

**HB**

**524**

## SENATE COMMITTEE REPORT

DATE: 3/26/04

FURTHER:

DATE TURNED  
IN TO OFFICE: 4-2-04

Resources Committee considered HOUSE BILL NO. 524 am

### HB 524 WASTE MANAGEMENT/DISPOSAL

"An Act relating to the protection of land and water from waste disposal; providing for the regulation of waste management; making conforming amendments; and providing for an effective date."

and recommends:

- be replaced with S CS HB 524am (RES)
- adopt previous \_\_\_\_\_ CS \_\_\_\_\_ (\_\_\_\_\_)
- attached amendment(s)
- adopt Letter of Intent by \_\_\_\_\_ Committee
- further referral to \_\_\_\_\_ Committee

<b>Senate Bill:</b>	
<input type="checkbox"/>	Same Title
<input type="checkbox"/>	New Title
<b>House Bill:</b>	
<input checked="" type="checkbox"/>	Same Title
<input type="checkbox"/>	Technical Title Change
<input type="checkbox"/>	New Title w/ SCR # _____

**NEW FISCAL NOTE(S):**

Department	Date	Fiscal	Indet.	Zero	FN#

**PREVIOUS FISCAL NOTE(S):**

Department	Date	Fiscal	Indet.	Zero	FN#

APPROPRIATION - no fiscal note

SIGNATURES AND RECOMMENDATIONS:	DO PASS	DO NOT PASS	NO REC	AMEND
<i>Frank...</i>			✓	
<i>...</i>			✓	
<i>...</i>			✓	
<i>Joseph...</i>	✓			
<i>Ben...</i>	✓			
<i>...</i>			✓	
CHAIR: <i>Scott...</i>	✓			

# 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
<b>TOTAL OPERATING</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

<b>CAPITAL EXPENDITURES</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>
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<b>CHANGE IN REVENUES ( )</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>
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**FUND SOURCE (Thousands of Dollars)**

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
<b>TOTAL</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

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**

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

# LEGAL SERVICES

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## MEMORANDUM

April 5, 2004

**SUBJECT:** SCS HB 524(RES)

**TO:** Senator Scott Ogan,  
Chair of the Senate Resources Committee

**FROM:** Pam Finley *PF*  
Revisor of Statutes

Enclosed is SCS HB 524(RES). This is a governor's bill, and our office has not had the opportunity to prepare a CS for it until now. In addition to minor stylistic changes to make the draft conform to the drafting manual, we made one change we need to bring to your attention, and failed to make one change that perhaps should be made.

First, we changed "paragraph" to "subparagraph" in AS 46.03.100(e)(4)(D) because from the context it appeared that the provision was limited to that subparagraph. If, however, the language was intended to apply to all of AS 46.03.100(e)(4), it should be moved up before the (A) - (D) list.

Secondly, AS 46.03.110(e) has a reference to a "permit required under AS 46.03.100." Should "permit" in AS 46.03.110(e) be changed to "authorization"? We did not make this change, but you may want to consult the Attorney General's office to determine whether AS 46.03.110(e) needs to be amended.

PF:med  
04-373.med

Enclosure



SENATOR SCOTT OGAN

23<sup>RD</sup> Alaska State Legislature

Senate District H Lazy Mountain \* Butte \* Chugiak \* Peters Creek \* Fairview Loop

Knik-Goose Bay \* Big Lake \* Houston \* Willow \* Talkeetna \* Trapper Creek

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Senator\_Scott\_Ogan@legis.state.ak.us

Http://www.akrepublicans.org/ogon

FACSIMILE TRANSMITTAL SHEET

TO: *Leg Legal*

FROM: *Linda Hagg - Sen Res.*

COMPANY:

DATE: *4-3-04*

FAX NUMBER:

TOTAL NO. OF PAGES INCLUDING COVER:

PHONE NUMBER:

RE: *HB 524 am*

- URGENT
- FOR REVIEW
- PLEASE COMMENT
- PLEASE REPLY
- PLEASE RECYCLE

NOTES/COMMENTS:

*Please prepare a Senate Resources CS for HB 524 am (version 23-GH2008\A.A) amendment adopted by Sen Resources is attached.*

*Please call # 4907 if there are any questions. This leg. moved out of committee Friday afternoon.*

23G-2  
3/26/2004  
(2:20 PM)

A M E N D M E N T

OFFERED IN THE SENATE  
RESOURCES COMMITTEE  
TO: HB 524 am

BY Elton

- 1 Page 4, line 31, through page 5, line 1:
- 2 Delete "after a financial review under regulations adopted by the department; regulations
- 3 adopted under this paragraph"
- 4 Insert ". Regulations adopted under this subsection"
- 5
- 6 Page 5, line 10, following "demonstration":
- 7 Insert "after a financial review under regulations adopted by the department"



SENATOR KIM ELTON

## MEMORANDUM

**DATE:** March 29, 2004  
**TO:** Linda Hay  
**FROM:** Paula Cadiente *Paula*  
**SUBJ:** Amendment to HB 524 am

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Attached is an amendment Sen. Elton would like to make to HB 524 am. This bill was amended on the House floor on Friday.

I've checked with Rep. Heinze's staff and Matt Davidson and they have no problem with the amendment. This was suggested to us by the department and they will have someone at today's committee meeting to discuss it if needed.

-----ALASKA SENATE-----

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SENATOR\_KIM\_ELTON@LEGIS.STATE.AK.US

During its March 25, 2004 floor session, the House made two amendments to HB 524. Part of the first amendment was intended to conform the Section 3 financial responsibility provisions with an amendment previously made to the mine reclamation financial assurance provisions of HB 486, so that both would require that financial tests be prescribed in regulations for use of corporate guarantees and other forms of financial assurance. The amendment also intended to add language to ensure that a financial review would be conducted before allowing renewal of a self-insurance demonstration. Unfortunately, the phrase meant to achieve that was inadvertently attached to the overall financial tests language instead of to the AS 46.03.100(f)(1) self-insurance renewal provision. The proposed amendment would move the phrase to the correct location.

**DEPARTMENT OF ENVIRONMENTAL CONSERVATION**  
**HOUSE BILL 524**  
**"RELATING TO THE PROTECTION OF LAND AND WATER FROM WASTE DISPOSAL"**  
**MARCH 3, 2004**

House Bill 524 clarifies the statutory foundation for a rational water protection program. It is an integral piece of the Department of Environmental Conservation's (DEC) "Raindrops to Oceans" initiative to move the State of Alaska to a comprehensive and rational program for protecting Alaska's water as it flows through the hydrologic cycle, from raindrops to oceans.

**What the bill does:**

HB 524 replaces specific statutory references to "permits" with the broader term "authorization" and **allows DEC to select from a range of tools to authorize waste disposal activities depending on risk.** Tools include:

- **Individual permits.** This is the conventional permit issued to a specific facility for a particular disposal activity. Individual permits are used to authorize larger, more complex, larger volume, and higher risk activities.
- **General permits.** General permits are used to authorize a number of similar activities in a geographic area. Persons that wish to be covered by the general permit notify DEC of their intent to operate in compliance with the permit. General permits are used to authorize lower risk activities.
- **Permits by rule.** The "permit by rule" tool is used to authorize low-risk activities by promulgating requirements in regulation. Permits by rule are used for low-risk activities.
- **Plan approvals.** Sewerage systems and treatment works that do not discharge can be authorized by approving plans.
- **Provides for integrated waste management permits** for complex facilities requiring more than one DEC permit.

**Allows administrative extension of DEC permits.** HB 524 allows DEC to develop regulations under which the agency may extend expiring individual and general permits beyond their expiration date.

**Expands requirements for proof of financial responsibility** for harmful mining waste. Proof of financial responsibility authority is used to make sure that owners of large solid waste disposal facilities have set aside enough money to properly close the facilities. For mining activities, rather than requiring separate financial assurance, HB 524 allows DEC to accept financial assurance provided to a state or federal land management agency.

**Modifies the definition of "solid waste"** to make the term more specific and **adds a definition for "municipal solid waste"** to help distinguish municipal solid waste from industrial and other forms of solid waste. HB 524 also allows DEC to exempt small landfills that accept household hazardous waste from providing proof of financial responsibility.

DEPARTMENT OF ENVIRONMENTAL CONSERVATION  
SENATE BILL 355/HOUSE BILL 524

"RELATING TO THE PROTECTION OF LAND AND WATER FROM WASTE DISPOSAL"

Senate Bill 355 and House Bill 524 replace specific statutory references to "permits" with the broader term "authorization" and allows DEC to select from a range of tools to authorize waste disposal activities depending on risk. Tools include:

- I. **Individual permits.** This is the conventional permit issued to a specific facility for a particular disposal activity. Individual permits are used to authorize larger, more complex, larger volume, and higher risk activities.

**Examples** of facilities and operations likely authorized using **individual permits**:

- Major seafood processors
- Major municipal wastewater discharges
- Refinery discharges
- Ballast water treatment discharges
- Large (Class I and 2) landfills
- Oil and gas drilling waste disposal not covered by integrated waste mgt. permits
- Asbestos monofills

- II. **General permits.** General permits are used to authorize a number of similar activities in a geographic area. Persons that wish to be covered by the general permit notify DEC of their intent to operate in compliance with the permit. General permits are used to authorize lower risk activities.

**Examples** of facilities and operations likely authorized using **general permits**:

- Placer mines
- Log transfer facilities
- Stormwater discharges
- Remote camp sewage/solid waste disposal
- Oil and gas exploration and development
- Small seafood processors

- III. **Permits by rule.** The "permit by rule" tool is used to authorize low-risk activities by promulgating requirements in regulation.

**Examples** of facilities and operations likely authorized using **permits by rule**:

- Rural landfills
- Residential domestic wastewater systems that discharge to marine waters
- Coal bed methane exploration
- Non-jurisdictional wetland fill
- Construction dewatering
- Oil/water separators
- Small animal confinement operations
- Construction debris landfills
- Wood waste monofills

IV. **Plan approvals.** Sewerage systems and treatment works **that do not discharge** can be authorized by plan approval.

**Examples** of facilities and operations likely authorized by **plan approval**:

- Zero-discharge sewage treatment lagoons
- Zero-discharge temporary storage of oil and gas drilling waste
- Zero-discharge temporary storage for some coal bed methane projects

V. **Integrated waste management permits.** Complex facilities and operations requiring more than one DEC waste disposal authorization can be authorized using integrated waste management permits.

**Examples** of facilities and operations likely authorized by **integrated waste management permits**:

- Complex mining operations
- Major oil/gas development/production projects

## HB 524

### Relating to Protection of Land and Water from Waste Disposal

Enhanced Short Sectional Analysis (as amended on the House floor March 25, 2004)

**Section 1.** Makes conforming changes to reflect AS 46.03.100's switch from "permit" as the only form of agency approval to the more flexible "prior authorization."

**Section 2.** Makes conforming changes to reflect retitling of AS 46.03.100 to "waste management and disposal authorizations" and repeal of AS 46.03.720(a).

**Section 3.** Modifies current "waste disposal permit" requirements to fit a "waste management and disposal authorization" regulatory approach. Reorganizes current AS 46.03.100, retaining much of the original language but modifying some provisions to clarify waste disposal authorization requirements and explicit provide for use of broader range of tools. *Please refer to attached table for annotated comparison of reenacted AS 46.03.100 to the repealed section.*

1. **Subsection (a)** prohibits waste disposal and related sewer or treatment system construction activities without DEC authorization.

2. **Subsection (b)** describes five waste management and disposal authorization tools to be used and revises general permit standards.

3. **Subsection (c)** centralizes sewer or treatment system plan review and approval authority and provides for plan approval to serve in lieu of a permit under some circumstances.

4. **Subsection (d)** provides for use of integrated waste management and disposal authorizations.

5. **Subsection (e)** pulls together in one subsection the existing waste disposal permit exemptions, except that a drilling waste exemption has been modified (by a House floor amendment on March 25, 2004) to remove coal bed methane drilling from the activities that are exempt from the requirement to obtain advance authorization. The result of the House floor amendment is that disposal of waste from coal bed methane drilling will require a prior authorization but that authorization can be given using any of the tools in subsection (b).

6. **Subsection (f)** clarifies and amends proof of financial responsibility requirements for facilities that handle hazardous waste, mining waste from operations that use chemical processing or have the potential to generate acid, and some municipal solid waste disposal facilities.

7. **Subsection (g)** modifies the waste reduction practices and priorities demonstration so that it applies only to non-municipal solid waste disposal applicants.

## HB 524

### Relating to Protection of Land and Water from Waste Disposal

**Section 4.** Amends permit application requirements and makes conforming changes.

**Section 5.** Changes newspaper publication requirements for waste management and disposal permits to allow for noticing of draft authorizations, not just of application submittals.

**Section 6.** Clarifies permit duration limit, provides for regulations on administrative continuance of expiring permits, and makes conforming language changes.

**Section 7.** Amends statutory provisions on termination and modification of waste disposal permits and makes conforming changes.

**Section 8.** Adds a savings clause to allow for termination and modification of permits or plan approvals for reasons other than those in Section 7.

**Section 9.** Makes conforming changes to reflect the reorganization of subsections in AS 46.03.100 and the terminology used for financial responsibility requirements.

**Section 10.** Redefines the term "solid waste."

**Section 11.** Adds definition for "municipal solid waste."

**Section 12.** Repeals AS 46.03.090 sewage and industrial waste or treatment plan submittal provision and AS 46.03.720(a) sewerage system or treatment works plan review and approval provisions in favor of addressing those plan requirements through the waste management and disposal authorization required by AS 46.03.100.

**Section 13.** Instructs the Revisor of Statutes to make conforming changes to one section heading to reflect repeal of a subsection.

**Section 14.** Provides for an immediate effective date to allow work on regulations to implement the requirements of Sections 1-12 above to begin without delay.

**HB 524**

Relating to Protection of Land and Water from Waste Disposal

**Comparison Reenacted and Existing AS 46.03.100**

SB 355's Reenacted AS 46.03.100	Compared to Existing AS 46.03.100	Comments
Subsec. (a) sent. 1	Substantially similar to first sentence of AS 46.03.100(a) but reoriented to state requirement to obtain a permit as a prohibition against constructing, modifying or operating without "prior authorization"; also added "sewerage system" and "treatment works" to the more general "operation that results in the disposal" of waste concept	Centralizes prohibitions against unauthorized waste disposal-related operations, including construction and modification of facilities, as a prelude to providing for use of the flexible tools set out in subsec. (b)
sent. 2	Existing language from second sentence of AS 46.03.100(a), except that the words "owned or" are added after "publicly"	"Owned or" added to be consistent with the federal requirement that some discharges into "publicly owned" (not just operated) treatment works require prior authorization
Subsec. (b) para. (1) individual permit tool	Tool recognized in AS 46.03.100(a)'s requirement to "procure a permit"	
para. (2) general permit tool	Tool authorized in AS 46.03.100(h), subject to hazardous waste exclusion in final sentence of AS 46.03.100(a), but modified to change test for general permit issuance from "will cause only minimal adverse environmental effects when performed separately and cumulatively" to "will comply with applicable environmental quality standards established under this title"; also provides for determination to be based on available information and eliminates .100(a) exclusion	Refocuses on environmental quality standards test to ensure decision will be based on specific, concrete standards for determining whether general permit will be at least as protective as issuing a series of individual permits for the category of activity authorized; clarifies information requirement to ensure that general permit tool can be used based on available information, when sufficient, without new studies; removes hazardous waste exclusion to preserve future flexibility

HB 524

Relating to Protection of Land and Water from Waste Disposal

para. (3) "permit by rule" tool	New tool	Provides flexibility
para. (4) plan approval tool	New tool but consistent with practice under AS 46.03.090 and .720(a)	Provides flexibility
para. (5) integrated waste management tool	New tool but consistent with practice	Provides flexibility; reduces burden on permittees and allows for coordination of requirements
Subsec. (c) sent. 1 discretion to require submittal of sewerage system or treatment works plan for review and approval prior	Essentially combines AS 46.03.090 plan submittal authority and AS 46.03.720(a) qualified plan approval requirement [.090 and .720(a) are repealed by sec. 12]	Converts current mix of discretion to require plan submittal and waivable prohibition against unapproved construction or operation into a flexible waste management tool
sent. 2 designation of plan approval as authorization for zero-discharge designed facilities	New provision	Provides flexibility to use plan approval in lieu of or in combination with other forms of authorization
Subsec. (d) integrated waste management permit	New provision but consistent with AS 46.03.100(a)'s "permit" requirement	Codifies practice already used for some major facilities needing multiple "permits"
Subsec. (e) para. (1) domestic sewage exemption	Identical to exemption in AS 46.03.100(c)	
para. (2) oil & gas drilling waste exemption	Identical to exemption in AS 46.03.100(d)(1)	
para. (3) oil & gas injection well exemption	Identical to exemption in AS 46.03.100(d)(2)	
para. (4) incidental discharge exemption	Identical to exemption in AS 46.03.100(f), except that a March 25, 2004 House floor amendment has modified the existing .100(f)(3) exemption	Floor amendment removes coal bed methane drilling from the .100(f)(3) group of drilling waste activities exempted from the requirement to obtain prior authorization. Subparagraph lettering deleted to accommodate renumbering
para. (5) bilge pumping exemption	Identical to exemption in AS 46.03.100(g)(1)	
para. (6) cooling water exemption	Identical to exemption in AS 46.03.100(g)(2)	
para. (7) firing range exemption	Identical to exemption in AS 46.03.100(i)	

HB 524

Relating to Protection of Land and Water from Waste Disposal

<p>Subsec. (f) sent. 1 requirement for hazardous waste disposal facilities and certain mines to provide proof of financial responsibility</p>	<p>As to hazardous waste disposal facilities, substantially the same as the first sentence of AS 46.03.100(b); explicit authority to require proof for mines that use chemical processing or have the potential to generate acid is a new addition</p>	<p>Addition is consistent with current practice of requiring proof of financial responsibility for mine waste disposal (usually through reclamation bond) to address water quality-related risks from mining operations</p>
<p>sent. 2 discretion to require financial responsibility proof from municipal solid waste facilities</p>	<p>New provision</p>	<p>Added to satisfy federal solid waste program requirement</p>
<p>sent. 3 forms of proof acceptable</p>	<p>Substantially the same as second sentence of AS 46.03.100(b), except for (i) addition of "letter of credit" and "certificate of deposit" forms and catch-all "other proof" approved in regulations, (ii) narrowing of general terms "surety" and "guarantee" by addition of modifiers "bond" and "corporate," and (iii) rewording/reordering to satisfy legislative drafting styles</p>	<p>Forms of proof of financial responsibility clarified and expanded to comport with forms allowed under the federal act governing solid waste facilities and to coordinate with the proposal (in SB 339/HB 486) to clarify and expand the forms of mine reclamation financial assurance</p>
<p>sent. 4 requirement to include financial tests in regulations</p>	<p>New provision</p>	<p>Added to be consistent with amendments made in the DNR mining reclamation financial assurance bill</p>
<p>sent. 5 authority to accept reclamation financial assurance for mines</p>	<p>New provision</p>	<p>Consistent with current practice under solid waste regulations meant to avoid duplicative bonding</p>

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Relating to Protection of Land and Water from Waste Disposal

<p>sent. 6 expiration of certain financial responsibility forms</p>	<p>Substantially the same as third sentence of AS 46.03.100(b), except for addition of references to "letter of credit" and "certificate of deposit" forms, narrowing of general term "guarantee" by addition of modifier "corporate," and rewording/reordering to satisfy legislative drafting styles</p>	
<p>Subsec. (g) waste reduction demonstration requirement</p>	<p>Combines AS 46.03.100(e) and the general permit exclusion from the final sentence of AS 46.03.100(h) but adds an exclusion for municipal solid waste disposal facilities</p>	<p>New exclusion removes burden of demonstrating consideration of waste reduction options using the AS 46.06.021 reduction, recycling, treatment and disposal priorities for facilities that receive municipal solid waste because such facilities have limited ability to control the type and quantity of waste they receive</p>

**Illustration of the Repealed and Reenacted changes to AS 46.03.100  
by Section 3 of HB 524aa**

The highlighted words, phrases and sentences below are identical or substantially similar to how they appear in existing AS 46.03.100, except that due to reorganization they may now appear in different subsections, with different numbering or lettering, or in combination with added or modified language.

The words, phrases and sentences that are not highlighted are new or modified language.

Following this illustration of repealed and reenacted language are:

- (1) a bullet list describing language removed from AS 46.03.100 by HB 524, as amended by the House on March 25, 2004, and
- (2) a bullet list summarizing other substantive changes made.

.....

**Sec. 46.03.100. Waste management and disposal authorization.** (a) A person may not construct, modify, or operate a sewerage system or treatment works, or dispose of or conduct an operation that results in the disposal of solid or liquid waste material or heated process or cooling water into the waters or onto the land of the state without prior authorization from the department. Department authorization shall be obtained for direct disposal and for disposal, other than of domestic sewage, into publicly owned or operated sewerage systems.

(b) Prior authorization by the department is provided through one or a combination of the following:

- (1) an individual permit issued for a specific facility or disposal activity;
- (2) a general permit issued on a statewide, regional, or other geographical basis for a category of disposal activities that the commissioner, using information available when the permit is developed, determines are similar in nature and will comply with applicable environmental quality standards established under this title;
- (3) regulations adopted by the department authorizing a category of disposal without requiring a permit and establishing specific siting or operational requirements, discharge limits, or best management practices for the disposal category;
- (4) designation and approval of a plan as described under (c) of this section;

(5) an integrated waste management and disposal authorization as described in (d) of this section.

(c) The department may require the submission of plans for review and written approval before construction, extension, installation, modification or operation of a publicly or privately owned or operated sewerage system or treatment works. If the sewerage system or treatment works is designed to prevent disposal from the system or works outside of containment under normal operating conditions, the department may designate that the plan approval constitutes the authorization required under (a) of this section.

(d) The department may issue an integrated waste management and disposal authorization covering multiple related or unrelated waste management or disposal activities to be conducted at a facility, including generation, treatment, storage and disposal of solid or liquid waste. An integrated waste management and disposal authorization may include the authorizations in (b) and (c) of this section and a water quality-related certification required by 33 U.S.C. 1341 for the discharge of dredged or fill materials or of pollutants to surface waters from point sources.

(e) This section does not apply to

(1) a person discharging only domestic sewage into a sewerage system;

(2) disposals subject to regulation under AS 31.05.030(e)(2);

(3) injection projects permitted under AS 31.05.030(h);

(4) discharges of solid or liquid waste material or water discharges from the following activities if the discharge is incidental to the activity and the activity does not produce a discharge from a point source, as that term is defined in regulations adopted under this chapter, directly into any surface water of the state:

(A) mineral drilling, trenching, ditching, and similar activities;

(B) landscaping;

(C) water well drilling, geophysical drilling; or

(D) drilling, ditching, trenching, and similar activities associated with facility construction and maintenance or with road or other transportation facility construction and maintenance; however, the exemption provided by this paragraph does not relieve a person from obtaining a prior authorization under this section if the drilling, ditching,

trenching, or similar activity will involve the removal of the groundwater, stormwater, or wastewater runoff that has accumulated and is present at an excavation site for facility, road, or other transportation construction or maintenance and a prior authorization is otherwise required by this section;

(5) bilge pumping, unless the bilge product pumped may be expected to yield an oily sludge, emulsion, or sheen on the surface of any water of the state;

(6) cooling water discharges from a boat or vessel into any surface water of the state; or

(7) the firing or other use of munitions in training activities conducted 19 on active ranges, including active ranges operated by the United States Department of 20 Defense or a United States military agency.

(f) A person who applies for an authorization to operate a solid waste disposal facility that accepts hazardous waste or a mining waste disposal facility for an operation that chemically processes ores or has the potential to generate acid shall furnish to the department proof of financial responsibility to manage and close the facility in a manner that the department finds will control or minimize the risk of the release of unauthorized levels of pollutants from the facility to waters. The department may require that a municipal solid waste disposal facility furnish proof of financial responsibility. Proof of financial responsibility may be demonstrated by self-insurance, insurance, surety bond, corporate guarantee, letter of credit, certificate of deposit, or other proof of financial responsibility approved by the department, under regulations adopted by the department after a financial review under regulations adopted by the department; regulations adopted under this paragraph must set financial tests for the acceptance of corporate guarantees and other forms of financial responsibility that the department determines would be required for an independent showing of financial capability. For a mining waste disposal facility, the department may accept as adequate to satisfy the requirement of this subsection financial assurance for reclamation provided to a state or federal land management agency if it otherwise meets the requirements of this subsection. The department's acceptance of proof of financial responsibility under this subsection expires

(1) one year from its issuance for self-insurance, unless the department accepts a renewal of the same self-insurance demonstration;

(2) on the effective date of a change in the insurance agreement, surety bond, corporate guarantee, letter of credit, or certificate of deposit;

(3) on the expiration or cancellation of the insurance agreement, surety bond, corporate guarantee, letter of credit, or certificate of deposit.

(g) A person who applies for a solid waste disposal authorization under this section, except for an authorization under (b)(2) of this section or an authorization to dispose of municipal solid waste, shall demonstrate to the satisfaction of the department that the applicant has reasonably considered all solid waste management options and that the authorization would be consistent with the practices and priorities established under AS 46.06.021.

.....

Synopsis of provisions removed from AS 46.03.100:

- Coal bed methane drilling exemption from waste disposal permit requirement (existing AS 46.03.100(f)(3) final clause). Removed by House floor amendment No. 2 on March 25, 2004.
  - Requirement for municipal solid waste disposal facilities to demonstrate consideration of waste management options and waste reduction priorities.
- .....

Summary of other substantive changes:

- Moves plan review and approval requirements into the AS 46.03.100 waste disposal and management section. (Plan submittal, review and approval authorities elsewhere are repealed by Section 12.)
- Adds three waste management and disposal tools to the AS 46.03.100 tool kit.
- Modifies standard for issuance of a general permit.
- Adds provisions on proof of financial responsibility for mining waste operations.
- Adds provision giving the department discretion to require proof of financial responsibility from municipal solid waste disposal facilities.
- Modifies standards for determining whether offered proof of financial responsibility is sufficient.
- Adds forms of financial responsibility that may be used.
- Adds requirement that financial responsibility regulations set financial tests.

HB524



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STATE OF ALASKA  
OFFICE OF THE GOVERNOR  
JUNEAU

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,

The Honorable Pete Kott

February 25, 2004

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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

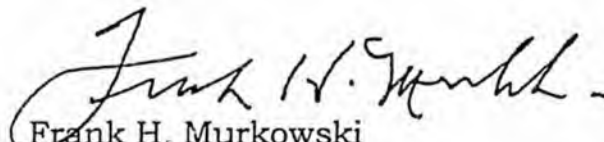
The Honorable Pete Kott  
February 25, 2004  
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maximum term of permits, and the causes for termination or modification of an authorization.

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

# STATE OF ALASKA

DEPT. OF ENVIRONMENTAL CONSERVATION  
OFFICE OF THE COMMISSIONER

FRANK H. MURKOWSKI, GOVERNOR

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March 26, 2004

The Honorable Scott Ogan  
Chairman, Senate Resources Committee  
State Capitol, Room 103  
Juneau, Alaska 99801

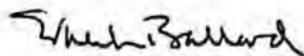
Dear Senator Ogan:

The Department of Environmental Conservation respectfully requests your consideration in scheduling HB 524, an "Act relating to the protection of land and water from waste disposal; providing for the regulation of waste management; making conforming amendments; and providing for an effective date," before the Senate Resources at your earliest convenience. The companion bill, SB 355, has already been heard once in your committee and was also heard in the Senate Community and Regional Affairs Committee. The House Bill passed the house 36 - 1.

You may recall that we spoke about the department's efforts to draft a bill that would direct the State to assume primacy for the federal wastewater discharge permitting (NPDES) program. It turns out that we are not yet ready to proceed with NPDES assumption and HB 524 does not direct this agency to pursue primacy. The bill, however, retains many of the other important provisions we discussed. Its effect is to rationalize the statutory authority for the waste disposal permit program under AS 46.03.100, by reorganizing and supplementing the permitting tools available to the agency to protect Alaska's surface water and groundwater from pollution. HB 524 has a zero fiscal note.

Dan Easton, Water Division Director for the Department of Environmental Conservation will provide you with any additional information you might require regarding this bill. Your staff can contact Mr. Easton at 465-5135, or Melanie Lesh, the department's legislative liaison, at 465-5290. As always, please contact me if I can be of assistance.

Sincerely,



Ernesta Ballard  
Commissioner

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## Alaska Oil and Gas Association

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*Marilyn Crockett, Deputy Director*

March 29, 2004

Senator Scott Ogan, Chair  
Senate Resources Committee  
Alaska State Legislature  
State Capitol, Room 103  
Juneau, Alaska 99801-1182

### HB524 am – Waste Management and Disposal

Dear Senator Ogan:

The Alaska Oil and Gas Association (AOGA) is a private, nonprofit trade association whose 19 member companies account for the majority of oil and gas exploration, development, production, transportation, refining and marketing activities in Alaska. We are submitting this letter for the Committee's consideration during its deliberations on HB524 am, "An Act relating to the protection of land and water from waste disposal; providing for the regulation of waste management; making conforming amendments; and providing for an effective date". AOGA supports this legislation.

This legislation is an excellent example of the Alaska Department of Environmental Conservation continuing to pursue opportunities to streamline its processes, while at the same time ensuring that its assigned responsibility of protecting Alaska's environment is carried out. It gives DEC additional regulatory tools for waste management and disposal activities in Alaska by providing it with flexibility to authorize these activities through general permits for like activities, authorization by regulation, and approvals of management plans, in addition to the traditional vehicle of issuing individual permits.

It also gives the Department the ability to administratively extend permits which are about to expire. This is an authority which has long been in place with other agencies, and in particular, the U.S. Environmental Protection Agency. The ability to administratively extend permits is important because it allows the Department to spend additional time on renewal of a particular permit if it feels it is necessary; it allows DEC the flexibility to prioritize limited permitting resources by extending those permits which are low risk and for which there are no changes needed, allowing it then to focus those limited resources on permits which may be more complicated and need additional attention; and finally, it satisfies the need of the permit holder to have a permit in place so that their operations can continue in the situations discussed above where a permit may expire through no fault of the permit holder.

March 29, 2004

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We are disappointed that the legislation was amended to eliminate the exemption for shallow gas drilling. This section provides that the listed activities are exempt if the discharge is incidental to the activity and the activity does not produce a discharge from a point source. Waste management and disposal activities associated with shallow gas drilling meet the same test of being benign as the other activities covered by this exemption.

We understand DEC will be addressing these activities through regulation. Therefore, we encourage the Committee's prompt passage of HB524 am. Thank you for your consideration.

Sincerely,

  
MARILYN CROCKETT