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1 be either on the basis of the nature of the sources involved or on the
2 basis of their relationship to the size of the communities in which
3 they are located.

4 (e) A municipality in which the department administers the air
5 pollution control program under this section may with the approval of
6 the department establish or resume a municipal program which meets the
7 requirements of sec. 50(a) of this chapter.

8 (f) The provisions of this chapter do not nullify a local air
9 pollution program in operation on August 5, 1969, if the program meets
10 the requirements of sec. 50(a) of this chapter within two years from
11 that date. Approval required from the department shall be considered
12 granted unless the department takes explicit action to the contrary.

13 Sec. 41.45.070. STATE AND FEDERAL AID. (a) A local government
14 unit with an air pollution program meeting the requirements of this
15 chapter and the regulations issued under it may apply to the state for
16 state aid equal to a maximum of 75 per cent of the locally funded annual
17 operating cost of the program. For a joint or areawide program estab-
18 lished under sec. 50(a) of this chapter application may be made for
19 state aid equal to a maximum of 75 per cent of the locally funded
20 operating cost. In the case of a joint or areawide program the state
21 aid may be based on the cost of the entire program or, if the depart-
22 ment finds that one or more elements of separately administered programs
23 are being carried on jointly in a way that materially increases the
24 efficiency or effectiveness of the programs, it may aid the element
25 carried on under the interlocal agreement at the rate applied to joint
26 and areawide programs generally.

27 (b) Municipalities of the state and interlocal air pollution
28 control agencies established under this chapter may apply for, receive,
29 administer and expend federal aid for the control of air pollution or

1 the development and administration of programs related to that control,
2 if the application is first submitted to and approved by the department.
3 The department shall approve an application if it is consistent with
4 this chapter and other applicable requirements of law.

5 Sec. 41.45.080. CONSTRUCTION AND IMPLEMENTATION OF SEC. 70.

6 (a) Sec. 70 of this chapter may not be construed so as to create a
7 debt of the state.

8 (b) The air pollution control support account is established.
9 Funds to carry out the provisions for state aid under sec. 70 of this
10 chapter may be appropriated annually by the legislature to the account.
11 If amounts in the account are insufficient for the purpose of the state
12 aid authorized under sec. 70 of this chapter, such funds as are avail-
13 able shall be distributed pro rata among eligible local governments or
14 air pollution control districts.

15 (c) Money in the air pollution control support account which, at
16 the end of the fiscal year for which the money is appropriated, exceeds
17 the amount required for the allocations authorized in this chapter
18 reverts to the general fund.

19 Sec. 41.45.090. LIMITATIONS. This chapter does not

20 (1) grant to the department jurisdiction or authority with
21 respect to air contamination existing solely within commercial and
22 industrial plants, works or shops;

23 (2) affect the relations between employers and employees
24 with respect to or arising out of a condition of air contamination or
25 air pollution;

26 (3) supersede or limit the applicability of a law or ordi-
27 nance relating to sanitation, industrial health or safety.

28 Sec. 41.45.100. ADDITIONAL CONTAMINANT CONTROL MEASURES. (a)

29 The department may require that notice be given to it before the

1 undertaking of the construction, installation or establishment of
2 particular types or classes of new air contaminant sources specified
3 in its regulations. Within 15 days of its receipt of the notice, the
4 department may require, as a condition precedent to this undertaking,
5 the submission of plans and other information it considers necessary
6 in order to determine whether the proposed undertaking will be in
7 accord with applicable regulations in force under this chapter. If
8 within 30 days of the receipt of these plans and information the
9 department determines that the proposed undertaking will not be in
10 accord with the requirements of this chapter and applicable regulations,
11 it shall issue an order prohibiting the undertaking. Failure to issue
12 the order within the time prescribed shall be considered an approval
13 of the plans and information and the undertaking may proceed in accor-
14 dance with them.

15 (b) A person subject to an order of prohibition as prescribed in
16 (a) of this section, upon written request in accordance with applicable
17 regulations, is entitled to a hearing on the order. This procedure
18 must be followed before invoking other available legal remedies.
19 Following the hearing the order may be affirmed, modified or withdrawn.

20 (c) For the purposes of this chapter, addition to or enlargement
21 or replacement of an air contaminant source, or a major alteration
22 of one, is construed as an undertaking for the construction, installa-
23 tion or establishment of a new air contaminant source.

24 (d) Features, machines and devices constituting parts of or
25 called for by plans or other information submitted under (a) of this
26 section shall be maintained in good working order.

27 (e) Nothing in this section may be construed to authorize the
28 department to require the use of machinery, devices or equipment from
29 a particular supplier or produced by a particular manufacturer if the

1 required performance standards may be met by machinery, devices or
2 equipment available from other sources.

3 (f) The absence of or the failure to issue a regulation or order
4 under this section does not relieve a person from compliance with
5 emission control requirements or other provisions of law.

6 (g) The department may require the payment of a reasonable fee
7 for the review of plans and information required to be submitted. No
8 fee for a single review may exceed \$25.

9 Sec. 41.45.110. NUISANCES. (a) A person is guilty of creating
10 or maintaining a nuisance if he

11 (1) places or deposits upon a lot, street, beach, premises,
12 or upon, or within 200 feet of, a public highway, unless the highway
13 abuts upon tidal waters, any garbage, offal, dead animals, or any other
14 matter or thing, which would be obnoxious or cause the spread of
15 disease or in any way endanger the health of the community;

16 (2) allows to be placed or deposited upon any premises owned
17 by him or under his control garbage, offal, dead animals, or any other
18 matter or things which would be obnoxious or offensive to the public
19 or which would produce, aggravate, or cause the spread of disease or
20 in any way endanger the health of the community.

21 (b) A person who is guilty of a violation of (a) of this section
22 and neglects or refuses to abate the nuisance upon order of the depart-
23 ment is guilty of a misdemeanor and, upon conviction, is punishable by
24 a fine of not less than \$10 nor more than \$50, or by imprisonment for
25 not less than five nor more than 25 days, or by both. In addition to
26 this punishment, if a person neglects or refuses to abate the nuisance
27 upon order of the department, the court shall assess judgment against
28 the defendant for the expenses of abating the nuisance. The judgment
29 shall be enforced in the same manner as an execution in a civil action.

1 Sec. 41.45.120. DEFINITIONS. In this chapter

2 (1) "air pollution" means the presence in the outdoor atmos-
3 phere of one or more air contaminants in quantities and duration that
4 tend to be injurious to human health or welfare, animal or plant life
5 or property or would unreasonably interfere with the enjoyment of life
6 or property;

7 (2) "municipality" means an organized borough or an incor-
8 porated city outside an organized borough, and includes all classes of
9 boroughs and cities whether home rule or otherwise.

10 CHAPTER 50. PESTICIDES CONTROL.

11 Sec. 41.50.010. PURPOSE. Through the regulation of the sale of,
12 commerce in, and application of insecticides, fungicides, rodenticides,
13 nematocides, herbicides, biocides and other pesticides and broadcast
14 chemicals, it is the purpose of this chapter to assure to the public
15 the benefits to be derived from the safe, scientific and proper use
16 of pesticides and broadcast chemicals while safeguarding the public
17 health, safety and welfare, and to protect the public interest in the
18 soils, waters, forests, wildlife, agricultural and other natural
19 resources of the state.

20 Sec. 41.50.020. PESTICIDE REGULATION. (a) After consultation
21 with the division of environmental review, the board shall establish
22 regulations concerning the storage, transportation, sale, use and
23 application of pesticides or broadcast chemicals.

24 (b) No person may, without a permit issued by the department
25 under AS 41.35.160, store, transport, sell, use, or apply pesticides
26 in violation of a regulation issued by the board.

27 (c) The board may provide by regulation for the licensing of
28 persons engaged in the custom, commercial or contract spraying or
29 application of pesticides and broadcast chemicals, including the

1 requirement of a surety bond and liability insurance for the licensee.

2 Sec. 41.50.030. PROHIBITIONS. No person may, without a permit
3 issued under AS 41.35.160, store, transport, sell, use, or disseminate
4 into the atmosphere or water, by any means, dichlorodiphenyltrich-
5 loroethane (DDT), aldrin, endrin, dieldrin, lindane, heptachlor, or
6 toxaphene, 2-4-5-T, amitrol, arsenical compounds (inorganic), azodrin,
7 bidrin, DDD (TDE), mercurial compounds, strobane, thallium sulfate
8 or any substance containing them.

9 Sec. 41.50.040. PENALTIES. A person who violates any provision
10 of this chapter or any regulation promulgated under them is, upon
11 conviction, punishable by a fine of not more than \$1,000, or by
12 imprisonment for not more than six months, or by both. In addition,
13 he may be enjoined, in the criminal action or in a civil action, from
14 continuing the violation. Each day upon which a violation occurs may
15 constitute a separate violation.

16 Sec. 41.50.050. DEFINITIONS. In this chapter

17 (1) "broadcast chemicals" means chemical substances which
18 are released into the air or onto land or water for the purpose of
19 preventing, destroying, repelling, stimulating or retarding plant or
20 animal life, or chemical substances released for meteorological control,
21 oil spill control or fire control;

22 (2) "pesticide" means any chemical or biological agent
23 intended for preventing, destroying, repelling, or mitigating plant or
24 animal life and any substance intended for use as a plant regulator,
25 defoliant or desiccant, including but not limited to insecticides, fungi-
26 cides, rodenticides, herbicides, nematocides and biocides.

27 CHAPTER 55. GENERAL PROVISIONS.

28 Sec. 41.55.010. DEFINITIONS. In chs. 35 - 55 of this title,
29 unless otherwise specified,

1 (1) "approval" means approval by the Department of Environ-
2 mental Conservation of a state action;

3 (2) "board" means the Board of Environmental Review;

4 (3) "department" means the Department of Environmental
5 Conservation;

6 (4) "land" means land as defined in AS 38.05.365(16);

7 (5) "permit" means an exemption granted to the state or
8 any other person from the requirements established by regulation under
9 chs. 35 - 55 of this title;

10 (6) "person" means a natural person, corporation, company,
11 firm, business trust, partnership, organization, association, or
12 department, agency or instrumentality of the state or a governmental
13 subdivision of the state.

14 * Sec. 4. AS 18.05.040(11) is amended to read:

15 (11) protection of public water supplies through examination
16 of waters, [ESTABLISHMENT OF MINIMUM STANDARDS OF QUALITY,] requiring
17 construction of public water supply systems or improvements to existing
18 systems necessary to protect public health, the submission of water
19 supply plans for review, proper operation of water supply systems and
20 the regulation of physical connections between public water supply
21 systems and water supply systems which may carry water of questionable
22 sanitary quality;

23 * Sec. 5. AS 18.05.040(12) is amended to read:

24 (12) unless otherwise provided for in AS 41.35 - 41.55,
25 standards for the collection and disposal of sewage and industrial
26 waste, prohibiting the pollution of surface and ground waters, con-
27 struction and use of sewers and sewage disposal facilities, sewage
28 treatment, requiring the submission of sewage works plans for review,
29 sewage treatment works operation, and additional regulations as may

1 be necessary to protect public health and to maintain sanitary waste
2 disposal;

3 * Sec. 6. AS 18.05.040(16) is amended to read:

4 (16) unless otherwise provided for in AS 41.35 - 41.55,
5 standards for the collection and disposal of garbage, refuse, and other
6 discarded solid materials, including solid-waste materials resulting
7 from industrial, commercial, and agricultural operations, and from
8 community activities;

9 * Sec. 7. All litigation, hearings, investigations and other proceedings
10 pending under any law amended or functions which have been transferred by
11 this Act, shall continue in effect and may be continued and completed under
12 the provisions of this Act. A certificate, order, rule or regulation issued
13 or filed under a law amended by this Act, or functions which have been
14 transferred by this Act and in effect upon the effective date of this Act,
15 shall remain in effect for the term issued, or until revoked, vacated, or
16 modified under the provisions of this Act. All existing contracts and
17 obligations created by any law amended or functions which have been trans-
18 ferred by this Act, and in effect upon the effective date of this Act, shall
19 remain in effect until revoked, vacated, or modified under the provisions
20 of this Act.

21 * Sec. 8. AS 18.30, AS 18.33, AS 41.03, AS 44.62.330(a)(29), and AS 46.-
22 05 are repealed.

23 * Sec. 9. This Act takes effect July 1, 1971.
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1 IN THE SENATE

BY THE RULES COMMITTEE
BY REQUEST OF THE GOVERNOR

2 SENATE BILL NO. 75

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 SEVENTH LEGISLATURE - FIRST SESSION

5 A BILL

6 For an Act entitled: "An Act creating a Department of Environmental
7 Conservation; and providing for an effective date."

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

9 * Section 1. AS 44.15.010 is amended by adding a new paragraph to read:

10 (16) Department of Environmental Conservation.

11 * Sec. 2. AS 44 is amended by adding a new chapter to read:

12 CHAPTER 46. DEPARTMENT OF ENVIRONMENTAL CONSERVATION.

13 ARTICLE 1. ORGANIZATION.

14 Sec. 44.46.010. COMMISSIONER OF ENVIRONMENTAL CONSERVATION. The
15 principal executive officer of the Department of Environmental Conser-
16 vation is the commissioner of environmental conservation.

17 Sec. 44.46.020. DUTIES OF DEPARTMENT. The Department of
18 Environmental Conservation shall

19 (1) have primary responsibility for coordination and
20 development of policies, programs and planning related to the environ-
21 ment of the state and of the various regions of the state;

22 (2) have primary responsibility for the promulgation and
23 enforcement of regulations setting standards for the prevention and
24 abatement of all water, land, subsurface land and air pollution, and
25 other sources or potential sources of pollution of the environment,
26 including by way of example only, petroleum and natural gas pipelines;

27 (3) promote and develop programs for the protection and
28 control of the environment of the state;

29 (4) take such actions as shall be necessary and proper to

1 further the policy declared in AS 46.03.010.

2 ARTICLE 2. ENVIRONMENTAL ADVISORY BOARD.

3 Sec. 44.46.030. ENVIRONMENTAL ADVISORY BOARD. (a) There is
4 created within the Department of Environmental Conservation an environ-
5 mental advisory board, consisting of the commissioner of environmental
6 conservation who shall serve as chairman and eight members appointed
7 by the governor.

8 (b) No member of the board other than the chairman may be an
9 officer or employee of any state department or agency.

10 (c) Of the members of the board first appointed by the governor,
11 three shall be appointed for a term of one year; three for a term of
12 two years; and two for a term of three years. The initial terms begin
13 on July 1, 1971. Thereafter, all appointments shall be made for terms
14 of three years beginning on July 1 of the year in which the appoint-
15 ment is made. Members of the board shall serve at the pleasure of
16 the governor. In the case of any vacancy other than one arising by
17 expiration of term an appointment to fill the vacancy shall be made
18 for the remainder of the unexpired term.

19 Sec. 44.46.040. EXPENSES AND PER DIEM OF BOARD MEMBERS. Each
20 member of the board is entitled to travel expenses and per diem allowed
21 by law for each day going to and from and for each day in actual
22 attendance at board meetings and other meetings or conferences autho-
23 rized by the commissioner.

24 Sec. 44.46.050. FUNCTIONS OF BOARD. (a) The board shall

25 (1) advise the commissioner of environmental conservation
26 in the review and appraisal of programs and activities of state
27 departments and agencies in light of the policy set forth in
28 AS 46.03.010;

29 (2) serve as a forum for the exchange of views, concerns,

1 ideas, information and recommendations relating to the quality of the
2 environment; and

3 (3) recommend to the commissioner the persons who by
4 virtue of outstanding achievement in the field of environmental
5 conservation merit a certificate of achievement from the commissioner
6 of environmental conservation.

7 (b) The board shall exercise and perform such other functions
8 as may be requested by the commissioner.

9 * Sec. 3. AS 46 is amended by adding a new chapter to read:

10 TITLE 46. WATER, AIR AND ENVIRONMENTAL CONSERVATION

11 CHAPTER 03. ENVIRONMENTAL CONSERVATION

12 ARTICLE 1. DECLARATION OF POLICY.

13 Sec. 46.03.010. DECLARATION OF POLICY. (a) It is the policy
14 of the State of Alaska to conserve, improve and protect its natural
15 resources and environment and control water, land and air pollution,
16 in order to enhance the health, safety and welfare of the people of
17 the state and their overall economic and social well being.

18 (b) It is the policy of the state to improve and coordinate
19 the environmental plans, functions, powers and programs of the state,
20 in cooperation with the federal government, regions, local governments,
21 other public and private organizations and concerned individuals, and
22 to develop and manage the basic resources of water, land and air to
23 the end that the state may fulfill its responsibility as trustee of
24 the environment for the present and future generations.

25 ARTICLE 2. DEPARTMENT OF ENVIRONMENTAL CONSERVATION.

26 Sec. 46.03.020. POWERS OF THE DEPARTMENT. The department may

27 (1) enter into contracts necessary or convenient to carry
28 out the functions, powers and duties of the department;

29 (2) review and appraise programs and activities of state

1 departments and agencies in light of the policy set forth in sec. 10
2 of this chapter for the purpose of determining the extent to which the
3 programs and activities are contributing to the achievement of that
4 policy and to make recommendations to the departments and agencies,
5 including but not limited to, environmental guidelines;

6 (3) consult with and cooperate with

7 (A) officials and representatives of any non-profit
8 corporation or organization in the state;

9 (B) persons, organizations and groups, public and
10 private, using, served by, interested in or concerned with the
11 environment of the state;

12 (4) appear and participate in proceedings before any state
13 or federal regulatory agency involving or affecting the purposes of
14 the department;

15 (5) undertake any studies, inquiries, surveys or analyses
16 it may consider essential to the accomplishment of the purposes of
17 the department. These activities may be carried out by the personnel
18 of the department or in cooperation with any public or private
19 agencies, including educational, civic and research organizations,
20 colleges, universities, institutes and foundations;

21 (6) at reasonable times enter and inspect with the consent
22 of the owner or occupier any property or premises to investigate
23 either actual or suspected sources of pollution or contamination or
24 to ascertain compliance or non-compliance with any regulation which
25 may be promulgated pursuant to this article. Any information relating
26 to secret processes or methods of manufacture discovered during
27 investigation shall be confidential;

28 (7) conduct investigations and hold hearing and compel
29 the attendance of witnesses and the production of accounts, books and

1 documents by the issuance of a subpoena;

2 (8) advise and cooperate with municipal, regional and
3 other local agencies and officials within the state, to carry out
4 the purposes of this chapter;

5 (9) act as the official agency of the state in all matters
6 affecting the purposes of the department under any federal laws now
7 or hereafter enacted;

8 (10) adopt regulations necessary to effectuate the purposes
9 of this chapter, including, by way of example and not limitation,
10 regulations providing for

11 (A) control, prevention and abatement of air, water,
12 or land or subsurface land pollution;

13 (B) safeguard standards for petroleum and natural
14 gas pipeline construction, operation, modification or alteration;

15 (C) protection of public water supplies by setting
16 standards for the construction, improvement, and maintenance of
17 public water supply systems;

18 (D) collection and disposal of sewage and industrial
19 waste;

20 (E) collection and disposal of garbage, refuse, and
21 other discarded solid materials from industrial, commercial,
22 agricultural and community activities or operations;

23 (F) control of radiation sources to prohibit and
24 prevent unnecessary radiation;

25 (G) control of pesticides;

26 (H) such other purposes as may be required for the
27 implementation of the policy declared in sec. 10 of this chapter.

28 Sec. 46.03.030. GRANTS AND LOANS FOR WATER SUPPLY AND SEWAGE
29 SYSTEMS. (a) The department may pay, as funds are available, 25 per

1 cent of the estimated reasonable cost, as determined by the Secretary
2 of the Interior, of each waste treatment works project approved for
3 a federal grant by the Federal Water Quality Administration or its
4 predecessor, the Federal Water Pollution Control Administration, and
5 on which construction was initiated after June 30, 1967. As funds
6 are available, the department may lend on an interest-free basis for
7 a project approved after June 30, 1970, any part of an anticipated
8 federal grant. Money received from the Federal Water Quality
9 Administration for the project after the loan is given must be used
10 to repay the loan, but the loan need be repaid only to the extent of
11 this federal assistance.

12 (b) The department may pay to any municipality, as funds are
13 available, up to the lesser of 25 per cent of the estimated cost or
14 50 per cent of the estimated cost not borne by the federal government,
15 if there is federal assistance, of water systems, including collection
16 and impounding facilities, and of those portions of sewerage systems
17 not covered by (a) of this section. The estimated cost of any part
18 of a system will be as determined by the federal agency which gives
19 the most monetary assistance or, if none, by the department. Systems
20 shall be constructed according to plans and specifications approved
21 by the federal agency which gives the most monetary assistance or, if
22 none, by the department.

23 (c) There is a water supply and sewerage systems fund created
24 in the department to carry out the purposes of this section.

25 Sec. 46.03.040. ALASKA ENVIRONMENTAL PLAN. (a) The department
26 shall formulate and annually review and revise a statewide environ-
27 mental plan for the management and protection of the quality of the
28 environment and the natural resources of the state, in furtherance
29 of the legislative policy and purposes expressed in this chapter.

1 (b) The department shall submit the first plan to the governor
2 on or before January 1, 1972, and thereafter submit periodic revisions
3 of the plan to the governor. The plan is effective upon approval by
4 the governor and shall serve thereafter as a guide to the public,
5 the state government and the political subdivisions of the state in
6 the development of the environment and natural resources of the state.

7 (c) In formulating the plan and any revisions, the department
8 may consult with persons, organizations and groups, public or private,
9 interested in or concerned with the environment of the state, and with
10 any department, division, board, commission or other agency of the
11 state with any political subdivision or with any public authority as
12 may be necessary to enable the department to carry out its responsi-
13 bilities under this section.

14 ARTICLE 3. WATER POLLUTION CONTROL.

15 Sec. 46.03.050. AUTHORITY. The department has jurisdiction
16 to prevent and abate the pollution of the waters of the state.

17 Sec. 46.03.060. WATER POLLUTION CONTROL PLAN. The department
18 shall develop comprehensive plans for water pollution control in the
19 state and conduct investigations it considers advisable and necessary
20 for the discharge of its duties.

21 Sec. 46.03.070. POLLUTION STANDARDS. After public hearing, the
22 department may adopt standards and make them public and determine
23 what qualities and properties of water indicate a polluted condition
24 actually or potentially deleterious, harmful, detrimental or injurious
25 to the public health, safety or welfare, to terrestrial and aquatic
26 life or their growth and propagation, or to the use of waters for
27 domestic, commercial, industrial, agricultural, recreational, or
28 other reasonable purposes.

29 Sec. 46.03.080. QUALITY AND PURITY STANDARDS. After study and

1 public hearings held upon due notice, the department may establish
2 standards of quality and purity or group the designated waters of the
3 state into classes as to minimum quality and purity, or both. The
4 department shall classify waters in accordance with considerations
5 of best usage in the interest of the public. The department may
6 alter and modify classifications after hearing.

7 Sec. 46.03.090. PLANS FOR POLLUTION DISPOSAL. The department
8 may require the submission of plans for sewage and industrial waste
9 disposal or treatment or both for a publicly or privately owned or
10 operated industrial establishment, community, public or private
11 property subdivision or development.

12 Sec. 46.03.100. WASTE DISPOSAL PERMIT. (a) Any person who
13 conducts a commercial or industrial operation which results in the
14 disposal of solid or liquid waste material into the waters of the
15 state must procure a permit from the department before disposing of
16 the waste material. The permit must be obtained for direct disposal
17 and for disposal into publicly operated sewerage systems.

18 (b) This section does not apply to any person discharging only
19 domestic sewage into a sewerage system.

20 Sec. 46.03.110. WASTE DISPOSAL PERMIT PROCEDURE. (a) An
21 application for a permit shall be made on forms prescribed by the
22 department and shall contain the name and address of the applicant,
23 a description of his operations, the quantity and type of waste
24 material sought to be disposed of, the proposed method of disposal,
25 and any other information considered necessary by the department.
26 Application for permit shall be made at least 60 days prior to commence-
27 ment of any proposed discharge.

28 (b) Upon receipt of a proper application the department shall
29 publish notice of the application in two separate publications of a

1 newspaper of general circulation within the general area in which the
2 disposal of waste material is proposed to be made. The notice may
3 also be published in other appropriate information media. The
4 notice shall include a statement that any person who wants to present
5 his views to the department in regard to the application may do so
6 in writing to the department within 30 days of the second publication
7 of the notice. The written response entitles the writer to a copy
8 of the application.

9 (c) When the department receives an application, the
10 commissioner shall immediately send copies of the application to the
11 commissioner of fish and game, the commissioner of natural resources,
12 the commissioner of economic development and the commissioner of
13 health and welfare.

14 (d) The department may specify in a permit the terms and
15 conditions under which waste material may be disposed of. The
16 terms and conditions shall be directed to avoiding pollution and
17 to otherwise carry out the policies of this chapter. No permit
18 shall be effective for a period in excess of five years from the
19 date of issuance.

20 Sec. 46.03.120. TERMINATION OR MODIFICATION OF WASTE DISPOSAL
21 PERMIT. (a) The department may terminate a permit upon 30 days
22 written notice if the department finds

23 (1) that the permit was procured by misrepresentation of
24 material fact or by failure of the applicant to disclose fully the
25 facts relating to its issuance;

26 (2) that there has been a violation of the conditions
27 of the permit;

28 (3) that there has been a material change in the quantity
29 or type of waste disposed of.

1 (b) The department may modify a permit if the department finds
2 that a material change in the quality or classification of the waters
3 of the state has occurred.

4 Sec. 45.03.130. COMPLIANCE ORDER. (a) When, in the opinion
5 of the department, a person is violating or is about to violate
6 regulations and standards established pursuant to the provisions of
7 secs. 60 - 100 of this chapter or any other regulations concerning
8 water pollution, the department shall notify the person of its
9 determination by certified mail. The determination and notice do
10 not constitute an order under sec. 820 of this chapter.

11 (b) Within 15 days from the receipt of the notice, the
12 recipient of the determination must file with the department a
13 report stating what measures have been and are being taken to
14 control the conditions outlined in the notice from the department.

15 (c) Thereafter, the department may issue a compliance order
16 in conformity with the authority of the department and the public
17 policy declared in sec. 10 of this chapter. A copy of the compliance
18 order shall be sent by certified mail to the person affected. A
19 compliance order is effective upon receipt.

20 (d) Within 30 days of receipt, a person affected may make
21 application for a hearing to review the compliance order. Failure
22 to make application for hearing within 30 days of the receipt of a
23 compliance order constitutes a waiver of the recipient's right of
24 review.

25 (e) The department shall hold a hearing within 20 days of
26 receipt of the application. After hearing, the department may
27 rescind, modify or affirm the compliance order.

28 ARTICLE 4. AIR POLLUTION CONTROL.

29 Sec. 46.03.140. EMISSION CONTROL REQUIREMENTS. The department

1 may establish air pollution control regulations which in its judgment
2 are necessary to prevent, abate or control air pollution. These
3 regulations may be for the state as a whole or may vary from area
4 to area as may be appropriate to facilitate accomplishment of the
5 purposes of this chapter and in order to take account of varying
6 local conditions.

7 Sec. 46.03.150. CLASSIFICATION AND REPORTING. (a) The
8 department by regulation shall classify air contaminant sources,
9 which in its judgment may cause or contribute to air pollution,
10 according to levels and types of emissions and other characteristics
11 which relate to air pollution, and may require reporting for the
12 classifications. Classifications made under this subsection may be
13 for application to the state as a whole or a designated area of the
14 state and shall be made with special reference to effects on health,
15 economic and social factors and physical effects on property.

16 (b) A person operating or responsible for the operation of air
17 contaminant sources of a class for which the regulations of the
18 department require reporting shall make reports containing the
19 information required by the department concerning location, size and
20 height of contaminant outlets, processes employed, fuels used and
21 the nature and time periods or duration of emissions, and other
22 information relevant to air pollution and available or reasonably
23 capable of being assembled.

24 Sec. 46.03.160. ADDITIONAL CONTAMINANT CONTROL MEASURES.

25 (a) The department may require that notice be given to it before
26 the undertaking of the construction, installation or establishment
27 of particular types or classes of new air contaminant sources
28 specified in its regulations. Within 15 days of its receipt of the
29 notice, the department shall require, as a condition precedent to

1 the undertaking, the submission of plans and other information it
2 considers necessary in order to determine whether the proposed
3 undertaking will be in accord with applicable regulations in force
4 under secs. 140 - 150 of this chapter.

5 (b) Within 30 days of receipt of the plans and information for
6 a proposed undertaking, the department shall either approve the
7 undertaking and issue a permit, or if the department determines that
8 the proposed undertaking will not meet the requirements of secs.
9 140- 150 of this chapter and applicable regulations, it shall issue
10 a prohibition order against the undertaking.

11 (c) A person subject to a prohibition order as prescribed in
12 (b) of this section, upon written request in accordance with
13 regulations of the department, is entitled to a hearing on the order.
14 Following the hearing the order may be affirmed, modified or withdrawn.

15 (d) For the purposes of this chapter, addition to or enlarge-
16 ment or replacement of an air contaminant source, or a major
17 alteration of one, shall be construed as an undertaking for the
18 construction, installation or establishment of a new air contaminant
19 source.

20 (e) Features, machines and devices constituting parts of or
21 called for by plans or other information submitted under (a) of
22 this section shall be maintained in good working order.

23 (f) Nothing in this section may be construed to authorize the
24 department to require the use of machinery, devices or equipment
25 from a particular supplier or produced by a particular manufacturer
26 if the required performance standards may be met by machinery,
27 devices or equipment available from other sources.

28 (g) The absence of or the department's failure to issue a
29 regulation or order under this section does not relieve a person from

1 compliance with emission control requirements or other provisions
2 of law.

3 (h) The department may require the payment of a reasonable
4 fee for the review of plans and information required to be submitted.
5 No fee for a single review may exceed \$25.

6 Sec. 46.03.170. VARIANCES. (a) A person who owns or is in
7 control of a plant, building, structure, establishment, process or
8 equipment may apply to the department for a variance from applicable
9 emission control regulations. The department may grant the variance,
10 but only after public hearing following due notice, if it finds that

11 (1) the emissions occurring or proposed to occur do not
12 endanger human health or safety; and

13 (2) compliance with the rules or regulations from which
14 variance is sought would produce severe hardship without benefits
15 to the public.

16 (b) No variance may be granted under this section until the
17 department has considered the relative interests of the applicant,
18 other owners of property likely to be affected by the emissions and
19 the general public.

20 (c) A variance granted under (a) of this section, shall be
21 for periods and under conditions consistent with the reasons for
22 it and within the following limitations:

23 (1) if the variance is granted on the ground that there
24 is no practicable means known or available for the adequate
25 prevention, abatement or control of the air pollution involved, it
26 shall be only until the necessary means for prevention, abatement,
27 or control become known and available, subject to the taking of
28 substitute or alternate measures that the department may prescribe;

29 (2) if the variance is granted on the ground that compliance

1 with the particular requirement from which variance is sought will
2 necessitate the taking of measures which, because of their extent
3 or cost, must be spread over a considerable period, it shall be for
4 a period not to exceed the reasonable time which in the opinion of
5 the department is necessary. A variance granted on this ground
6 shall contain a timetable for taking action in an expeditious manner
7 and shall be conditioned on adherence to the timetable and shall be
8 for not more than five years;

9 (3) If the variance is granted on the ground that it is
10 justified to relieve or prevent hardship of a kind other than that
11 provided in (c)(1) and (2) of this section, it shall be for not
12 more than one year.

13 (d) The department may upon application renew an existing
14 variance on terms and conditions and for periods which would be
15 appropriate on initial granting of a variance. If complaint is made
16 to the department on account of the variance no renewal of it may
17 be granted unless, after public hearing on the complaint following
18 due notice, the department finds that renewal is justified.
19 Application shall be made at least 60 days before the expiration of
20 the variance. Immediately upon receipt of an application for renewal
21 the department shall give public notice of it.

22 (e) A variance or renewal is not a right of the applicant but
23 shall be in the discretion of the department.

24 (f) No variance or renewal granted under this section may be
25 construed to prevent or limit the application of the emergency
26 orders of the commissioner issued pursuant to sec. 820 of this chapter.

27 Sec. 46.03.180. CONFIDENTIALITY OF RECORDS. Records and
28 information in the possession of the department which relate to
29 production or sales figures or to processes or production techniques

1 of the owner or operator of an air contaminant source shall be
2 deemed confidential records of the department after application by
3 the party and certification that their public disclosure would tend
4 to adversely affect his competitive position.

5 Sec. 46.03.190. MOTOR VEHICLE POLLUTION. (a) As the state of
6 knowledge and technology relating to the control of emissions from motor
7 vehicles may permit or make appropriate, and in furtherance of the pur-
8 poses of this chapter, the department may provide by regulation for the
9 control of these emissions. The regulations may prescribe requirements
10 for the installation and use of equipment designed to reduce or elimi-
11 nate emissions and for the proper maintenance of this equipment.

12 (b) Except as permitted by law, no person may fail to maintain
13 in operation any equipment or feature constituting an operational
14 element of the air pollution control system or mechanism of a motor
15 vehicle if it is required by regulations of the department to be
16 maintained in or on the vehicle. A failure to maintain this
17 equipment in operation subjects the owner or operator to suspension
18 or cancellation of the registration of the vehicle, and it may not
19 be again eligible for registration until this equipment is restored
20 to operation.

21 (c) The department shall consult with the Department of Public
22 Safety and furnish it with technical information, including testing
23 techniques, standards and instructions for emission control features
24 and equipment.

25 (d) When the department has issued regulations requiring the
26 maintenance of features or equipment in or on motor vehicles for the
27 purpose of controlling emission from the vehicles, no motor vehicle
28 may be issued a certificate of inspection and approval if required,
29 unless the required features or equipment have been inspected in

1 accordance with the standards, testing techniques and instructions fur-
2 nished by the department and have been found to meet those standards.

3 Sec. 46.03.200. LIMITATIONS. Secs. 140 - 240 of this chapter
4 do not

5 (1) grant to the department jurisdiction or authority
6 with respect to air contamination existing solely within commercial
7 and industrial plants, works or shops;

8 (2) affect the relations between employers and employees
9 with respect to or arising out of a condition of air contamination
10 or air pollution; and

11 (3) supersede or limit the applicability of a law or
12 ordinance relating to sanitation, industrial health or safety.

13 Sec. 46.03.210. LOCAL AIR POLLUTION CONTROL PROGRAMS. (a) A
14 municipality with a population in excess of 1,000 may, within five
15 years from August 5, 1969, establish and administer within its
16 jurisdiction an air pollution control program. Organized boroughs
17 may establish an air pollution control program on an areawide basis,
18 and the exercise of powers with respect to the program is not
19 subject to the restrictions on acquiring additional areawide powers
20 specified in AS 07.15.350. However, the weighted vote shall apply
21 to the exercise of powers as provided in AS 07.20.070(d). Local
22 programs shall

23 (1) provide by ordinance for requirements compatible
24 with those imposed by the provisions of secs. 140 and 170 of this
25 chapter and applicable regulations;

26 (2) provide for the enforcement of the requirements
27 imposed through appropriate administrative and judicial processes;

28 (3) provide for a local administrative organization, staff,
29 and other resources necessary to effectively carry out the purposes

1 of the program; and

2 (4) be approved by the department as being satisfactory
3 to meet the requirements of secs. 140 - 170 of this chapter and the
4 applicable regulations.

5 (b) Municipalities other than those with a population of less
6 than 1,000 may establish and administer local air pollution programs
7 if the proposed programs meet the requirements of (a)(1) - (4) of
8 this section.

9 (c) A municipality may administer all or a part of its air
10 pollution control program in cooperation with one or more
11 municipalities.

12 (d) If the department finds that the location, character, or
13 extent of particular concentrations of population, air contaminant
14 sources, the geographic, topographic or meteorological considerations
15 or combination of these factors make impracticable the maintenance
16 of appropriate levels of air quality without an areawide air
17 pollution control program, the department may determine the
18 boundaries within which a program is necessary and direct that a
19 program spanning those boundaries is the only acceptable alternative
20 to direct state administration.

21 Sec. 46.03.220. ABSENCE OF LOCAL PROGRAM. (a) If a
22 municipality authorized to establish or participate in an air
23 pollution control program under sec. 210(a) or (d) of this chapter
24 fails to establish a program within the time specified, or if the
25 department has reason to believe that an air pollution control
26 program in force under that section is inadequate to prevent and
27 control air pollution in the jurisdiction to which the program
28 applies, or that the program is being administered in a manner
29 inconsistent with the requirements of this chapter the department

1 shall, following 45 days notice, conduct a hearing on the matter.

2 (b) If, after the hearing, the department determines that any
3 of the deficiencies enumerated in (a) of this section exist, it
4 shall require that necessary corrective action be taken within a
5 reasonable period of time, not to exceed 90 days.

6 (c) If the municipality or the district set up under sec.
7 210(a) or (d) of this chapter fails to take the necessary corrective
8 action within the time specified the department shall administer in
9 the municipality or district all of the regulatory provisions of
10 this chapter. The department's air pollution control program shall
11 then supersede municipal air pollution ordinances, regulations, and
12 requirements in the affected jurisdiction.

13 (d) If the department finds that the control of a particular
14 class of air contaminant source, because of its complexity or
15 magnitude is beyond the reasonable capability of the local air
16 pollution control authorities or may be more efficiently and
17 economically performed at the state level, it may assume and retain
18 jurisdiction over that class of air contaminant source. Classifica-
19 tions under this subsection may be either on the basis of the nature
20 of sources involved or on the basis of their relationship to the
21 size of the communities in which they are located.

22 (e) A municipality in which the department administers the air
23 pollution control program under this section may with the approval
24 of the department establish or resume a municipal program which
25 meets the requirements of sec. 210(a) or (d).

26 (f) The provisions of secs. 210 - 220 do not nullify a local
27 air pollution program in operation on August 5, 1969, if the program
28 meets the requirements of sec. 210(a) or (d) of this chapter within
29 two years from that date.

1 Sec. 46.03.230. STATE AND FEDERAL AID. (a) A local government
2 unit with an air pollution program meeting the requirements of this
3 chapter and the regulations issued under it may apply to the state for
4 state aid equal to a maximum of 75 per cent of the locally funded
5 annual operating cost of the program. For a joint or areawide
6 program established under sec. 210(d) of this chapter application may
7 be made for state aid equal to a maximum of 75 per cent of the
8 locally funded operating cost. In the case of a joint or areawide
9 program the state aid may be based on the cost of the entire program
10 or, if the department finds that one or more elements of separately
11 administered programs are being carried on jointly in a way that
12 materially increases the efficiency of the programs, it may aid the
13 element carried on under the interlocal agreement at the rate applied
14 to joint and areawide programs generally.

15 (b) Municipalities of the state and interlocal air pollution
16 control agencies established under this article may apply for,
17 receive, administer and expend federal aid for the control of air
18 pollution or the development and administration of programs related to
19 that control, if the application is first submitted to and approved
20 by the department. The department shall approve an application if it
21 is consistent with this article and other applicable requirements of
22 law.

23 Sec. 46.03.240. CONSTRUCTION AND IMPLEMENTATION OF SEC. 230.

24 (a) Sec. 230 of this chapter may not be construed so as to create a
25 debt of the state.

26 (b) The air pollution control support account is established.
27 Funds to carry out the provisions for state aid under sec. 230 of this
28 chapter may be appropriated annually by the legislature to the account.
29 If amounts in the account are insufficient for the purpose of the

1 state aid authorized under sec. 230 of this chapter, such funds as
2 are available shall be distributed pro rata among eligible local
3 governments or air pollution control districts.

4 (c) Money in the air pollution control support account which, at
5 the end of the fiscal year for which the money is appropriated, exceeds
6 the amount required for the allocations authorized in this article
7 reverts to the general fund.

8 ARTICLE 5. RADIATION PROTECTION.

9 Sec. 46.03.250. AUTHORITY. (a) The department shall

10 (1) develop comprehensive policies and programs for the
11 evaluation and determination of hazards associated with the use of
12 radiation, radiation sources, and their amelioration;

13 (2) encourage, participate in and conduct studies, investi-
14 gations, training, research and demonstrations relating to the control
15 of radiation hazard, the measurement of radiation, the effects on
16 health of exposure to radiation and related problems it considers
17 necessary or advisable for the discharge of its duties;

18 (3) collect and disseminate health education information
19 relating to radiation protection;

20 (4) review plans and specifications for radiation sources
21 submitted pursuant to its rules and regulations;

22 (5) inspect radiation sources, their shielding and immediate
23 surroundings and records concerning their operation for the deter-
24 mination of possible radiation hazard.

25 (b) The department may keep confidential data obtained as a
26 result of registration or investigation.

27 Sec. 46.03.260. USE OF ATOMIC RADIATION. Sources of radiation
28 shall be shielded, transported, handled used and kept to prevent users
29 and persons within effective range from being exposed to unnecessary

1 radiation in conformity with the department's regulations.

2 Sec. 46.03.270. ELECTRONIC PRODUCT RADIATION. All electronic
3 products capable or likely to be capable of emitting radiation shall
4 be shielded, handled, used, and kept to prevent users and persons
5 within the range of radiation from dangerous concentration of radiation
6 in conformity with the department's regulations.

7 Sec. 46.03.280. NOTIFICATION OF VIOLATION AND ORDER OF ABATE-
8 MENT. Whenever the department finds, after inspection and examination
9 of a source of radiation as constructed, operated or maintained that
10 there has been a violation of any of the provisions of this chapter,
11 it shall notify the person causing, allowing or permitting the
12 violation, of the nature of the violation and order the person to
13 cease and abate the violation.

14 Sec. 46.03.290. AUTHORITY OF DEPARTMENT IN CASES OF EMERGENCY.
15 Whenever the department finds that an emergency exists requiring
16 immediate action to protect the public health or welfare from radiation
17 it may issue an order reciting the existence of an emergency and
18 requiring that action be taken to meet the emergency. The order is
19 effective immediately. A person to whom an order is directed shall
20 comply with it immediately but on application to the department shall
21 be given a hearing under the Administrative Procedure Act (AS 44.62).
22 Thereafter the department may affirm, revoke or modify the order.

23 Sec. 46.03.300. EXCEPTIONS. Secs. 260 - 270 of this chapter
24 do not limit the intentional exposure of patients to radiation for
25 the purpose of diagnosis or therapy, or medical research, as authorized
26 by law.

27 Sec. 46.03.310. CONFLICTING LAWS. Secs. 250 - 300 of this
28 chapter shall not be construed as repealing any laws of the state
29 relating to radiation sources, exposures, radiation protection, and

1 professional licensure, but shall be held and construed as auxiliary
2 and supplementary to those laws, except to the extent that the same
3 are in conflict with secs. 250 - 300 of this chapter. Ordinances or
4 regulations of any governing body of a municipality which are consistent
5 with secs. 250 - 300 of this chapter shall not be superseded by secs.
6 250 - 300 of this chapter.

7 ARTICLE 6. PESTICIDE CONTROL

8 Sec. 46.03.320. AUTHORITY. (a) The department is authorized to

9 (1) regulate the transportation, testing, inspection,
10 packaging, labeling, handling and advertising of pesticides and
11 broadcast chemicals offered for sale, or placed in commerce for use
12 in the state;

13 (2) regulate and supervise the distribution, application
14 or use of pesticides and broadcast chemicals in any state project or
15 program, or by any public agency under the jurisdiction of the state;

16 (3) regulate or prohibit the use of pesticides and broad-
17 cast chemicals.

18 (b) The department may provide by regulation for the licensing
19 of persons engaged in the custom, commercial or contract spraying or
20 application of pesticides and broadcast chemicals including the re-
21 quirement of a surety bond and liability insurance for the licensee.

22 Sec. 46.03.330. PUBLIC PESTICIDE PROGRAMS. (a) No officer,
23 agent or employee of the state, or of a borough or city of any class,
24 may direct, carry out, or participate in the spraying or application of
25 a pesticide or broadcast chemical in any program or project involving
26 funds, materials or equipment of the state, borough or city, except
27 in accordance with regulations promulgated by the department under
28 sec. 320 of this chapter.

29 (b) Before a public project that would affect lands owned

1 separately by two or more persons is initiated, the person directing
2 the program shall give public notice of the program in the manner
3 required by regulations of the department. The department shall
4 conduct a public hearing on the proposed program if a hearing is
5 requested by the governing body of the affected borough or city, or
6 by a petition signed by at least 50 residents. The requirement for
7 public notice or public hearing may be waived if the commissioner
8 determines that a public emergency exists.

9 (c) The provisions of this section apply to home rule municipi-
10 palities.

11 ARTICLE 7. PROHIBITED ACTS AND PENALTIES.

12 Sec. 46.03.710. POLLUTION PROHIBITED. No person may pollute or
13 add to the pollution of the air, land, subsurface land or water of
14 the state.

15 Sec. 46.03.720. CONSTRUCTION OF CERTAIN FACILITIES PROHIBITED.
16 No person may construct, extend, install or operate a sewage system or
17 treatment works, or any part of a sewage system or treatment works, or
18 until plans for it are submitted to the department for review, and
19 the department approves them in writing and issues a written permit.
20 The department may waive the requirement that plans be submitted to it.

21 Sec. 46.03.730. PESTICIDES. No person may spray or apply, or
22 cause to be sprayed or applied dichloro-diphenyl-trichloro-ethane
23 (DDT), dieldrin or other pesticide or broadcast chemical in a manner
24 which may cause damage to or endanger the health, welfare or property
25 of another person, or in such a manner as to be likely to pollute the
26 air, soil or water of the state without prior authorization of the
27 department.

28 Sec. 46.03.740. OIL POLLUTION. No person may discharge, cause
29 to be discharged, or permit the discharge of petroleum, acid, coal or

1 oil tar, lampblack, aniline, asphalt, bitumen, or a residuary product
2 of petroleum, into, or upon the waters or land of the state except in
3 quantities, and at times and locations or under circumstances and
4 conditions as the department may by regulation permit or where
5 permitted under article IV of the International Convention for the
6 Prevention of Pollution of the Sea by Oil, 1954, as amended.

7 Sec. 46.03.750. BALLAST WATER DISCHARGE. (a) No person may
8 pollute or add to the pollution of waters of the state by discharging
9 from any vessel ballast water, tank-cleaning waste water or other waste
10 containing petroleum in excess of the maximum permitted by the water
11 quality standards established pursuant to secs. 40 and 150 of this
12 chapter and in no event may a vessel discharge ballast water, tank-
13 cleaning waste water or other waste containing petroleum in excess of
14 50 parts per million of oil residue.

15 (b) Except as provided in (c) of this section, no vessel may take
16 on petroleum or any petroleum product or by-product as cargo unless it
17 arrives in ports in the state without having discharged ballast at
18 sea during the period of time from departure of the vessel enroute to
19 the state from a port outside the state to arrival at a port in the state
20 or while in transit between ports within the state, and the master of
21 the vessel certifies the fact on forms provided by the department.

22 (c) Vessels equipped with tanks used exclusively for ballast
23 or capable of producing ballast with an oil content less than that
24 provided for in (a) of this section may discharge that ballast at
25 sea, including the waters of the state, if it meets the standards of
26 (a) of this section and the master of the vessel certified that fact
27 on forms provided by the department.

28 (d) A person in charge of a sea-going vessel or of an onshore
29 or offshore facility, as soon as he has knowledge of any discharge

1 from the vessel or facility in violation of a provision of this chapter
2 shall immediately notify the department of the discharge.

3 Sec. 46.03.760. POLLUTION PENALTIES. (a) A person who violates
4 secs. 710, 730, 740, or 750 of this chapter is guilty of a misdemeanor
5 and upon conviction is punishable by a fine of not more than \$25,000,
6 or by imprisonment for not more than a year, or by both. Each unlaw-
7 ful act constitutes a separate offense.

8 (b) In addition to the penalties provided in (a) of this article
9 a person who violates secs. 740 - 750 of this chapter is liable, in
10 a civil action, to the state for liquidated damages to be assessed by
11 the court for an amount not less than \$5,000 nor more than \$100,000,
12 depending on the severity of the violation.

13 (c) In addition to the penalties provided in (a) of this section,
14 a person who violates a provision of sec. 750 of this chapter is liable
15 to the state, in a civil action, in the case of a vessel, for damages
16 in an amount not to exceed \$100 per gross ton of the violating vessel
17 or \$14 million, whichever is less and in the case of an onshore or
18 offshore facility \$100 per every \$500 evaluation of the violating
19 facility or \$14 million whichever is less. However, if the state
20 shows that a violation of Sec. 750 of this chapter was the result of
21 wilful negligence or wilful misconduct on the part of the person
22 charge with the violation, the person is liable to the state for the
23 full amount of damages caused. In the case of wilful negligence or
24 wilful misconduct "damages", in this subsection, means costs associated
25 with the abatement, containment or removal of a pollutant and reason-
26 able restoration of the environment to its former state.

27 (d) A person who falsely certifies information required under
28 sec. 750 of this chapter, upon conviction, is punishable by a fine
29 of not more than \$25,000, or by imprisonment for not more than one

1 year, or by both. Each unlawful act constitutes a separate offense.

2 (e) Nothing in this section affects an individual's right to
3 recover damages under other applicable statutes or the common law.

4 Sec. 46.03.770. DETENTION OF VESSEL WITHOUT WARRANT AS SECURITY
5 FOR DAMAGES. A vessel which is used in or in aid of a violation of
6 secs. 740 - 750 of this chapter may be detained after a valid search
7 by the department, an agent of the department, a peace officer of the
8 state, or an authorized protection officer of the Department of Fish
9 and Game. Upon judgment of the court having jurisdiction that the
10 vessel was used in or the cause of a violation of secs. 740 - 750 of
11 this chapter with knowledge of its owner or under circumstances
12 indicating that the owner should reasonably have had such knowledge,
13 the vessel may be held as security for payment to the state of the
14 amount of damages assessed by the court under sec. 760(b) of this
15 chapter, and if the damages so assessed are not paid within 30 days
16 after judgment or final determination of an appeal, the vessel shall
17 be sold at public auction, or as otherwise directed by the court,
18 and the damages paid from the proceeds. The balance, if any, shall
19 be paid by the court to the owner of the vessel. The court shall
20 permit the release of the vessel upon posting of a bond set by the
21 court in an amount not to exceed \$100,000. The damages received under
22 this section shall be transmitted to the proper state officer for
23 deposit in the general fund. A vessel seized under this section shall
24 be returned or the bond exonerated if no damages are assessed under
25 sec. 760(b) of this chapter.

26 Sec. 46.03.780. LIABILITY FOR RESTORATION. (a) A person who
27 violates any provision of this chapter, or who fails to perform a duty
28 imposed by this chapter, or violates or disregards an order, permit,
29 or other determination of the department made pursuant to the pro-

1 visions of this chapter, and thereby causes the death of fish, animals,
2 or vegetation or otherwise injures or degrades the environment of the
3 state is liable to the state for damages.

4 (b) Liability for damages under subsection (a) of this section
5 shall include an amount equal to the sum of money required to restock
6 injured land or waters, to replenish a damaged or degraded resource,
7 or to otherwise restore the environment of the state to its condition
8 prior to the injury.

9 (c) Damages under subsection (a) of this section shall be
10 recovered by the attorney general on behalf of the state of Alaska.

11 Sec. 46.03.790. WILFUL VIOLATION. (a) Any person found guilty
12 of wilfully violating any of the provisions of this chapter, or any
13 regulation, written order or directive of the department or of a
14 court made pursuant to this chapter is guilty of a misdemeanor, and
15 upon conviction shall be punished by a fine of not more than \$1000
16 and costs of prosecution, or by imprisonment for not more than one
17 year, or by both such fine, cost, and imprisonment at the discretion
18 of the court.

19 (b) Each day upon which a wilful violation of the provisions of
20 this chapter occurs may be considered a separate and additional
21 violation.

22 Sec. 46.03.800. WATER NUISANCES. (a) A person is guilty of
23 creating or maintaining a nuisance if he puts a dead animal carcass,
24 or part of one, excrement, or a putrid, nauseous, moisome, decaying,
25 deleterious, or offensive substance into, or in any other manner
26 befouls, pollutes, or impairs the quality of a spring, brook, creek,
27 branch, well, or pond of water which is or may be used for domestic
28 purposes.

29 (b) A person who neglects or refuses to abate the nuisance upon

1 order of the department is guilty of a misdemeanor and is punishable
2 as provided in sec. 790 of this chapter. In addition to this punish-
3 ment, the court shall assess damages against the defendant for the
4 expenses of abating the nuisance.

5 Sec. 46.03.810. AIR AND LAND NUISANCES. (a) A person is guilty
6 of creating or maintaining a nuisance if he

7 (1) Places or deposits upon a lot, street, beach, premises
8 or upon, or within 200 feet of a public highway, unless the highway
9 abuts upon tidal water, any garbage, offal, dead animals, or any other
10 matter or thing, which would be obnoxious or cause the spread of
11 disease or in any way endanger the health of the community;

12 (2) Allows to be placed or deposited upon any premises
13 owned by him or under his control garbage, offal, dead animals, or
14 any other matter or things which would be obnoxious or offensive to
15 the public or which would produce, aggravate, or cause the spread
16 of disease or in any way endanger the health of the community.

17 (b) A person who neglects or refuses to abate the nuisance
18 upon order of an officer of the department of environmental con-
19 servation is guilty of a misdemeanor and is punishable as provided in
20 sec. 790 of this chapter. In addition to this punishment, the court
21 shall assess damages against the defendant for the expenses of
22 abating the nuisance.

23 Sec. 46.03.820. EMERGENCY POWERS. (a) Whenever the department
24 finds, after investigation, that any person is causing, engaging in
25 or maintaining a condition or activity which, in the judgment of its
26 commissioner presents an imminent or present danger to the health or
27 welfare of the people of the state or would result in or be likely to
28 result in irreversible or irreparable damage to the natural resources
29 or environment, and it appears to be prejudicial to the interests of

1 the people of the state to delay action until an opportunity for a
2 hearing can be provided, the department may, without prior hearing,
3 order such person by notice to discontinue, abate or alleviate such
4 condition or activity. The proscribed condition or activity shall be
5 immediately discontinued, abated or alleviated.

6 (b) Upon receipt of an order of the department made pursuant to
7 (a) of this section, the person affected shall have the right to be
8 heard and to present proof to the department that the condition or
9 activity does not constitute an actual or potential source of
10 irreversible or irreparable damage to the natural resources or
11 environment of the state, or that the order may constitute a sub-
12 stantial private hardship.

13 (c) In the commissioner's discretion or upon application made
14 by the recipient of an order within 15 days of receipt of the order,
15 the department shall schedule a hearing the earliest possible time.
16 The hearing shall be scheduled within five days of the receipt
17 of the application. The submission of an application or the schedul-
18 ing of a hearing shall not stay the operation of the department's
19 order made pursuant to (a) of this section.

20 (d) After a hearing the department may affirm, modify or set
21 aside the order. An order affirmed, modified or set aside after
22 hearing is subject to judicial review as provided in AS 44.62.560.
23 The order is not stayed pending judicial review unless the commissioner
24 so directs. In the event an order is not immediately complied with,
25 the attorney general, upon request of the commissioner, shall seek
26 enforcement of the order.

27 (e) The department may adopt additional rules and regulations
28 prescribing the procedure to be followed in the issuance of emergency
29 orders.

1 Sec. 46.03.840. RADIATION PENALTIES. A person who violates
2 sec. 260 - 280 of this chapter is, upon conviction, punishable by a
3 fine of not more than \$100, or by imprisonment for not more than six
4 months, or by both. Each day upon which a violation occurs constitutes
5 a separate offense.

6 ARTICLE 8. GENERAL PROVISIONS

7 Sec. 46.03.860. INSPECTION WARRANT. The department is authorized
8 to seek search warrants for the purpose of investigating actual or
9 suspected sources of pollution or contamination or to ascertain com-
10 pliance or non-compliance with this chapter or any regulation
11 promulgated pursuant to this chapter.

12 Sec. 46.03.870. ACTIONABLE RIGHTS. (a) The bases for proceedings
13 or actions resulting from violations of this chapter or any regulations
14 promulgated pursuant to this chapter inure solely to and are for the
15 benefit of the State of Alaska, and are not intended to in any way
16 create new, or enlarge existing rights of persons or groups of
17 persons in the State of Alaska.

18 (b) A determination or order of the department creates no
19 presumption of law or finding of fact inuring to or for the benefit
20 of persons other than the State of Alaska.

21 (c) This chapter shall not be construed to estop the state,
22 persons or political subdivisions of the state in the exercise of
23 their rights to suppress nuisances, to seek damages, or to otherwise
24 abate or recover for the effects of pollution or other environmental
25 degradation.

26 Sec. 46.03.880. APPLICABILITY OF THE ADMINISTRATIVE PROCEDURE
27 ACT. Except as otherwise specifically provided in this chapter, the
28 Administrative Procedure Act (AS 44.62) governs the activities and
29 the proceedings of the department.

1 Sec. 46.03.890. ENFORCEMENT AUTHORITY. The following persons
2 are authorized to enforce this chapter:

- 3 (1) a state employee authorized by the commissioner;
4 (2) a police officer of the state.

5 Sec. 46.03.900. DEFINITIONS. In this chapter

6 (1) "air contaminant" means dust, fumes, mist, smoke,
7 other particulate matter, vapor, gas, odorous substances or a
8 combination of these;

9 (2) "air pollution" means the presence in the outdoor
10 atmosphere of one or more air contaminants in quantities and duration
11 that tend to be injurious to human health or welfare, animal or
12 plant life or property or would unreasonably interfere with the
13 enjoyment of life or property;

14 (3) "atomic radiation" means all ionizing radiation;

15 (4) "broadcast chemicals" means chemical substances which
16 are released into the air or onto land or water for the purpose of
17 preventing, destroying, repelling, stimulating or retarding plant
18 or animal life, or chemical substances released for meteorological
19 control, oil spill control or fire control;

20 (5) "commissioner" means the commissioner of environmental
21 conservation;

22 (6) "department" means the Department of Environmental
23 Conservation;

24 (7) "electronic product" means a manufactured product
25 which

26 (A) when in operation, contains or acts as part of
27 an electronic circuit and emits, or in the absence of effective
28 shielding or other controls would emit, electronic product
29 radiation; or

1 (B) is intended for use as a component, part, or
2 accessory of a product described in (A) of this paragraph and
3 which when in operation emits, or in the absence of effective
4 shielding or other controls would emit, electronic product
5 radiation;

6 (8) "electronic product radiation" means an atomic
7 radiation or nonionizing, electro-magnetic or particulate radiation,
8 or a sonic, infrasonic, or ultrasonic wave which is emitted from
9 an electronic product as the result of the operation of an electronic
10 circuit in the product;

11 (9) "industrial waste" means a liquid, gaseous, solid, or
12 other waste substance or a combination of them resulting from
13 process of industry, manufacturing trade or business, or from the
14 development of natural resources; however, gravel, sand, mud, or
15 earth taken from its original situs and put through sluice boxes,
16 dredges, or other devices for the washing and recovery of the
17 precious metal contained in them and redeposited in the same water-
18 shed from which it came is not industrial waste;

19 (10) "motor vehicle" has the same meaning as in
20 AS 28.20.630;

21 (11) "municipality" means an organized borough or an
22 incorporated city outside an organized borough, and includes all
23 classes of boroughs and cities whether home rule or otherwise;

24 (12) "other wastes" means garbage, refuse, decayed wood,
25 sawdust, shavings, bark; trimmings from logging operations, sand,
26 lime, cinders, ashes, offal, oil, tar, dyestuffs, acids, chemicals,
27 and other substances not sewage or industrial waste which may cause
28 or tend to cause pollution of the waters of the state;

29 (13) "person" means any individual, public or private

1 corporation, political subdivision, government agency, municipality,
2 industry, copartnership, association, firm, trust, estate, or any
3 other entity whatsoever;

4 (14) "pesticide" means any chemical or biological agent
5 intended for preventing, destroying, repelling, or mitigating plant
6 or animal life and any substance intended for use as a plant
7 regulator, defoliant or desiccant, including but not limited to
8 insecticides, fungicides, rodenticides, herbicides, nematocides and
9 biocides;

10 (15) "pollution" means the contamination or altering of
11 waters, land or subsurface land of the state in a manner which
12 creates a nuisance or makes waters, land or subsurface land unclean,
13 or noxious, or impure, or unfit so that they are actually or
14 potentially harmful or detrimental or injurious to public health,
15 safety or welfare, to domestic, commercial, industrial, or recreational
16 use, or to livestock, wild animals, bird, fish, or other aquatic
17 life;

18 (16) "radiation" means all atomic and electronic product
19 radiation;

20 (17) "radiation source" means any substance, machine, or
21 electronic product which emits radiation;

22 (18) "sewage" means the water-carried human or animal
23 wastes from residences, buildings, industrial establishments, or
24 other places, together with ground water infiltration and surface
25 water as may be present; the admixture with sewage of industrial
26 wastes or other wastes is "sewage";

27 (19) "sewer system" or "sewerage system" means pipe lines
28 or conduits, pumping stations, and force mains, and all other
29 appurtenant constructions, devices, and appliances used for

1 conducting sewage, industrial waste, or other wastes to a point of
2 ultimate disposal;

3 (20) "standard" means the measure of purity or quality
4 for waters in relation to their reasonable and necessary use as
5 established by the department;

6 (21) "treatment works" means a plant, disposal field,
7 lagoon, pumping station, constructed drainage ditch or surface water
8 intercepting ditch, incinerator, area devoted to sanitary land fills,
9 or other works installed for the purpose of treating, neutralizing,
10 stabilizing or disposing of sewage, industrial waste, or other
11 wastes;

12 (22) "waters" includes lakes, bays, sounds, ponds,
13 impounding reservoirs, springs, wells, rivers, streams, creeks,
14 estuaries, marshes, inlets, straits, passages, canals, the Pacific
15 Ocean, Gulf of Alaska, Bering Sea and Arctic Ocean, within the
16 territorial limits of the state, and all other bodies of surface or
17 underground water, natural or artificial, public or private, inland
18 or coastal, fresh or salt, which are wholly or partially within or
19 bordering the state or under the jurisdiction of the state.

20 * Sec. 4. The following laws are repealed: AS 18.05.040(11), (12)
21 (16); AS 18.30; AS 18.33; AS 18.60.470 - 570; AS 44.62.330(a) (26), (29);
22 AS 46.05; AS 46.10; AS 41.03.

23 * Sec. 5. This Act takes effect July 1, 1971.
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1 IN THE SENATE

BY THE RULES COMMITTEE
BY REQUEST OF THE GOVERNOR

2 SENATE BILL NO. 75

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 SEVENTH LEGISLATURE - FIRST SESSION

5 A BILL

6 For an Act entitled: "An Act creating a Department of Environmental
7 Conservation; and providing for an effective date."

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

9 * Section 1. AS 44.15.010 is amended by adding a new paragraph to read:

10 (16) Department of Environmental Conservation.

11 * Sec. 2. AS 44 is amended by adding a new chapter to read:

12 CHAPTER 46. DEPARTMENT OF ENVIRONMENTAL CONSERVATION.

13 ARTICLE 1. ORGANIZATION.

14 Sec. 44.46.010. COMMISSIONER OF ENVIRONMENTAL CONSERVATION. The
15 principal executive officer of the Department of Environmental Conser-
16 vation is the commissioner of environmental conservation.

17 Sec. 44.46.020. DUTIES OF DEPARTMENT. The Department of
18 Environmental Conservation shall

19 (1) have primary responsibility for coordination and
20 development of policies, programs and planning related to the environ-
21 ment of the state and of the various regions of the state;

22 (2) have primary responsibility for the promulgation and
23 enforcement of regulations setting standards for the prevention and
24 abatement of all water, land, subsurface land and air pollution, and
25 other sources or potential sources of pollution of the environment,
26 including by way of example only, petroleum and natural gas pipelines;

27 (3) promote and develop programs for the protection and
28 control of the environment of the state;

29 (4) take such actions as shall be necessary and proper to

1 further the policy declared in AS 46.03.010.

2 ARTICLE 2. ENVIRONMENTAL ADVISORY BOARD.

3 Sec. 44.46.030. ENVIRONMENTAL ADVISORY BOARD. (a) There is
4 created within the Department of Environmental Conservation an environ-
5 mental advisory board, consisting of the commissioner of environmental
6 conservation who shall serve as chairman and eight members appointed
7 by the governor.

8 (b) No member of the board other than the chairman may be an
9 officer or employee of any state department or agency.

10 (c) Of the members of the board first appointed by the governor,
11 three shall be appointed for a term of one year; three for a term of
12 two years; and two for a term of three years. The initial terms begin
13 on July 1, 1971. Thereafter, all appointments shall be made for terms
14 of three years beginning on July 1 of the year in which the appoint-
15 ment is made. Members of the board shall serve at the pleasure of
16 the governor. In the case of any vacancy other than one arising by
17 expiration of term an appointment to fill the vacancy shall be made
18 for the remainder of the unexpired term.

19 Sec. 44.46.040. EXPENSES AND PER DIEM OF BOARD MEMBERS. Each
20 member of the board is entitled to travel expenses and per diem allowed
21 by law for each day going to and from and for each day in actual
22 attendance at board meetings and other meetings or conferences autho-
23 rized by the commissioner.

24 Sec. 44.46.050. FUNCTIONS OF BOARD. (a) The board shall

25 (1) advise the commissioner of environmental conservation
26 in the review and appraisal of programs and activities of state
27 departments and agencies in light of the policy set forth in
28 AS 46.03.010;

29 (2) serve as a forum for the exchange of views, concerns,

1 ideas, information and recommendations relating to the quality of the
2 environment; and

3 (3) recommend to the commissioner the persons who by
4 virtue of outstanding achievement in the field of environmental
5 conservation merit a certificate of achievement from the commissioner
6 of environmental conservation.

7 (b) The board shall exercise and perform such other functions
8 as may be requested by the commissioner.

9 # Sec. 3. AS 46 is amended by adding a new chapter to read:

10 TITLE 46. WATER, AIR AND ENVIRONMENTAL CONSERVATION

11 CHAPTER 03. ENVIRONMENTAL CONSERVATION

12 ARTICLE 1. DECLARATION OF POLICY.

13 Sec. 46.03.010. DECLARATION OF POLICY. (a) It is the policy
14 of the State of Alaska to conserve, improve and protect its natural
15 resources and environment and control water, land and air pollution,
16 in order to enhance the health, safety and welfare of the people of
17 the state and their overall economic and social well being.

18 (b) It is the policy of the state to improve and coordinate
19 the environmental plans, functions, powers and programs of the state,
20 in cooperation with the federal government, regions, local governments,
21 other public and private organizations and concerned individuals, and
22 to develop and manage the basic resources of water, land and air to
23 the end that the state may fulfill its responsibility as trustee of
24 the environment for the present and future generations.

25 ARTICLE 2. DEPARTMENT OF ENVIRONMENTAL CONSERVATION.

26 Sec. 46.03.020. POWERS OF THE DEPARTMENT. The department may

27 (1) enter into contracts necessary or convenient to carry
28 out the functions, powers and duties of the department:

29 (2) review and appraise programs and activities of state

1 departments and agencies in light of the policy set forth in sec. 10
2 of this chapter for the purpose of determining the extent to which the
3 programs and activities are contributing to the achievement of that
4 policy and to make recommendations to the departments and agencies,
5 including but not limited to, environmental guidelines;

6 (3) consult with and cooperate with

7 (A) officials and representatives of any non-profit
8 corporation or organization in the state;

9 (B) persons, organizations and groups, public and
10 private, using, served by, interested in or concerned with the
11 environment of the state;

12 (4) appear and participate in proceedings before any state
13 or federal regulatory agency involving or affecting the purposes of
14 the department;

15 (5) undertake any studies, inquiries, surveys or analyses
16 it may consider essential to the accomplishment of the purposes of
17 the department. These activities may be carried out by the personnel
18 of the department or in cooperation with any public or private
19 agencies, including educational, civic and research organizations,
20 colleges, universities, institutes and foundations;

21 (6) at reasonable times enter and inspect with the consent
22 of the owner or occupier any property or premises to investigate
23 either actual or suspected sources of pollution or contamination or
24 to ascertain compliance or non-compliance with any regulation which
25 may be promulgated pursuant to this article. Any information relating
26 to secret processes or methods of manufacture discovered during
27 investigation shall be confidential;

28 (7) conduct investigations and hold hearing and compel
29 the attendance of witnesses and the production of accounts, books and

1 documents by the issuance of a subpoena;

2 (8) advise and cooperate with municipal, regional and
3 other local agencies and officials within the state, to carry out
4 the purposes of this chapter;

5 (9) act as the official agency of the state in all matters
6 affecting the purposes of the department under any federal laws now
7 or hereafter enacted;

8 (10) adopt regulations necessary to effectuate the purposes
9 of this chapter, including, by way of example and not limitation,
10 regulations providing for

11 (A) control, prevention and abatement of air, water,
12 or land or subsurface land pollution;

13 (B) safeguard standards for petroleum and natural
14 gas pipeline construction, operation, modification or alteration;

15 (C) protection of public water supplies by setting
16 standards for the construction, improvement, and maintenance of
17 public water supply systems;

18 (D) collection and disposal of sewage and industrial
19 waste;

20 (E) collection and disposal of garbage, refuse, and
21 other discarded solid materials from industrial, commercial,
22 agricultural and community activities or operations;

23 (F) control of radiation sources to prohibit and
24 prevent unnecessary radiation;

25 (G) control of pesticides;

26 (H) such other purposes as may be required for the
27 implementation of the policy declared in sec. 10 of this chapter.

28 Sec. 46.03.030. GRANTS AND LOANS FOR WATER SUPPLY AND SEWAGE
29 SYSTEMS. (a) The department may pay, as funds are available, 25 per

1 cent of the estimated reasonable cost, as determined by the Secretary
2 of the Interior, of each waste treatment works project approved for
3 a federal grant by the Federal Water Quality Administration or its
4 predecessor, the Federal Water Pollution Control Administration, and
5 on which construction was initiated after June 30, 1967. As funds
6 are available, the department may lend on an interest-free basis for
7 a project approved after June 30, 1970, any part of an anticipated
8 federal grant. Money received from the Federal Water Quality
9 Administration for the project after the loan is given must be used
10 to repay the loan, but the loan need be repaid only to the extent of
11 this federal assistance.

12 (b) The department may pay to any municipality, as funds are
13 available, up to the lesser of 25 per cent of the estimated cost or
14 50 per cent of the estimated cost not borne by the federal government,
15 if there is federal assistance, of water systems, including collection
16 and impounding facilities, and of those portions of sewerage systems
17 not covered by (a) of this section. The estimated cost of any part
18 of a system will be as determined by the federal agency which gives
19 the most monetary assistance or, if none, by the department. Systems
20 shall be constructed according to plans and specifications approved
21 by the federal agency which gives the most monetary assistance or, if
22 none, by the department.

23 (c) There is a water supply and sewerage systems fund created
24 in the department to carry out the purposes of this section.

25 Sec. 46.03.040. ALASKA ENVIRONMENTAL PLAN. (a) The department
26 shall formulate and annually review and revise a statewide environ-
27 mental plan for the management and protection of the quality of the
28 environment and the natural resources of the state, in furtherance
29 of the legislative policy and purposes expressed in this chapter.

1 (b) The department shall submit the first plan to the governor
2 on or before January 1, 1972, and thereafter submit periodic revisions
3 of the plan to the governor. The plan is effective upon approval by
4 the governor and shall serve thereafter as a guide to the public,
5 the state government and the political subdivisions of the state in
6 the development of the environment and natural resources of the state.

7 (c) In formulating the plan and any revisions, the department
8 may consult with persons, organizations and groups, public or private,
9 interested in or concerned with the environment of the state, and with
10 any department, division, board, commission or other agency of the
11 state with any political subdivision or with any public authority as
12 may be necessary to enable the department to carry out its responsi-
13 bilities under this section.

14 ARTICLE 3. WATER POLLUTION CONTROL.

15 Sec. 46.03.050. AUTHORITY. The department has jurisdiction
16 to prevent and abate the pollution of the waters of the state.

17 Sec. 46.03.060. WATER POLLUTION CONTROL PLAN. The department
18 shall develop comprehensive plans for water pollution control in the
19 state and conduct investigations it considers advisable and necessary
20 for the discharge of its duties.

21 Sec. 46.03.070. POLLUTION STANDARDS. After public hearing, the
22 department may adopt standards and make them public and determine
23 what qualities and properties of water indicate a polluted condition
24 actually or potentially deleterious, harmful, detrimental or injurious
25 to the public health, safety or welfare, to terrestrial and aquatic
26 life or their growth and propagation, or to the use of waters for
27 domestic, commercial, industrial, agricultural, recreational, or
28 other reasonable purposes.

29 Sec. 46.03.080. QUALITY AND PURITY STANDARDS. After study and

1 public hearings held upon due notice, the department may establish
2 standards of quality and purity or group the designated waters of the
3 state into classes as to minimum quality and purity, or both. The
4 department shall classify waters in accordance with considerations
5 of best usage in the interest of the public. The department may
6 alter and modify classifications after hearing.

7 Sec. 46.03.090. PLANS FOR POLLUTION DISPOSAL. The department
8 may require the submission of plans for sewage and industrial waste
9 disposal or treatment or both for a publicly or privately owned or
10 operated industrial establishment, community, public or private
11 property subdivision or development.

12 Sec. 46.03.100. WASTE DISPOSAL PERMIT. (a) Any person who
13 conducts a commercial or industrial operation which results in the
14 disposal of solid or liquid waste material into the waters of the
15 state must procure a permit from the department before disposing of
16 the waste material. The permit must be obtained for direct disposal
17 and for disposal into publicly operated sewerage systems.

18 (b) This section does not apply to any person discharging only
19 domestic sewage into a sewerage system.

20 Sec. 46.03.110. WASTE DISPOSAL PERMIT PROCEDURE. (a) An
21 application for a permit shall be made on forms prescribed by the
22 department and shall contain the name and address of the applicant,
23 a description of his operations, the quantity and type of waste
24 material sought to be disposed of, the proposed method of disposal,
25 and any other information considered necessary by the department.
26 Application for permit shall be made at least 60 days prior to commence-
27 ment of any proposed discharge.

28 (b) Upon receipt of a proper application the department shall
29 publish notice of the application in two separate publications of a

1 newspaper of general circulation within the general area in which the
2 disposal of waste material is proposed to be made. The notice may
3 also be published in other appropriate information media. The
4 notice shall include a statement that any person who wants to present
5 his views to the department in regard to the application may do so
6 in writing to the department within 30 days of the second publication
7 of the notice. The written response entitles the writer to a copy
8 of the application.

9 (c) When the department receives an application, the
10 commissioner shall immediately send copies of the application to the
11 commissioner of fish and game, the commissioner of natural resources,
12 the commissioner of economic development and the commissioner of
13 health and welfare.

14 (d) The department may specify in a permit the terms and
15 conditions under which waste material may be disposed of. The
16 terms and conditions shall be directed to avoiding pollution and
17 to otherwise carry out the policies of this chapter. No permit
18 shall be effective for a period in excess of five years from the
19 date of issuance.

20 Sec. 46.03.120. TERMINATION OR MODIFICATION OF WASTE DISPOSAL
21 PERMIT. (a) The department shall terminate a permit upon 30 days
22 written notice if the department finds

23 (1) that the permit was procured by misrepresentation of
24 material fact or by failure of the applicant to disclose fully the
25 facts relating to its issuance;

26 (2) that there has been a violation of the conditions
27 of the permit;

28 (3) that there has been a material change in the quantity
29 or type of waste disposed of.

1 (b) The department may modify a permit if the department finds
2 that a material change in the quality or classification of the waters
3 of the state has occurred.

4 Sec. 46.03.130. COMPLIANCE ORDER. (a) When, in the opinion
5 of the department, a person is violating or is about to violate
6 regulations and standards established pursuant to the provisions of
7 secs. 60 - 100 of this chapter or any other regulations concerning
8 water pollution, the department shall notify the person of its
9 determination by certified mail. The determination and notice do
10 not constitute an order under sec. 820 of this chapter.

11 (b) Within 15 days from the receipt of the notice, the
12 recipient of the determination must file with the department a
13 report stating what measures have been and are being taken to
14 control the conditions outlined in the notice from the department.

15 (c) Thereafter, the department may issue a compliance order
16 in conformity with the authority of the department and the public
17 policy declared in sec. 10 of this chapter. A copy of the compliance
18 order shall be sent by certified mail to the person affected. A
19 compliance order is effective upon receipt.

20 (d) Within 30 days of receipt, a person affected may make
21 application for a hearing to review the compliance order. Failure
22 to make application for hearing within 30 days of the receipt of a
23 compliance order constitutes a waiver of the recipient's right of
24 review.

25 (e) The department shall hold a hearing within 20 days of
26 receipt of the application. After hearing, the department may
27 rescind, modify or affirm the compliance order.

28 ARTICLE 4. AIR POLLUTION CONTROL.

29 Sec. 46.03.140. EMISSION CONTROL REQUIREMENTS. The department

1 may establish air pollution control regulations which in its judgment
2 are necessary to prevent, abate or control air pollution. These
3 regulations may be for the state as a whole or may vary from area
4 to area as may be appropriate to facilitate accomplishment of the
5 purposes of this chapter and in order to take account of varying
6 local conditions.

7 Sec. 46.03.150. CLASSIFICATION AND REPORTING. (a) The
8 department by regulation shall classify air contaminant sources,
9 which in its judgment may cause or contribute to air pollution,
10 according to levels and types of emissions and other characteristics
11 which relate to air pollution, and may require reporting for the
12 classifications. Classifications made under this subsection may be
13 for application to the state as a whole or a designated area of the
14 state and shall be made with special reference to effects on health,
15 economic and social factors and physical effects on property.

16 (b) A person operating or responsible for the operation of air
17 contaminant sources of a class for which the regulations of the
18 department require reporting shall make reports containing the
19 information required by the department concerning location, size and
20 height of contaminant outlets, processes employed, fuels used and
21 the nature and time periods or duration of emissions, and other
22 information relevant to air pollution and available or reasonably
23 capable of being assembled.

24 Sec. 46.03.160. ADDITIONAL CONTAMINANT CONTROL MEASURES.

25 (a) The department may require that notice be given to it before
26 the undertaking of the construction, installation or establishment
27 of particular types or classes of new air contaminant sources
28 specified in its regulations. Within 15 days of its receipt of the
29 notice, the department shall require, as a condition precedent to

1 the undertaking, the submission of plans and other information it
2 considers necessary in order to determine whether the proposed
3 undertaking will be in accord with applicable regulations in force
4 under secs. 140 - 150 of this chapter.

5 (b) Within 30 days of receipt of the plans and information for
6 a proposed undertaking, the department shall either approve the
7 undertaking and issue a permit, or if the department determines that
8 the proposed undertaking will not meet the requirements of secs.
9 140 - 150 of this chapter and applicable regulations, it shall issue
10 a prohibition order against the undertaking.

11 (c) A person subject to a prohibition order as prescribed in
12 (b) of this section, upon written request in accordance with
13 regulations of the department, is entitled to a hearing on the order.
14 Following the hearing the order may be affirmed, modified or withdrawn.

15 (d) For the purposes of this chapter, addition to or enlarge-
16 ment or replacement of an air contaminant source, or a major
17 alteration of one, shall be construed as an undertaking for the
18 construction, installation or establishment of a new air contaminant
19 source.

20 (e) Features, machines and devices constituting parts of or
21 called for by plans or other information submitted under (a) of
22 this section shall be maintained in good working order.

23 (f) Nothing in this section may be construed to authorize the
24 department to require the use of machinery, devices or equipment
25 from a particular supplier or produced by a particular manufacturer
26 if the required performance standards may be met by machinery,
27 devices or equipment available from other sources.

28 (g) The absence of or the department's failure to issue a
29 regulation or order under this section does not relieve a person from

1 compliance with emission control requirements or other provisions
2 of law.

3 (h) The department may require the payment of a reasonable
4 fee for the review of plans and information required to be submitted.
5 No fee for a single review may exceed \$25.

6 Sec. 46.03.170. VARIANCES. (a) A person who owns or is in
7 control of a plant, building, structure, establishment, process or
8 equipment may apply to the department for a variance from applicable
9 emission control regulations. The department may grant the variance,
10 but only after public hearing following due notice, if it finds that

11 (1) the emissions occurring or proposed to occur do not
12 endanger human health or safety; and

13 (2) compliance with the rules or regulations from which
14 variance is sought would produce severe hardship without benefits
15 to the public.

16 (b) No variance may be granted under this section until the
17 department has considered the relative interests of the applicant,
18 other owners of property likely to be affected by the emissions and
19 the general public.

20 (c) A variance granted under (a) of this section, shall be
21 for periods and under conditions consistent with the reasons for
22 it and within the following limitations:

23 (1) if the variance is granted on the ground that there
24 is no practicable means known or available for the adequate
25 prevention, abatement or control of the air pollution involved, it
26 shall be only until the necessary means for prevention, abatement,
27 or control become known and available, subject to the taking of
28 substitute or alternate measures that the department may prescribe;

29 (2) if the variance is granted on the ground that compliance

1 with the particular requirement from which variance is sought will
2 necessitate the taking of measures which, because of their extent
3 or cost, must be spread over a considerable period, it shall be for
4 a period not to exceed the reasonable time which in the opinion of
5 the department is necessary. A variance granted on this ground
6 shall contain a timetable for taking action in an expeditious manner
7 and shall be conditioned on adherence to the timetable and shall be
8 for not more than five years;

9 (3) If the variance is granted on the ground that it is
10 justified to relieve or prevent hardship of a kind other than that
11 provided in (c)(1) and (2) of this section, it shall be for not
12 more than one year.

13 (d) The department may upon application renew an existing
14 variance on terms and conditions and for periods which would be
15 appropriate on initial granting of a variance. If complaint is made
16 to the department on account of the variance no renewal of it may
17 be granted unless, after public hearing on the complaint following
18 due notice, the department finds that renewal is justified.
19 Application shall be made at least 60 days before the expiration of
20 the variance. Immediately upon receipt of an application for renewal
21 the department shall give public notice of it.

22 (e) A variance or renewal is not a right of the applicant but
23 shall be in the discretion of the department.

24 (f) No variance or renewal granted under this section may be
25 construed to prevent or limit the application of the emergency
26 orders of the commissioner issued pursuant to sec. 820 of this chapter.

27 Sec. 46.03.180. CONFIDENTIALITY OF RECORDS. Records and
28 information in the possession of the department which relate to
29 production or sales figures or to processes or production techniques

1 of the owner or operator of an air contaminant source shall be
2 deemed confidential records of the department after application by
3 the party and certification that their public disclosure would tend
4 to adversely affect his competitive position.

5 Sec. 46.03.190. MOTOR VEHICLE POLLUTION. (a) As the state of
6 knowledge and technology relating to the control of emissions from motor
7 vehicles may permit or make appropriate, and in furtherance of the pur-
8 poses of this chapter, the department may provide by regulation for the
9 control of these emissions. The regulations may prescribe requirements
10 for the installation and use of equipment designed to reduce or elimi-
11 nate emissions and for the proper maintenance of this equipment.

12 (b) Except as permitted by law, no person may fail to maintain
13 in operation any equipment or feature constituting an operational
14 element of the air pollution control system or mechanism of a motor
15 vehicle if it is required by regulations of the department to be
16 maintained in or on the vehicle. A failure to maintain this
17 equipment in operation subjects the owner or operator to suspension
18 or cancellation of the registration of the vehicle, and it may not
19 be again eligible for registration until this equipment is restored
20 to operation.

21 (c) The department shall consult with the Department of Public
22 Safety and furnish it with technical information, including testing
23 techniques, standards and instructions for emission control features
24 and equipment.

25 (d) When the department has issued regulations requiring the
26 maintenance of features or equipment in or on motor vehicles for the
27 purpose of controlling emission from the vehicles, no motor vehicle
28 may be issued a certificate of inspection and approval if required,
29 unless the required features or equipment have been inspected in

1 accordance with the standards, testing techniques and instructions fur-
2 nished by the department and have been found to meet those standards.

3 Sec. 46.03.200. LIMITATIONS. Secs. 140 - 240 of this chapter
4 do not

5 (1) grant to the department jurisdiction or authority
6 with respect to air contamination existing solely within commercial
7 and industrial plants, works or shops;

8 (2) affect the relations between employers and employees
9 with respect to or arising out of a condition of air contamination
10 or air pollution; and

11 (3) supersede or limit the applicability of a law or
12 ordinance relating to sanitation, industrial health or safety.

13 Sec. 46.03.210. LOCAL AIR POLLUTION CONTROL PROGRAMS. (a) A
14 municipality with a population in excess of 1,000 may, within five
15 years from August 5, 1969, establish and administer within its
16 jurisdiction an air pollution control program. Organized boroughs
17 may establish an air pollution control program on an areawide basis,
18 and the exercise of powers with respect to the program is not
19 subject to the restrictions on acquiring additional areawide powers
20 specified in AS 07.15.350. However, the weighted vote shall apply
21 to the exercise of powers as provided in AS 07.20.070(d). Local
22 programs shall

23 (1) provide by ordinance for requirements compatible
24 with those imposed by the provisions of secs. 140 and 170 of this
25 chapter and applicable regulations;

26 (2) provide for the enforcement of the requirements
27 imposed through appropriate administrative and judicial processes;

28 (3) provide for a local administrative organization, staff,
29 and other resources necessary to effectively carry out the purposes

1 of the program; and

2 (4) be approved by the department as being satisfactory
3 to meet the requirements of secs. 140 - 170 of this chapter and the
4 applicable regulations.

5 (b) Municipalities other than those with a population of less
6 than 1,000 may establish and administer local air pollution programs
7 if the proposed programs meet the requirements of (a)(1) - (4) of
8 this section.

9 (c) A municipality may administer all or a part of its air
10 pollution control program in cooperation with one or more
11 municipalities.

12 (d) If the department finds that the location, character, or
13 extent of particular concentrations of population, air contaminant
14 sources, the geographic, topographic or meteorological considerations
15 or combination of these factors make impracticable the maintenance
16 of appropriate levels of air quality without an areawide air
17 pollution control program, the department may determine the
18 boundaries within which a program is necessary and direct that a
19 program spanning those boundaries is the only acceptable alternative
20 to direct state administration.

21 Sec. 46.03.220. ABSENCE OF LOCAL PROGRAM. (a) If a
22 municipality authorized to establish or participate in an air
23 pollution control program under sec. 210(a) or (d) of this chapter
24 fails to establish a program within the time specified, or if the
25 department has reason to believe that an air pollution control
26 program in force under that section is inadequate to prevent and
27 control air pollution in the jurisdiction to which the program
28 applies, or that the program is being administered in a manner
29 inconsistent with the requirements of this chapter the department

1 shall, following 45 days notice, conduct a hearing on the matter.

2 (b) If, after the hearing, the department determines that any
3 of the deficiencies enumerated in (a) of this section exist, it
4 shall require that necessary corrective action be taken within a
5 reasonable period of time, not to exceed 90 days.

6 (c) If the municipality or the district set up under sec.
7 210(a) or (d) of this chapter fails to take the necessary corrective
8 action within the time specified the department shall administer in
9 the municipality or district all of the regulatory provisions of
10 this chapter. The department's air pollution control program shall
11 then supersede municipal air pollution ordinances, regulations, and
12 requirements in the affected jurisdiction.

13 (d) If the department finds that the control of a particular
14 class of air contaminant source, because of its complexity or
15 magnitude is beyond the reasonable capability of the local air
16 pollution control authorities or may be more efficiently and
17 economically performed at the state level, it may assume and retain
18 jurisdiction over that class of air contaminant source. Classifica-
19 tions under this subsection may be either on the basis of the nature
20 of sources involved or on the basis of their relationship to the
21 size of the communities in which they are located.

22 (e) A municipality in which the department administers the air
23 pollution control program under this section may with the approval
24 of the department establish or resume a municipal program which
25 meets the requirements of sec. 210(a) or (d).

26 (f) The provisions of secs. 210 - 220 do not nullify a local
27 air pollution program in operation on August 5, 1969, if the program
28 meets the requirements of sec. 210(a) or (d) of this chapter within
29 two years from that date.

1 Sec. 46.03.230. STATE AND FEDERAL AID. (a) A local government
2 unit with an air pollution program meeting the requirements of this
3 chapter and the regulations issued under it may apply to the state for
4 state aid equal to a maximum of 75 per cent of the locally funded
5 annual operating cost of the program. For a joint or areawide
6 program established under sec. 210(d) of this chapter application may
7 be made for state aid equal to a maximum of 75 per cent of the
8 locally funded operating cost. In the case of a joint or areawide
9 program the state aid may be based on the cost of the entire program
10 or, if the department finds that one or more elements of separately
11 administered programs are being carried on jointly in a way that
12 materially increases the efficiency of the programs, it may aid the
13 element carried on under the interlocal agreement at the rate applied
14 to joint and areawide programs generally.

15 (b) Municipalities of the state and interlocal air pollution
16 control agencies established under this article may apply for,
17 receive, administer and expend federal aid for the control of air
18 pollution or the development and administration of programs related to
19 that control, if the application is first submitted to and approved
20 by the department. The department shall approve an application if it
21 is consistent with this article and other applicable requirements of
22 law.

23 Sec. 46.03.240. CONSTRUCTION AND IMPLEMENTATION OF SEC. 230.

24 (a) Sec. 230 of this chapter may not be construed so as to create a
25 debt of the state.

26 (b) The air pollution control support account is established.
27 Funds to carry out the provisions for state aid under sec. 230 of this
28 chapter may be appropriated annually by the legislature to the account.
29 If amounts in the account are insufficient for the purpose of the

1 state aid authorized under sec. 230 of this chapter, such funds as
2 are available shall be distributed pro rata among eligible local
3 governments or air pollution control districts.

4 (c) Money in the air pollution control support account which, at
5 the end of the fiscal year for which the money is appropriated, exceeds
6 the amount required for the allocations authorized in this article
7 reverts to the general fund.

8 ARTICLE 5. RADIATION PROTECTION.

9 Sec. 46.03.250. AUTHORITY. (a) The department shall

10 (1) develop comprehensive policies and programs for the
11 evaluation and determination of hazards associated with the use of
12 radiation, radiation sources, and their amelioration;

13 (2) encourage, participate in and conduct studies, investi-
14 gations, training, research and demonstrations relating to the control
15 of radiation hazard, the measurement of radiation, the effects on
16 health of exposure to radiation and related problems it considers
17 necessary or advisable for the discharge of its duties;

18 (3) collect and disseminate health education information
19 relating to radiation protection;

20 (4) review plans and specifications for radiation sources
21 submitted pursuant to its rules and regulations;

22 (5) inspect radiation sources, their shielding and immediate
23 surroundings and records concerning their operation for the deter-
24 mination of possible radiation hazard.

25 (b) The department may keep confidential data obtained as a
26 result of registration or investigation.

27 Sec. 46.03.260. USE OF ATOMIC RADIATION. Sources of radiation
28 shall be shielded, transported, handled used and kept to prevent users
29 and persons within effective range from being exposed to unnecessary

1 radiation in conformity with the department's regulations.

2 Sec. 46.03.270. ELECTRONIC PRODUCT RADIATION. All electronic
3 products capable or likely to be capable of emitting radiation shall
4 be shielded, handled, used, and kept to prevent users and persons
5 within the range of radiation from dangerous concentration of radiation
6 in conformity with the department's regulations.

7 Sec. 46.03.280. NOTIFICATION OF VIOLATION AND ORDER OF ABATE-
8 MENT. Whenever the department finds, after inspection and examination
9 of a source of radiation as constructed, operated or maintained that
10 there has been a violation of any of the provisions of this chapter,
11 it shall notify the person causing, allowing or permitting the
12 violation, of the nature of the violation and order the person to
13 cease and abate the violation.

14 Sec. 46.03.290. AUTHORITY OF DEPARTMENT IN CASES OF EMERGENCY.
15 Whenever the department finds that an emergency exists requiring
16 immediate action to protect the public health or welfare from radiation
17 it may issue an order reciting the existence of an emergency and
18 requiring that action be taken to meet the emergency. The order is
19 effective immediately. A person to whom an order is directed shall
20 comply with it immediately but on application to the department shall
21 be given a hearing under the Administrative Procedure Act (AS 44.62).
22 Thereafter the department may affirm, revoke or modify the order.

23 Sec. 46.03.300. EXCEPTIONS. Secs. 260 - 270 of this chapter
24 do not limit the intentional exposure of patients to radiation for
25 the purpose of diagnosis or therapy, or medical research, as authorized
26 by law.

27 Sec. 46.03.310. CONFLICTING LAWS. Secs. 250 - 300 of this
28 chapter shall not be construed as repealing any laws of the state
29 relating to radiation sources, exposures, radiation protection, and

1 professional licensure, but shall be held and construed as auxiliary
2 and supplementary to those laws, except to the extent that the same
3 are in conflict with secs. 250 - 300 of this chapter. Ordinances or
4 regulations of any governing body of a municipality which are consistent
5 with secs. 250 - 300 of this chapter shall not be superseded by secs.
6 250 - 300 of this chapter.

7 ARTICLE 6. PESTICIDE CONTROL

8 Sec. 46.03.320. AUTHORITY. (a) The department is authorized to

9 (1) regulate the transportation, testing, inspection,
10 packaging, labeling, handling and advertising of pesticides and
11 broadcast chemicals offered for sale, or placed in commerce for use
12 in the state;

13 (2) regulate and supervise the distribution, application
14 or use of pesticides and broadcast chemicals in any state project or
15 program, or by any public agency under the jurisdiction of the state;

16 (3) regulate or prohibit the use of pesticides and broad-
17 cast chemicals.

18 (b) The department may provide by regulation for the licensing
19 of persons engaged in the custom, commercial or contract spraying or
20 application of pesticides and broadcast chemicals including the re-
21 quirement of a surety bond and liability insurance for the licensee.

22 Sec. 46.03.330. PUBLIC PESTICIDE PROGRAMS. (a) No officer,
23 agent or employee of the state, or of a borough or city of any class,
24 may direct, carry out, or participate in the spraying or application of
25 a pesticide or broadcast chemical in any program or project involving
26 funds, materials or equipment of the state, borough or city, except
27 in accordance with regulations promulgated by the department under
28 sec. 320 of this chapter.

29 (b) Before a public project that would affect lands owned

1 separately by two or more persons is initiated, the person directing
2 the program shall give public notice of the program in the manner
3 required by regulations of the department. The department shall
4 conduct a public hearing on the proposed program if a hearing is
5 requested by the governing body of the affected borough or city, or
6 by a petition signed by at least 50 residents. The requirement for
7 public notice or public hearing may be waived if the commissioner
8 determines that a public emergency exists.

9 (c) The provisions of this section apply to home rule munici-
10 palities.

11 ARTICLE 7. PROHIBITED ACTS AND PENALTIES.

12 Sec. 46.03.710. POLLUTION PROHIBITED. No person may pollute or
13 add to the pollution of the air, land, subsurface land or water of
14 the state.

15 Sec. 46.03.720. CONSTRUCTION OF CERTAIN FACILITIES PROHIBITED.
16 No person may construct, extend, install or operate a sewage system or
17 treatment works, or any part of a sewage system or treatment works, or
18 until plans for it are submitted to the department for review, and
19 the department approves them in writing and issues a written permit.
20 The department may waive the requirement that plans be submitted to it.

21 Sec. 46.03.730. PESTICIDES. No person may spray or apply, or
22 cause to be sprayed or applied dichloro-diphenyl-trichloro-ethane
23 (DDT), dieldrin or other pesticide or broadcast chemical in a manner
24 which may cause damage to or endanger the health, welfare or property
25 of another person, or in such a manner as to be likely to pollute the
26 air, soil or water of the state without prior authorization of the
27 department.

28 Sec. 46.03.740. OIL POLLUTION. No person may discharge, cause
29 to be discharged, or permit the discharge of petroleum, acid, coal or

1 oil tar, lampblack, aniline, asphalt, bitumen, or a residuary product
2 of petroleum, into, or upon the waters or land of the state except in
3 quantities, and at times and locations or under circumstances and
4 conditions as the department may by regulation permit or where
5 permitted under article IV of the International Convention for the
6 Prevention of Pollution of the Sea by Oil, 1954, as amended.

7 Sec. 46.03.750. BALLAST WATER DISCHARGE. (a) No person may
8 pollute or add to the pollution of waters of the state by discharging
9 from any sea-going vessel ballast water, tank-cleaning waste water or
10 other waste containing oil in excess of 100 parts per million of oily
11 residue. This subsection does not apply to fishing vessels of less
12 than 300 gross tons.

13 (b) Except as provided in (c) of this section, no vessel may
14 take on oil, petroleum products, or their by-products as cargo unless
15 it arrives in ports in the state without having discharged ballast at
16 sea, and the master of the vessel certifies that fact on forms pro-
17 vided by the department.

18 (c) Vessels equipped with tanks used exclusively for ballast
19 or capable of producing ballast with an oil content less than that
20 provided for in (a) of this section may discharge that ballast at
21 sea, including the waters of the state, if it meets the standards of
22 (a) of this section and the master of the vessel certified that fact
23 on forms provided by the department.

24 (d) A person in charge of a sea-going vessel or of an onshore
25 or offshore facility, as soon as he has knowledge of any discharge
26 from the vessel or facility in violation of a provision of this chapter
27 shall immediately notify the department of the discharge.

28 Sec. 46.03.760. POLLUTION PENALTIES. (a) A person who violates
29 secs. 710, 730, 740, or 750 of this chapter is guilty of a misdemeanor

1 and upon conviction is punishable by a fine of not more than \$25,000,
2 or by imprisonment for not more than a year, or by both. Each unlaw-
3 ful act constitutes a separate offense.

4 (b) In addition to the penalties provided in (a) of this article
5 a person who violates secs. 740 - 750 of this chapter is liable, in
6 a civil action, to the state for liquidated damages to be assessed by
7 the court for an amount not less than \$5,000 nor more than \$100,000,
8 depending on the severity of the violation.

9 (c) In addition to the penalties provided in (a) of this section,
10 a person who violates a provision of sec. 750 of this chapter is liable
11 to the state, in a civil action, in the case of a vessel, for damages
12 in an amount not to exceed \$100 per gross ton of the violating vessel
13 or \$14 million, whichever is less and in the case of an onshore or
14 offshore facility \$100 per every \$500 evaluation of the violating
15 facility or \$14 million whichever is less. However, if the state
16 shows that a violation of Sec. 750 of this chapter was the result of
17 wilful negligence or wilful misconduct on the part of the person
18 charged with the violation, the person is liable to the state for the
19 full amount of damages caused. In the case of wilful negligence or
20 wilful misconduct "damages", in this subsection, means costs associated
21 with the abatement, containment or removal of a pollutant and reason-
22 able restoration of the environment to its former state.

23 (d) A person who falsely certifies information required under
24 sec. 750 of this chapter, upon conviction, is punishable by a fine
25 of not more than \$25,000, or by imprisonment for not more than one
26 year, or by both. Each unlawful act constitutes a separate offense.

27 (e) Nothing in this section affects an individual's right to
28 recover damages under other applicable statutes or the common law.

29 Sec. 46.03.770. DETENTION OF VESSEL WITHOUT WARRANT AS SECURITY

1 FOR DAMAGES. A vessel which is used in or in aid of a violation of
2 secs. 740 - 750 of this chapter may be detained after a valid search
3 by the department, an agent of the department, a peace officer of the
4 state, or an authorized protection officer of the Department of Fish
5 and Game. Upon judgment of the court having jurisdiction that the
6 vessel was used in or the cause of a violation of secs. 740 - 750 of
7 this chapter with knowledge of its owner or under circumstances
8 indicating that the owner should reasonably have had such knowledge,
9 the vessel may be held as security for payment to the state of the
10 amount of damages assessed by the court under sec. 760(b) of this
11 chapter, and if the damages so assessed are not paid within 30 days
12 after judgment or final determination of an appeal, the vessel shall
13 be sold at public auction, or as otherwise directed by the court,
14 and the damages paid from the proceeds. The balance, if any, shall
15 be paid by the court to the owner of the vessel. The court shall
16 permit the release of the vessel upon posting of a bond set by the
17 court in an amount not to exceed \$100,000. The damages received under
18 this section shall be transmitted to the proper state officer for
19 deposit in the general fund. A vessel seized under this section shall
20 be returned or the bond exonerated if no damages are assessed under
21 sec. 760(b) of this chapter.

22 Sec. 46.03.780. LIABILITY FOR RESTORATION. (a) A person who
23 violates any provision of this chapter, or who fails to perform a duty
24 imposed by this chapter, or violates or disregards an order, permit,
25 or other determination of the department made pursuant to the pro-
26 visions of this chapter, and thereby causes the death of fish, animals,
27 or vegetation or otherwise injures or degrades the environment of the
28 state is liable to the state for damages.

29 (b) Liability for damages under subsection (a) of this section

1 shall include an amount equal to the sum of money required to restock
2 injured land or waters, to replenish a damaged or degraded resource,
3 or to otherwise restore the environment of the state to its condition
4 prior to the injury.

5 (c) Damages under subsection (a) of this section shall be
6 recovered by the attorney general on behalf of the state of Alaska.

7 Sec. 46.03.790. WILFUL VIOLATION. (a) Any person found guilty
8 of wilfully violating any of the provisions of this chapter, or any
9 regulation, written order or directive of the department or of a
10 court made pursuant to this chapter is guilty of a misdemeanor, and
11 upon conviction shall be punished by a fine of not more than \$1000
12 and costs of prosecution, or by imprisonment for not more than one
13 year, or by both such fine, cost, and imprisonment at the discretion
14 of the court.

15 (b) Each day upon which a wilful violation of the provisions of
16 this chapter occurs may be considered a separate and additional
17 violation.

18 Sec. 46.03.800. WATER NUISANCES. (a) A person is guilty of
19 creating or maintaining a nuisance if he puts a dead animal carcass,
20 or part of one, excrement, or a putrid, nauseous, noisome, decaying,
21 deleterious, or offensive substance into, or in any other manner
22 befools, pollutes, or impairs the quality of a spring, brook, creek,
23 branch, well, or pond of water which is or may be used for domestic
24 purposes.

25 (b) A person who neglects or refuses to abate the nuisance upon
26 order of the department is guilty of a misdemeanor and is punishable
27 as provided in sec. 790 of this chapter. In addition to this punish-
28 ment, the court shall assess damages against the defendant for the
29 expenses of abating the nuisance.

1 Sec. 46.03.810. AIR AND LAND NUISANCES. (a) A person is guilty
2 of creating or maintaining a nuisance if he

3 (1) Places or deposits upon a lot, street, beach, premises
4 or upon, or within 200 feet of a public highway, unless the highway
5 abuts upon tidal water, any garbage, offal, dead animals, or any other
6 matter or thing, which would be obnoxious or cause the spread of
7 disease or in any way endanger the health of the community;

8 (2) Allows to be placed or deposited upon any premises
9 owned by him or under his control garbage, offal, dead animals, or
10 any other matter or things which would be obnoxious or offensive to
11 the public or which would produce, aggravate, or cause the spread
12 of disease or in any way endanger the health of the community.

13 (b) A person who neglects or refuses to abate the nuisance
14 upon order of an officer of the department of environmental con-
15 servation is guilty of a misdemeanor and is punishable as provided in
16 sec. 790 of this chapter. In addition to this punishment, the court
17 shall assess damages against the defendant for the expenses of
18 abating the nuisance.

19 Sec. 46.03.820. EMERGENCY POWERS. (a) Whenever the department
20 finds, after investigation, that any person is causing, engaging in
21 or maintaining a condition or activity which, in the judgment of its
22 commissioner presents an imminent or present danger to the health or
23 welfare of the people of the state or would result in or be likely to
24 result in irreversible or irreparable damage to the natural resources
25 or environment, and it appears to be prejudicial to the interests of
26 the people of the state to delay action until an opportunity for a
27 hearing can be provided, the department may, without prior hearing,
28 order such person by notice to discontinue, abate or alleviate such
29 condition or activity. The proscribed condition or activity shall be

1 immediately discontinued, abated or alleviated.

2 (b) Upon receipt of an order of the department made pursuant to
3 (a) of this section, the person affected shall have the right to be
4 heard and to present proof to the department that the condition or
5 activity does not constitute an actual or potential source of
6 irreversible or irreparable damage to the natural resources or
7 environment of the state, or that the order may constitute a sub-
8 stantial private hardship.

9 (c) In the commissioner's discretion or upon application made
10 by the recipient of an order within 15 days of receipt of the order,
11 the department shall schedule a hearing the earliest possible time.
12 The hearing shall be scheduled within five days of the receipt
13 of the application. The submission of an application or the schedul-
14 ing of a hearing shall not stay the operation of the department's
15 order made pursuant to (a) of this section.

16 (d) After a hearing the department may affirm, modify or set
17 aside the order. An order affirmed, modified or set aside after
18 hearing is subject to judicial review as provided in AS 44.62.560.
19 The order is not stayed pending judicial review unless the commissioner
20 so directs. In the event an order is not immediately complied with,
21 the attorney general, upon request of the commissioner, shall seek
22 enforcement of the order.

23 (e) The department may adopt additional rules and regulations
24 prescribing the procedure to be followed in the issuance of emergency
25 orders.

26 Sec. 46.03.340. RADIATION PENALTIES. A person who violates
27 sec. 260 - 280 of this chapter is, upon conviction, punishable by a
28 fine of not more than \$100, or by imprisonment for not more than six
29 months, or by both. Each day upon which a violation occurs constitutes

1 a separate offense.

2 ARTICLE 8. GENERAL PROVISIONS

3 Sec. 46.03.860. INSPECTION WARRANT. The department is authorized
4 to seek search warrants for the purpose of investigating actual or
5 suspected sources of pollution or contamination or to ascertain com-
6 pliance or non-compliance with this chapter or any regulation
7 promulgated pursuant to this chapter.

8 Sec. 46.03.870. ACTIONABLE RIGHTS. (a) The bases for proceedings
9 or actions resulting from violations of this chapter or any regulations
10 promulgated pursuant to this chapter inure solely to and are for the
11 benefit of the State of Alaska, and are not intended to in any way
12 create new, or enlarge existing rights of persons or groups of
13 persons in the State of Alaska.

14 (b) A determination or order of the department creates no
15 presumption of law or finding of fact inuring to or for the benefit
16 of persons other than the State of Alaska.

17 (c) This chapter shall not be construed to estop the state,
18 persons or political subdivisions of the state in the exercise of
19 their rights to suppress nuisances, to seek damages, or to otherwise
20 abate or recover for the effects of pollution or other environmental
21 degradation.

22 Sec. 46.03.880. APPLICABILITY OF THE ADMINISTRATIVE PROCEDURE
23 ACT. Except as otherwise specifically provided in this chapter, the
24 Administrative Procedure Act (AS 44.62) governs the activities and
25 the proceedings of the department.

26 Sec. 46.03.890. ENFORCEMENT AUTHORITY. The following persons
27 are authorized to enforce this chapter:

- 28 (1) a state employee authorized by the commissioner;
29 (2) a police officer of the state.

1 Sec. 46.03.900. DEFINITIONS. In this chapter

2 (1) "air contaminant" means dust, fumes, mist, smoke,
3 other particulate matter, vapor, gas, odorous substances or a
4 combination of these;

5 (2) "air pollution" means the presence in the outdoor
6 atmosphere of one or more air contaminants in quantities and duration
7 that tend to be injurious to human health or welfare, animal or
8 plant life or property or would unreasonably interfere with the
9 enjoyment of life or property;

10 (3) "atomic radiation" means all ionizing radiation;

11 (4) "broadcast chemicals" means chemical substances which
12 are released into the air or onto land or water for the purpose of
13 preventing, destroying, repelling, stimulating or retarding plant
14 or animal life, or chemical substances released for meteorological
15 control, oil spill control or fire control;

16 (5) "commissioner" means the commissioner of environmental
17 conservation;

18 (6) "department" means the Department of Environmental
19 Conservation;

20 (7) "electronic product" means a manufactured product
21 which

22 (A) when in operation, contains or acts as part of
23 an electronic circuit and emits, or in the absence of effective
24 shielding or other controls would emit, electronic product
25 radiation; or

26 (B) is intended for use as a component, part, or
27 accessory of a product described in (A) of this paragraph and
28 which when in operation emits, or in the absence of effective
29 shielding or other controls would emit, electronic product

1 radiation;

2 (8) "electronic product radiation" means an atomic
3 radiation or nonionizing, electro-magnetic or particulate radiation,
4 or a sonic, infrasonic, or ultrasonic wave which is emitted from
5 an electronic product as the result of the operation of an electronic
6 circuit in the product;

7 (9) "industrial waste" means a liquid, gaseous, solid, or
8 other waste substance or a combination of them resulting from
9 process of industry, manufacturing trade or business, or from the
10 development of natural resources; however, gravel, sand, mud, or
11 earth taken from its original situs and put through sluice boxes,
12 dredges, or other devices for the washing and recovery of the
13 precious metal contained in them and redeposited in the same water-
14 shed from which it came is not industrial waste;

15 (10) "motor vehicle" has the same meaning as in
16 AS 28.20.630;

17 (11) "municipality" means an organized borough or an
18 incorporated city outside an organized borough, and includes all
19 classes of boroughs and cities whether home rule or otherwise;

20 (12) "other wastes" means garbage, refuse, decayed wood,
21 sawdust, shavings, bark, trimmings from logging operations, sand,
22 lime, cinders, ashes, offal, oil, tar, dyestuffs, acids, chemicals,
23 and other substances not sewage or industrial waste which may cause
24 or tend to cause pollution of the waters of the state;

25 (13) "person" means any individual, public or private
26 corporation, political subdivision, government agency, municipality,
27 industry, copartnership, association, firm, trust, estate, or any
28 other entity whatsoever;

29 (14) "pesticide" means any chemical or biological agent

SUMMARY OF ITEMS ADDED TO BASIC BUDGET
AS REFLECTED IN GENERAL APPROPRIATIONS ACT

	GENERAL FUND	OTHER FUNDS
Geophysical Division	\$ 500,000	\$
Stream Clearing Program	750,000	
Department of Environmental Affairs (additional funds)(1)	500,000	
Salary Increases (Per Annual Salary Survey)	4,500,000	343,800
Center for Administration of Justice	100,000	
Youth Involvement in Government	200,000	
Consumer Protection	200,000	
State Employees Coverage under Employment Security Benefits	900,000	
Pipeline Construction Monitoring	<u>500,000</u>	<u> </u>
	<u>\$8,150,000</u>	<u>\$ 343,800</u>

(1) Reconciliation of Department of Environmental Affairs Funding

Funds transferred from existing programs:

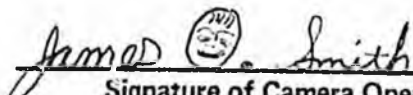
Governor's Office	
Environmental Quality Control Comm.	\$ 245,700
Health & Welfare	
General Environmental Health Program	243,200
Water Pollution Control	224,600
Air Pollution Grants	50,000
Water and Sewer Grants	<u>2,000,000</u>
	\$2,763,500
New Funds Required (Expansion and Overhead; i.e. new Commissioner and staff)	<u>500,000</u>
Total Department Funding	<u>\$3,263,500</u>



RECORDS CERTIFICATION



I, the undersigned, an employee of the State of Alaska, do hereby certify that the microfilm images on this microform are accurate reproductions of the original records of the State of Alaska as accumulated during the regular course of business, and that it is the established policy and practice of this State to microfilm its records and to dispose of the original records after microfilm reproductions have been made.


Signature of Camera Operator

4/4/89
Date

Committee Report

HOUSE OF REPRESENTATIVES

4/15/71

5/2/71 Date

Mr. Speaker:

The Committee on ETHAN has had CSSE 94 under consideration. A majority of the members of the Committee

- recommends it do pass
- recommends it do not pass
- recommends it do pass with attached amendment(s)
- recommends it be replaced with CS for _____ and that CS for _____ do pass
- (and) recommends it be referred to the _____ committee
- reports it back without recommendation
- (other) _____

MEMBERS SIGNING THE MAJORITY REPORT:

<u>[Signature]</u>	_____	_____
<u>[Signature]</u>	_____	_____
<u>[Signature]</u>	_____	_____
<u>[Signature]</u>	_____	_____

MEMBERS NOT CONCURRING IN THE MAJORITY REPORT:

_____	recommends:	_____
_____	recommends:	_____
_____	recommends:	_____
_____	recommends:	_____
_____	recommends:	_____

[Signature]
CHAIRMAN

A M E N D M E N T

Offered in the HOUSE

By HOUSE FINANCE COMMITTEE

To: _____ HOUSE BILL NO. _____

XX SENATE BILL NO. COMMITTEE SUBSTITUTE FOR SENATE BILL
NO. 94

AMENDMENT: Page 18 2 Line 19

After the period, add:

Salaries shall not exceed \$700 per month or \$8,400 per year.

Original sponsor: Rules Committee
by request of the Governor

Offered: 3/15/71
Referred: Health, Welfare
and Education

1 IN THE SENATE

BY THE STATE AFFAIRS COMMITTEE

2 CS FOR SENATE BILL NO. 94

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 SEVENTH LEGISLATURE - FIRST SESSION

5 A BILL

6 For an Act entitled: "An Act relating to the involvement of young people
7 in government; and providing for an effective date."

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

9 * Section 1. AS 44.19 is amended by adding new sections to read:

10 ARTICLE 9D. INVOLVEMENT OF YOUNG PEOPLE IN GOVERNMENT.

11 Sec. 44.19.748. ESTABLISHMENT OF COMMISSION. There is created
12 in the Office of the Governor, the Governor's Commission on the Involvement
13 of Young People in Government.

14 Sec. 44.19.750. COMPOSITION AND CHAIRMAN. The commission consists
15 of nine members, drawn from the fields of public affairs, education,
16 the sciences, the professions, other fields of private endeavor, from
17 the state service, and three additional members from the 17 through
18 22 age group. The members shall be appointed by the governor, without
19 regard to political affiliation and shall serve at the pleasure of the
20 governor. One member shall be designated by the governor as chairman
21 of the commission.

22 Sec. 44.19.752. COMPENSATION AND PER DIEM. Members of the com-
23 mission serve without compensation but are entitled to per diem and
24 travel expenses authorized by law for other boards and commissions.

25 Sec. 44.19.754. FUNCTIONS OF THE COMMISSION. (a) The commission
26 shall establish procedures to enable it to recommend annually to the
27 governor a group of promising young men and women from whom the governor
28 may select both governor's interns and youth voting members of state
29 boards and commissions. The commission, in establishing these

1 procedures, shall enlist the aid of Alaskans who are actively interested
2 in working with young people. Following adoption of the procedures,
3 the commission shall accept applications from individuals and nomina-
4 tions for consideration.

5 (b) Recommendations of the commission shall be limited to young
6 people who

7 (1) have a capacity, desire, interest, ability and potential
8 for leadership and service to the state;

9 (2) will have attained the age of 17 but not the age of
10 22 before the beginning of their service.

11 Sec. 44.17.756. GOVERNOR'S INTERNS. An intern shall be appointed
12 to serve on the staff of the Office of the Governor for a period of
13 time prescribed by the governor, with a maximum of one year. He may
14 be assigned responsibilities in that office or in the office of a
15 commissioner or other principal department or agency of the executive
16 branch of state government. Service will begin at a time prescribed
17 by the governor. Governor's interns are in the partially exempt ser-
18 vice. Salaries shall be individually established by the governor on
19 the basis of prior experience and the responsibilities of the position.

20 Sec. 44.19.758. APPOINTMENT TO BOARDS AND COMMISSIONS. (a)
21 Notwithstanding AS 39.05.100 or a provision of law relating to age, the
22 governor may appoint any resident of Alaska to a board or commission
23 if recommended by the commission.

24 (b) A young person recommended by the commission may be appointed
25 to boards or commissions with special qualifications for membership
26 if the proposed nominee, except for his age, meets the required quali-
27 fications as set by law.

28 (c) An individual appointed to a board or commission under this
29 section is entitled to the rights, privileges, and responsibilities

1 of other members, and his appointment is subject to confirmation by the
2 legislature when required by law. No additional seat on a board or
3 commission is created by virtue of secs. 748 - 758 of this chapter.

4 * Sec. 2. AS 39.05.060 is amended to read:

5 Sec. 39.05.060. APPOINTMENT, QUALIFICATIONS, AND TERMS OF
6 OFFICE OF MEMBERS OF DEPARTMENTAL BOARDS, COUNCILS, OR COMMISSIONS.
7 Each member of the Local Boundary Commission, Alcoholic Beverage
8 Control Board, Employment Security Advisory Council, Alaska State
9 Housing Authority, Board of Fish and Game, Board of Tourism, Commission
10 for Northern Operations of Rail Transportation and Highways, [AND]
11 the Board of Directors for State-Operated Schools, and the Governor's
12 Commission on the Involvement of Young People in Government shall be
13 a citizen of the United States. The governor shall appoint each
14 member on the basis of interest in public affairs, good judgment,
15 knowledge and ability in the field of action of the department for
16 which appointed, and with a view to providing diversity of interest
17 and points of view in the membership. Appointments are subject to
18 confirmation by a majority of the members of the legislature in joint
19 session. Initial appointments of members are as follows: (1) in the
20 case of three-member boards, for one, two and three years; (2) in the
21 case of five-member boards, for one, two, three, four and five years;
22 (3) in the case of six-member boards, two members serve for one year,
23 two for two years, and two for three years; (4) in the case of eight-
24 member boards, two members serve for one year, two for two years, two
25 for three years, and two for four years; (5) and in the case of ten-
26 member boards, two members serve for one year, two for two years, two
27 for three years, two for four years and two for five years. Initial
28 terms date from February 1 before appointment. A vacancy occurring
29 during a term of office is filled in the same manner as the original

1 appointment is made and for the balance of the unexpired term. Each
2 member holds office at the pleasure of the governor notwithstanding
3 the member's term.

4 * Sec. 3. This Act takes effect on the day after its passage and approv-
5 al or on the day it becomes law without approval.

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by request of the Governor

Offered: 3/15/71
Referred: Health, Welfare
and Education

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