and the disposal of solid and liquid wastes on land. The existing statutory authority for these regulatory programs is drawn from several sections of AS 46.03, some providing broad, general powers and others prescribing detailed requirements. These statutory authorities do not provide adequate regulatory tools for efficient regulation of waste treatment and disposal.

This bill would change the existing statutory authority for a waste disposal permit program (AS 46.03.100) by reorganizing and supplementing it. That reorganized section would preserve the essential requirement to obtain authorization before conducting an operation that results in waste disposal. The bill would allow for the needed authorization to take one of several forms,

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providing flexibility to use regulatory tools other than the individual and general permits contemplated by the current law, in addition to those permits. The bill would provide for stakeholder participation in that even the simplest of the regulatory tools would include notice and comment regulation adoption.

The changes proposed to existing AS 46.03.100 would address requirements for proof of financial responsibility for certain types of waste treatment or disposal facilities. Current law explicitly requires such proof only for permits to dispose of hazardous waste. This bill would refocus the requirement on solid waste disposal facilities that accept hazardous waste and on mine waste treatment and disposal facilities that use chemical processing or have acid generation potential. For mines that do not use chemical processing or produce waste with acid generation potential, proof of financial responsibility would not be required as a condition for the waste treatment or disposal authorization, but this would not affect the separate reclamation-related financial responsibility requirements administered by the Department of Natural Resources. The bill would provide for DEC to accept proof of financial responsibility provided to the Department of Natural Resources or a federal land manager agency for mine reclamation instead of requiring duplicative bonding.

The bill would clarify that the proof of financial responsibility must cover managing and closing the facility to control or minimize the risk of release of unauthorized levels of pollutants to waters. The bill also would allow for the possibility that this financial responsibility requirement may need to be extended to some municipal solid waste disposal facilities.

The changes proposed to AS 46.03.100 would modify the requirement for a solid waste permit applicant to demonstrate consideration of all solid waste management options and consistency with the waste reduction practices and priorities of AS 46.06.021. As modified, those requirements would apply only to non-municipal solid waste disposal applicants.

The bill also would reorder the components of the waste disposal authorization provisions so that they flow from the prohibition against unauthorized waste disposal, to the basic regulatory tools available for authorizing the disposal, to provisions for plan reviews and integrated waste management permits, to the exemptions, and finally to specific requirements that must be met by certain categories of disposers.

This bill would amend some existing permit processing requirements related to application submittals, public notice and comment opportunities, the

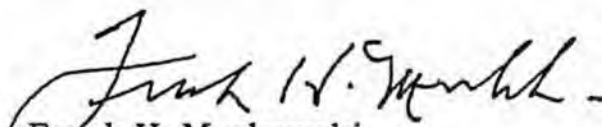
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maximum term of permits, and the causes for termination or modification of an authorization.

This bill would add a definition for "municipal solid waste" and would amend the definition of "solid waste." It also would repeal the plan submittal, review, and approval provisions of AS 46.03.090 and 46.03.720(a) as superfluous in light of the changes proposed to AS 46.03.100 (which makes written plan approvals one of the tools available for authorizing activities covered by the repealed sections). It also would make conforming amendments in AS 16.05.782(e), AS 44.46.025(a), and 46.03.833(a), to reflect citation or terminology changes caused by other amendments and repealers in the bill.

I urge your prompt and favorable action on this measure.

Sincerely yours,



Frank H. Murkowski
Governor

Enclosure

FISCAL NOTE

STATE OF ALASKA
2004 LEGISLATIVE SESSION

Fiscal Note Number: 1
 Bill Version: HB 524
 (H) Publish Date: 2/26/04

Revision Date/Time (Note if correction): _____ Dept. Affected: Environmental Conservation
 Title "An Act relating to the protection of land and RDU Air & Water Quality
water from waste disposal . . ." Component Water Quality
 Sponsor Rules Committee by Request
 Requester Governor Component No. 2062

Expenditures/Revenues (Thousands of Dollars)

Note: Amounts do not include inflation unless otherwise noted below.

OPERATING EXPENDITURES	FY 2005	FY 2006	FY 2007	FY 2008	FY 2009	FY 2010
Personal Services	0.0	0.0	0.0	0.0	0.0	0.0
Travel	0.0	0.0	0.0	0.0	0.0	0.0
Contractual	0.0	0.0	0.0	0.0	0.0	0.0
Supplies	0.0	0.0	0.0	0.0	0.0	0.0
Equipment	0.0	0.0	0.0	0.0	0.0	0.0
Land & Structures	0.0	0.0	0.0	0.0	0.0	0.0
Grants & Claims	0.0	0.0	0.0	0.0	0.0	0.0
Miscellaneous	0.0	0.0	0.0	0.0	0.0	0.0
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0

CAPITAL EXPENDITURES	0.0	0.0	0.0	0.0	0.0	0.0
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CHANGE IN REVENUES ()	0.0	0.0	0.0	0.0	0.0	0.0
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FUND SOURCE (Thousands of Dollars)

FUND SOURCE	FY 2005	FY 2006	FY 2007	FY 2008	FY 2009	FY 2010
1002 Federal Receipts	0.0	0.0	0.0	0.0	0.0	0.0
1003 GF Match	0.0	0.0	0.0	0.0	0.0	0.0
1004 GF	0.0	0.0	0.0	0.0	0.0	0.0
1005 GF/Program Receipts	0.0	0.0	0.0	0.0	0.0	0.0
1037 GF/Mental Health	0.0	0.0	0.0	0.0	0.0	0.0
Other (Specify Type--Do not abbreviate)	0.0	0.0	0.0	0.0	0.0	0.0
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

Estimate of any current year (FY2004) cost: 0.0

Mark this box (X) if funding for this bill is included in the Governor's FY 2005 budget proposal:

POSITIONS

POSITIONS	FY 2005	FY 2006	FY 2007	FY 2008	FY 2009	FY 2010
Full-time	0	0	0	0	0	0
Part-time	0	0	0	0	0	0
Temporary	0	0	0	0	0	0

ANALYSIS: (Attach a separate page if necessary)

Bill has no fiscal impact on the Department.

Prepared by: Lynn J. Tomich Kent
 Division: Air & Water Quality
 Approved by: Kurt Fredriksson, Deputy Commissioner
 Agency: Department of Environmental Conservation

Phone 465-5312
 Date/Time 2/18/04 2:41 PM
 Date 2/18/2004



RESOURCE DEVELOPMENT COUNCIL

Growing Alaska Through Responsible Resource Development

March 3, 2004

Representative Nancy Dahlstrom
Co-Chair, House Resources Committee
Alaska State Legislature
State Capitol, Room 108
Juneau, Alaska 99801-1182

Re: HB 524 — Waste Management/Disposal

Dear Representative Dahlstrom:

On behalf of the Resource Development Council for Alaska, Inc. (RDC), I am writing in support of HB 524 — Waste Management/Disposal.

RDC is a private, membership-funded, non-profit trade association. The organization represents individuals and companies from Alaska's mining, timber, oil and gas, tourism and fishing industries. Also within our ranks are local communities, Native regional and village corporations, organized labor and industry support firms. Our mission is to help grow Alaska's economy through the responsible development of the state's natural resources.

HB 524 accomplishes several objectives of importance to both the Department of Environmental Conservation (DEC) and the regulated community. The bill greatly enhances DEC's management flexibility by defining several tools the agency may use to authorize waste disposal. These tools include individual and general permits, authorizations-by-regulation, approval of plans of operation and integrated waste management and disposal authorizations.

This broad array of management options will allow the agency to more efficiently and effectively regulate waste disposal throughout the state. In turn, the regulated community will benefit from an oversight system that can be tailored to fit a variety of different operating and disposal scenarios. HB 524 allows DEC to replace a "one-size-fits-all" program with a more dynamic and practical plan.

HB 524 also clarifies the financial responsibility requirements for disposal operators. The bill defines a range of options DEC may consider when evaluating an operator's proof of financial responsibility. Individual operators will benefit from the opportunity to meet the standard by choosing the assurance mechanism most appropriate to its unique set of circumstances.

Lastly, the bill provides for DEC to prescribe in regulations the circumstances under which an expiring permit may be administratively continued. Having the option to administratively extend a permit will be another valuable tool for the department and potential benefit to the regulated community. Due to DEC's limited resources, operations under an expired permit can occur through no fault of the operator. Such occurrences increase the risk of third-party litigation and threaten to drive up the costs of doing business for DEC and the

regulated community. Defining an appropriate process for issuing administrative extensions addresses this important concern.

RDC appreciates the opportunity to comment on HB 524. Our membership strongly supports the legislation and we encourage you to hear the bill and move it forward. Thank you for your consideration and please feel free to contact me with any questions.

Sincerely,

RESOURCE DEVELOPMENT COUNCIL
for Alaska, Inc.

A handwritten signature in cursive script that reads "Tadd Owens".

Tadd Owens
Executive Director

cc: Commissioner Ernesta Ballard, DEC
Dan Easton, Director, Division of Water, DEC