

ALASKA LEGISLATIVE COUNCIL FILED FEBRUARY 20 2007

1633 HJ SB 29 .

Position Paper
On
HOUSE BILL NO. 72

An Act entitled: "An Act relating to the transportation, storage and disposal of nuclear and other hazardous waste material; and providing for an effective date."

The major provisions of HB 72 prohibit: (1) the disposal of hazardous wastes in the State unless the waste has been processed to remove its harmful properties; (2) the transportation of nuclear waste material in the State except for purposes of disposal outside the State; and (3) the storage and disposal of high-level nuclear waste material in the State.

AS 18, Chapter 31, Hazardous Waste

The requirement that hazardous waste first be "processed to remove its harmful properties" before it may be disposed of appears to have far-reaching ramifications. The assumption in the disposal of many hazardous wastes is that the waste does, in fact, maintain its harmful properties, but it is disposed of in such a way as to reasonably preclude the possibility of any hazard to human health or the environment.

The following wording for Section 18.31.010 is suggested:

Section 18.31.010 DISPOSAL OF HAZARDOUS WASTE. It is unlawful to dispose of hazardous waste in the State unless done so in accordance with regulations adopted by the Department.

Radioactive (Nuclear) Wastes

It is recommended that the word "radioactive" replace the word "nuclear" wherever the term makes reference to waste. This is a more precise description of the kind of waste under consideration.

Section 46.03.842. Transportation of Radioactive Waste Material.

As written, this section prohibits disposal of low level radioactive waste in the State if transportation is involved. This is in conflict with Section 46.03.844, which permits waste disposal from use in medicine, education, and scientific research. If low level radioactive waste material is to be disposed of in the State it may have to be transported to a disposal site away from the facility producing the waste.

It is recommended that the words "high level radioactive" be inserted on page 3, line 2, making the section read: "The transportation of high level radioactive waste material..."

Section 46.03.844. STORAGE AND DISPOSAL OF HIGH LEVEL RADIOACTIVE WASTE MATERIAL.

The definition of "high level nuclear waste materials" includes "material of a kind or quantity which when stored or disposed of, would constitute a threat to the health or safety of the public." Low level wastes, improperly stored or disposed of, fall under that definition. The Department recommends against making definition of high level radioactive waste contingent upon factors of storage and disposal. This is contrary to established practice in radiation protection and may be a source of confusion and debate.

To clarify Section 46.03.844(b), the following definition is suggested to replace (b):

(b) For purposes of this section "high level radioactive waste material" means used reactor fuel or the radioactive wastes produced during the reprocessing of used reactor fuel.

To further clarify existing statutes, AS 46.03.250 and AS 46.03.260, we also suggest a definition for low level radioactive wastes be added as follows:

(c) "Low level radioactive wastes" means wastes other than high-level radioactive wastes, uranium mine or mill tailings, or transuranic wastes containing more than 10 nanocuries per gram.

The Department of Health & Social Services takes a neutral stand on H. 9. 72 with incorporation of the proposed changes.

Recommended by:

David Bruce
David Bruce, Deputy Director

Date:

March 5, 1981

Approved by:

Helen D. Beirne
Helen D. Beirne
Commissioner

Date:

3-6-81

THE LEGISLATURE OF THE STATE OF ALASKA
TWELFTH LEGISLATURE

FISCAL NOTE

I. REQUEST

Bill/Resolution No. House Bill No. 72

Title "An Act Relating to transportation, storage and disposal of nuclear material"

Requested by Commissioner's Office

Date February 26, 1981

II. FISCAL DETAIL

Agency Affected Department of Health and Social Services

Program Category Affected Division of Public Health

BRU, Program, or Subprogram(s) Affected Radiological Health Program

(Note: If more than one budget component is affected, separate line-item amounts and funding for each component in the analysis section.)

EXPENDITURES (Thousands of Dollars)

	FY 81	FY 82	FY 83	FY 84	FY 85	FY 86
100 PERSONAL SERVICES	0	0	0	0	0	0
200 TRAVEL	0	0	0	0	0	0
300 CONTRACTUAL	0	0	0	0	0	0
400 COMMODITIES	0	0	0	0	0	0
500 EQUIPMENT	0	0	0	0	0	0
600 LAND & STRUCTURES	0	0	0	0	0	0
700 GRANTS, CLAIMS, ETC.	0	0	0	0	0	0
TOTAL	0	0	0	0	0	0

FUNDING (Thousands of Dollars)

GENERAL FUND	0	0	0	0	0	0
FEDERAL FUNDS	0	0	0	0	0	0
OTHER (Specify Fund Source)	0	0	0	0	0	0

POSITIONS

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

III. ANALYSIS (See Fiscal Note Preparation Instructions, Section II')

DATE February 26, 1981

PREPARED BY Sidney D. Heidersdorf

AGENCY Dept. of Health & Social Services

PHONE 465-3019

Legislative Finance

Planning and Management

by Sponsor (First Legislator Named) M&R Approval *[Signature]*

Chemical waste to leave state

by Ellis E. Conklin
Times Writer

More than 15 tons of potentially harmful debris lies in a toxic heap today as state environmental officials work to cart it off to protected land disposal sites.

Around 9,000 pounds of the hazardous waste — the remnants of a cargo of Ortho Garden fertilizers and insecticides which exploded and burned here early Tuesday morning — will be transported out of state in special metal containers and shipped to a land fill site in Arlington, Ore., according to Ray Morris, a state environmental engineer.

There also was speculation today that some of the more lethal substances like Diazinon, Ratenone and several forms of weed killers may be crated off to Ortho Co. in Tacoma, Wash. That has not been confirmed, however.

Diazinon and Ratenone — both powder insecticides — constitute a hazardous waste substance when placed in water, according to the Environmental Protection Agency.

Most of the other materials — mostly bone meal, phosphates and other fertilizers — will be packed in barrels and taken to the municipality's land disposal area south of Merrill Field.

Local fire investigators believe the Totem Ocean Trailer Express van containing the substances shipped from Seattle may have been burglarized and set ablaze behind V. F. Grace Co. at E. 13th Ave.

The wholesale firm is located next to an apartment building and across the street from other residential units.

The fire destroyed \$27,000 worth of goods.

Hours after the fire broke out at 4 a.m. Tuesday, state authorities roped off the area and called in state and national environmental officials to investigate. The area will remain cordoned off until all materials are removed.

V.F. Grace Co. has hired armed security agents to make sure no one gets into the contaminated boxes.

While police and fire officials continue to look into the cause of the fire, toxic waste cleanup specialists

— Crowley Environmental Service — rushed to the scene Tuesday to sift through the chemical remnants to determine which substances pose a hazard to humans.

Carl Harmon, a solid waste engineer, said it will take several days to remove all the materials and sanitize the area. A spokesman for V.F. Grace said the chemical debris poses no danger to humans as long as people stay clear of the area.

Cleanup crews wore masks and other special gear Tuesday as they sorted out the materials.

The biggest obstacle appears to be getting rid of the Diazinon. When mixed with water, Diazinon becomes Sulfotepp, a chemical which can cause dizziness, nausea and diarrhea, said Morris.

There also was some concern Tuesday that some of the waste materials might have been washed into storm drains and entered the city's water supply. However, Morris said there was no evidence that occurred.

"Most of it when down into the street and into the ice, but the levels (of contamination) are so low that we're not terribly concerned," Morris said. He said waste water samples will be taken to make sure there is no danger.

Harmon said most of the water was sucked up by the trucks brought in by Crowley.

One substance found in the cargo was snail and slug pellets. The pellets contain methaldehyde, a chemical that attacks the mucous membranes in dogs and can result in death.

Autoharpist to give play

Autoharpist
presented at
Dorothy
and
parade
autumn
christmas
a

weather

Fair today.
High in upper
20s. Light wind
becoming
to 15
in

5 tons of wastes will be shipped out of state

By JULIE ANNE GOLD
Daily News reporter

Five tons of toxic chemical wastes — pulled from a cargo van Tuesday after it burst into flames in the parking lot of a Anchorage warehouse — will be packed in metal barrels and

shipped to Washington state by truck.

The wastes are the remains of about one-third the total, 30,000-pound cargo of toxic garden insecticides, fertilizers, and herbicides. They will be shipped back to the Ortho Co. in Tacoma, said Carl Harmon, a solid waste engineer for the state Department of Environmental Conservation.

The rest of the material — mostly bone meal and fertilizers — will be packed into large plastic garbage cans and hauled by truck to be buried in

the city dump, Harmon said Tuesday night.

"What we have more than a danger is a big mess," Harmon said of the piles of chemicals still lining a cement pad.

"We're segregating the hazardous materials from the non-toxic ones," he said.

The chemicals, along with some sporting good supplies, were delivered to the V.F. Grace Co. Monday by a Totem Ocean Trailer Express van, Grace's vice-president Chuck Rush, said.

The truck was set on fire by an arsonist at about 4 a.m. Tuesday, fire investigators said. The warehouse is located at 605 E. 13th Ave. A padlock on the van's doors had been broken, investigators said.

"We suspect someone was breaking into the van to steal the merchandise, and when he saw a bunch of fertilizer, decided to set it on fire," said Fire Investigator John Glenn.

A fire department spokesman estimated damage to the truck at \$10,000. Rush said the

See Back Page, TOXIC

Agreement on dumping of nuclear wastes predicted

Associated Press

Juneau — State Sen. Bettye Fahrenkamp said Monday she thinks Alaska will be able to reach an agreement with Washington state to continue dumping low-level radioactive waste there.

"They like us because we produce a small amount of low-level waste," Ms. Fahrenkamp, D-Fairbanks, reported to senators after attending a Western Interstate Energy Board meeting over the weekend. Disposal agreements were discussed at the Seattle meeting.

She said an agreement on low-

level waste disposal is needed by July 1 because Washington voters last fall approved an initiative which prohibits dumping of non-medical radioactive waste in-state, except by special agreement.

Ms. Fahrenkamp said the initiative was one in a series of actions prompted by Washington residents' concern over poor packaging and unsafe transportation of radioactive waste brought into the state for disposal.

In 1979, the problem became so severe that then-Gov. Dixy Lee Ray refused all shipments of radioactive

waste.

Prompted by complaints from Washington and other states, Congress in December approved a low-level radioactive waste policy which makes each state responsible for commercial waste generated within its borders. The policy also allows states to make agreements regarding low-level waste disposal.

Ms. Fahrenkamp said Washington is glad to have Alaska as a customer because Alaska has a good record for transporting and packaging radioactive waste. Most of Alaska's radioactive waste is from universities and hospitals, she said.

More federal money for nuclear power

The Los Angeles Times

WASHINGTON — Secretary of Energy James Edwards promised a big increase in federal spending for nuclear power Tuesday, despite the Reagan administration's overall budget austerity. And he said that the future prosperity of the country will depend on electricity generated by nuclear plants.

"To say 'no' to nuclear energy would be turning our backs on the 33 million Americans who will come of working age in the next 20 years by depriving them of jobs, Edwards told reporters.

His statements emphasized a dramatic change in policy from that of the Carter administration, which had placed a high reliance on energy conservation programs while considering nuclear power attractive

only as an energy source of last resort.

Edwards said he wants the government to:

- Encourage development of the breeder reactor, which creates new atomic fuel even as it consumes its fuel.

- Move ahead quickly in finding disposal sites for nuclear wastes. The material should be buried where it can be retrieved later if better methods of disposal are discovered, he said.

- Foster a reprocessing industry, in which spent nuclear fuel is made usable again.

Federal spending to promote nuclear power will be one of the few areas of increased outlays under the Reagan administration, which hopes to cut \$50 billion from the \$739 billion federal budget proposed by President Carter for the fiscal year starting Oct. 1.

Winter storm hits

Kenai seeks waste sites

By TOM ATKINSON
Daily News correspondent

SOLDOTNA — Hazardous wastes may have Alaska burial grounds if efforts by Kenai Peninsula borough administrators and engineers pay off.

Responding to local pressures, Borough Mayor Stan Thompson has initiated a search for the ultimate waste site — one where septic, special and hazardous wastes all could be dumped.

While borough engineers study maps and soil information relating to possible sites on borough and state land in the Kenai area, Thompson has made overtures to the federal government about using Kenai Wildlife Refuge lands for a dump.

"We are trying to check all possibilities," Thompson said.

The mayor said he informed Congressman Don Young of the

disposal problem and Young asked how he could help.

Although Thompson is skeptical about getting any answer from federal agencies in less than five years, he is encouraged by the new Secretary of Interior's stance on federal land use. He says Secretary James Watt's receptivity to local use of federal lands may improve borough chances of locating a disposal site on the refuge. The refuge comprises the majority of land within the Kenai Peninsula borough.

A site on the refuge has been proposed by Walt Pedersen of Sterling who has spearheaded a citizen's drive to close the Sterling special waste site. Industrial wastes — sometimes contaminated by oil and thus falling in the category of special wastes — are disposed of in Sterling, much to the dismay of nearby residents.

Both the borough and the operators of the Sterling sites have acknowledged the need to relocate the site. They concur that future industrial expansion on the peninsula will aggravate present waste problems.

Pedersen's vision calls for the U.S. government to donate a square mile of refuge away from any settlement, and for the state to build roads and a septic treatment plant there. The borough would operate the site according to Pedersen's plan.

Thompson says Pedersen's proposed site southeast of Soldotna would be ideal, except for its inaccessibility. But the mayor isn't putting all his eggs in Pedersen's basket. Thompson wants to pursue at least three alternative sites.

What may be the most promising site lies on borough-owned land north of the present road system in north Kenai. Borough engineers are investigating the water table in that area to determine if a waste site is feasible.

A north Kenai site could be connected by road to the Swanson river oil field, and to the North Kenai industrial area, Thompson said. Marine links to the Beluga coal field, Anchorage and other areas also would be possible.



THE LEGISLATURE OF THE STATE OF ALASKA
TWELFTH LEGISLATURE

FISCAL NOTE

I. REQUEST

Bill/Resolution No. HR-72
 Title Act relating to the disposal of radioactive and hazardous wastes
 Requested by Rogers, Gardiner, Clocksin and Miller Date _____

II. FISCAL DETAIL

Agency Affected Dept. of Environmental Conservation
 Program Category Affected Environmental Conservation
 BRU, Program, or Subprogram(s) Affected Env. Quality Management, Env. Quality Operations
 (Note: If more than one budget component is affected, separate line-item amounts and funding for each component in the analysis section.)

EXPENDITURES (Thousands of Dollars)

	FY 81	FY 82	FY 83	FY 84	FY 85	FY 86
100 PERSONAL SERVICES		363.4	405.2	445.8	490.3	539.4
200 TRAVEL		57.4	63.1	69.4	76.3	83.9
300 CONTRACTUAL		145.8	600.0*	326.4**	359.0	394.9
400 COMMODITIES		24.2	26.6	29.3	32.2	35.4
500 EQUIPMENT		26.5	462.0*	12.1	13.3	14.6
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS, ETC.						
TOTAL		622.3	1,556.9*	883.0	971.1	1,068.2

* Includes \$1,000.0 to purchase, start up and operate a hazardous waste recycling- and-incineration facility.

FUNDING (Thousands of Dollars)

	FY 81	FY 82	FY 83	FY 84	FY 85	FY 86
GENERAL FUND		622.3	1,556.9	883.0	971.1	1,068.2
FEDERAL FUNDS		(213.8)				
OTHER (Specify Fund Source)						

** Includes 150.0 to operate and maintain the hazardous waste recycling and incineration facility.

POSITIONS

	FY 81	FY 82	FY 83	FY 84	FY 85	FY 86
FULL TIME		5	5	5	5	5
PART TIME		4 1/2	4 1/2	4 1/2	4 1/2	4 1/2
TEMPORARY						

III. ANALYSIS (See Fiscal Note Preparation Instructions, Section III)

I. BACKGROUND:

HB-72 will require the establishment of regulations plus controls, to assure proper disposal and handling of hazardous and radioactive wastes throughout the state. Up to now there has been no systematic state effort in controlling either type of waste.

There is very little radioactive waste in the state. Substantially larger quantities of hazardous wastes are present, with the majority of Alaskan generators being small firms and private individuals. However, there is

IV. DATE 2/20/81 PREPARED BY Thomas R. Hansen
 AGENCY Department of Environmental Conservation
 PHONE 465-2666
 Original: Legislative Finance
 cc: Budget and Management
 Prime Sponsor (First Legislator Named)

little widespread understanding or recognition of hazardous waste and its problems by either the general public or industry. The national Resource Conservation and Recovery Act places requirements on only the large generators, transporters, and disposers of hazardous waste, of which there are not many in the state now. Future industrial development will substantially increase the quantity of hazardous wastes.

Section 18.31.010 of HB-72 requires that all hazardous waste be "processed to remove its harmful properties". While it is not possible to accomplish this for all hazardous wastes, approximately 80-85% can be rendered harmless through incineration and recycling. A facility to do this does not exist now, and costs for developing one are included in the FY 82-83 timeframe of the Fiscal Note.

II. ASSUMPTIONS:

- (1) Assume full bill to be enacted.
- (2) Technical assistance, training, and public awareness will be emphasized so that general public and industry will be encouraged to use safe methods and procedures.
- (3) A control effort to handle small hazardous waste users should also regulate industry covered under federal legislation, thus eliminating federal involvement at little additional cost.
- (4) Program is to be 100% supported by state funds, to minimize influence of federal government.
- (4) 10% inflation assumed in all years after FY-82.

III. PERSONAL SERVICES:

A. For the Southeast Regional Office: one environmental field officer to provide technical assistance, public awareness, training and conduct inspections (R17 for 10 months)	39.1
B. For the Southcentral Regional Office (Including Anchorage-Wasilla-Valdez-Kenai): two environmental field officers to provide technical assistance, public awareness, training conduct inspections (R17 for 10 months)	78.2
C. For the Northern Regional Office (including Fairbanks and Prudhoe Bay) two environmental field officers to provide technical assistance, public awareness, training and conduct inspections (R17 for 10 months).	89.5
D. Half-time clerk-typist to support development and maintenance of regulations, plans, training and technical assistance in the Central Office (R8 for twelve months, half-time)	12.3
E. Clerk Typist support for Regional Offices	32.8
1. Southeast Regional Office (R8 for 10 months, 1/4-time)	6.3
2. Southcentral Regional Office (R8 for 10 months, 1/2-time)	12.3
3. Northern Regional Office (R8 for 10 months, 1/2-time)	14.2
F. Needed: One person-year from the Dept. of Law, to support inspections and investigations as needed by regional personnel (see fiscal note from Dept. of Law)	
SUBTOTAL, PERSONAL SERVICES:	<u>251.9</u>

IV. TRAVEL: In support of each field officer position, a total of \$6,000 will be needed to provide travel, to carry out technical assistance, inspection/investigations and adequately provide for safe handling of hazardous wastes.

\$30.0

V. CONTRACTUAL:

A.	Southeast Regional Office (1 position)	
	Rent	2.7
	Telephone	2.0
	Advertising	.5
	Repair & maintenance of machines	.5
	Equipment Rental (1/4 Lexitron rental)	1.2
	Subtotal	<u>6.9</u>
B.	Southcentral Regional Office (two positions located in the Cook Inlet area)	
	Contractual costs per position will be identical to those shown for the Southeast Regional Office above.	
	Subtotal	13.8
C.	Northern Regional Office (two positions located in the Fairbanks area)	
	Cost per position will be 1.15 times that shown for the Southeast Regional Office above.	
	Subtotal	15.6
D.	Professional Services - to provide for investigation of specific disposal conditions and/or to provide for cleanup of environmental hazards due to improperly disposed-of wastes, or from emergency spill conditions.	
	Subtotal	\$30.0
E.	Half-time Clerk/Typist in Central Office	
	Rent	1.4
	Repair & maintenance of machine	1.0
	Equipment Rental (1/2 Lexitron at \$400 per month)	2.4
	Subtotal	4.7
F.	Laboratory Support:	
	Equipment repair, maintenance service	4.0
	Sample analysis	2.0
	Subtotal:	6.0
	SUBTOTAL CONTRACTUAL	<u>77.3</u>

VI. COMMODITIES:

A.	In support of positions (\$.5 times 5.5 positions)	2.8
B.	Laboratory and sampling supplies-Regional Offices (\$2.0 times 5 professional regional positions, plus \$5.0 for Laboratory analysis supplies)	15.0
	SUBTOTAL COMMODITIES	<u>17.8</u>

VII. EQUIPMENT:

A.	\$2.0 per professional position, to provide for sampling supplies (masks, sampling equipment, and protective devices)	10.0
B.	\$16.5, for equipment to identify and quantify specific hazardous substances	16.5
	SUBTOTAL EQUIPMENT	<u>26.5</u>

VIII. SUMMARY OF NEW FISCAL NEEDS:

Personal services	270.5
Travel	30.0
Contractual	75.7
Commodities	17.8
Equipment	17.8
TOTAL, NEW COSTS NOT INCLUDED IN FY-82 BUDGET	<u>404.8</u>

IX. ADDITIONAL STATE FUNDS TO REPLACE FEDERAL FUNDS IN FY-82 BUDGET

In an effort to avoid unnecessary interference and harassment from the U. S. Environmental Protection Agency, this Fiscal Note replaces all federal funds associated with the hazardous waste control effort. In this way, the state will not be placed under any obligation to carry out unreasonable federal demands for fear of losing grant funds. A tabulation of the hazardous waste federal funds in the FY-82 budget is as follows:

1.	<u>Personal Services:</u>	
	A. 25% of Chief, Air and Solid Waste Management Section	15.8
	B. 25% of Clerk/Typist III (Air and SWM Section)	5.6
	C. 100% of Hazardous Waste Engineer (Air and SWM Section)	43.1
	D. 42% of Planner, Air and Solid Waste Management Section	15.7
	E. 20% of Solid Waste-Landfill Engineer (Air and SWM Sec.)	10.0
	F. 75% of Hazardous Waste Ecologist/Engineer position (new position)	<u>26.3</u>
	Subtotal, Personal Services	116.5
2.	<u>Travel:</u>	27.4
3.	<u>Contractual:</u>	68.5
4.	<u>Commodities:</u>	6.4
5.	<u>Equipment:</u>	--
	<u>TOTAL:</u>	217.2

X. PROJECTED EXPENSE FOR PROPERLY TREATING HAZARDOUS WASTE

Section 18.31.010 requires that hazardous wastes be rendered harmless before being disposed of in this state. The only effective ways to accomplish this objective is to recycle and/or incinerate these wastes. Through these means about 80-85% of the total hazardous wastes could be rendered harmless. No such devices occur in the state, however, and if the state were to establish and operate such a facility it would have costs as below:

FY-82: Review of incinerator designs, location, and completion of feasibility studies. No additional expense, to be handled within program personnel projected above.

FY-83: Purchase of incinerator (\$500,000), completion of site location and design, and initiation of operation (\$500,000).

\$1 million

FY-84: Annual operating expenses of approximately \$150,000 per year.

150.0

XI. SECURE LANDFILL COSTS

Secure landfills are normally the way of handling and disposing of hazardous wastes in other states. However, HB-72 as written would not allow for instate disposal unless the hazardous properties were eliminated. As noted above, this will be impractical for 15-20% of the total hazardous wastes generated in the state, even with resource recovery and incineration taking place. If HB-72 is modified to provide for some instate disposal, the costs associated with operating a secure landfill (which would be designed to make certain that no environmental or health hazards result from waste disposal) would be approximately as follows:

1. If no resource recovery or incineration capability is developed, a secure landfill to accommodate Alaskan hazardous wastes would cost approximately \$3-4 million per year.
2. If incineration/resources recovery facilities are present, a secure landfill to handle the remaining hazardous wastes would be substantially reduced to approximately \$1.5-\$3 million per year.

These costs are not projected in the Fiscal Note because of the possibility that private enterprise and/or industry may operate and fund this facility if HB-72 allows for instate disposal. The costs are presented for informational purposes only, to provide a full perspective of hazardous waste disposal costs.

XII. TOTAL FY-82 COSTS FOR STATE HAZARDOUS WASTE CONTROL PROGRAM

	<u>New Funds</u>	<u>State funds to replace federal funds</u>	<u>Total</u>
A. Personal Services	251.9	116.5	368.4
B. Travel	30.0	27.4	57.4
C. Contractual	77.3	68.5	145.8
D. Commodities	17.8	6.4	24.2
E. Equipment	<u>26.5</u>	<u> </u>	<u>26.5</u>
Total	403.5	218.8	622.3

Page 7, lines 25-26 - Delete "and safe handling and storage of hazardous materials."

This has nothing to do with hazardous waste regulation. Further, this subject is covered adequately by DOT regulations under the Hazardous Materials Transportation Act.

§46.03.296(a) -

Page 8, line 1 - Insert after "to" - "treat, store, or"; add after "unless" - "authorized by permit."

Page 8, lines 2-6 - delete.

"Dispose", as defined under RCRA, includes placing a waste in a landfill, landfarm or surface impoundment. Requiring pretreatment would effectively ban landfarming, which is an effective and environmentally acceptable method of treating oily wastes. It would also ban surface impoundments. This is impossible to comply with since most hazardous wastes are high in water content and even pretreatment may have to be done in some type of surface impoundment. (Note that because EPA feels that no liner can be guaranteed 100% effective, surface impoundments, even when used for treatment or storage, are considered "disposal" facilities because of the potential, even if remote of leaking.)

What is "best available technology?" How does the ADEC determine BAT? Are pretreatment facilities available in Alaska? At what cost to generators, particularly small generators in the bush? The ADEC should not be given authority to determine the appropriate technology to be used on every possible hazardous waste stream. A general performance standard should be set which allows the generator or disposer to choose the most cost effective method for meeting the performance standard (lines 4-6 can be considered a performance standard).

§46.03.301(2) - How can the ADEC, by regulation, give itself enforcement authority? This authority must be granted by the legislature.

Page 8, line 2, delete "adopt, administer, and enforce" and substitute "receive final authorization to administer."

§46.03.301(6) - This provision seems to indicate that the ADEC will establish de minimus quantities for wastes listed under (4). What about wastes which are not listed but which meet the hazardous waste characteristics?

This bill would require all hazardous wastes to be listed. Any waste which the ADEC did not know of or think of would escape regulation. This bill does not provide for a dual system of waste identification as per RCRA since only listed wastes are subject to permit and reporting requirements (see language in 46.03.301(6) referring to 46.03.306 (permits) and 46.03.311 (reports)).

Notes
Page 8, line 27, after "section" insert "or meeting one of the characteristics identified under (3) of this section."

§46.03.301(7) - The RCRA small generator exemption applies to generators not disposers, etc. For example, a small generator is entitled to this exemption only if he sends his hazardous waste to a permitted facility.

Page 9, lines 1-4 - delete in their entirety. Any exemptions can be handled under 46.03.301(6).

Also, the appropriate words of art under RCRA should be used. Therefore, page 9, line 1 - delete "produces" and substitute "generators"; delete "processes" and substitute "treats".

§46.02.306 - Federal law does not require the transporter to have a permit. The state can require one but is it really needed or will this impose just another burden on transporters?

Again, the term "process" should be changed to "treat" in lines 8 and 15.

What types of requirements may the ADEC include in the permit? Does the legislature want to give the ADEC complete discretion? I suggest some guidelines be given. It may be desirable to copy §3004 of RCRA (see my markup of Title 46 - i.e., 46.03.370).

What about a facility which has achieved interim status or has received a final EPA permit before the state takes over the program. These facilities must be grandfathered in. (See my markup - 46.03.380(d) and (e)).

§46.03.311 - The reference in this section and the previous reference in 46.03.306 is "submits to the departments any... manifests." There is more to the manifest system than a submission to the ADEC. The manifest system is the linchpin of the RCRA cradle to grave regulation of hazardous wastes. See my markup which requires generators to initiate the manifest (46.03.350) and transporters (46.03.360) and treaters, storers and disposers (46.03.370) to comply with manifest.

§12 - page 10 -

Line 10 - "disposal" not "dispose" is defined in 42 U.S.C. 6903(3).

Line 12 - "solid waste" needs to be defined inasmuch as RCRA "solid waste" includes semi-solid, liquid and contained gaseous material. See my markup - 46.03.900(10).

This section needs a definition of "treatment" - see my markup 46.03.900(24).

Suggested rewording for Sec. 46.03.296:

"Sec. 46.03.296. DISPOSAL OF HAZARDOUS WASTES. (a) It is unlawful to dispose of hazardous wastes in the state unless ^{authorized by permit}

(1) the waste has been treated and disposed of in a manner that uses best available control technology [to remove or reduce its harmful properties]; and

(2) it is disposed of in a manner which will ensure the protection of human health, livestock, wildlife, property, and the environment.

(b) The department shall adopt regulations in accordance with the Administrative Procedure Act (AS 44.62) for the treatment, storage and disposal of hazardous wastes to ensure the protection of human health, livestock, wildlife, property, and the environment.

Suggested definition for "best available technology":

^{control}
"best available technology" means the maximum degree of reduction of the harmful qualities of each hazardous waste ^{and identification} subject to regulation ^{the department} which the department, on a case-by-case basis, taking into account energy, environmental, and economic impacts and other costs, determines is achievable for such waste through application of production processes and available methods, systems and techniques.

P.

CHANGES MADE:

1. Page 6: Definition for "nuclear fuel production facility" added after line 19
2. Page 7: A new section 11 after line 26 added, to amend AS 46.03.100
3. Page 8: Minor wording changes on lines 26-27.
4. Page 9:
 - A. A new subsection (7) added before line 1, to clarify department's policies for characterizing hazardous wastes consistent with federal requirements.
 - B. Minor wording changes to line 1
 - C. A new subsection (10) added, to require the establishment of criteria for the location of any hazardous waste disposal facility.
5. Page 11: New subsection 14, to update the criminal penalties in AS 46.03.790 to more closely conform with federal requirements
6. Page 11: New section 15, to establish requirements for proof of financial responsibility for controlling hazardous substances

Original sponsor: Kerttula

IN THE SENATE

BY THE JUDICIARY COMMITTEE

HOUSE CS FOR CS FOR SENATE BILL NO. 29 (Judiciary)

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWELFTH LEGISLATURE - FIRST SESSION

A BILL

For an Act entitled: "An Act amending laws relating to nuclear and radioactive materials and adding provisions of law regulating hazardous wastes; and providing for an effective date."

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

* Section 1. AS 18.45 is amended by adding a new section to read:

Sec. 18.45.100. NUCLEAR FACILITIES PROHIBITED. A person may not construct a nuclear fuel production facility, a nuclear utilization facility, a nuclear reprocessing facility, or a nuclear enhancement facility in the state.

* Sec. 2. AS 18.45 is amended by adding new sections to read:

Sec. 18.45.110. HIGH LEVEL RADIOACTIVE WASTE DISPOSAL FACILITY PERMIT. (a) A person may not construct a high level radioactive waste disposal facility in the state unless he has first obtained a permit from the commissioner to construct the facility on land designated by the legislature under (b) of this section.

(b) The legislature shall designate by law the land in the state on which a high level radioactive waste disposal facility may be located.

(c) A permit may not be issued by the commissioner under this section unless

(1) the governor has approved the permit;

(2) local approval has been obtained; local approval is obtained

(A) if the municipality with jurisdiction over the proposed facility site has approved the permit; or

(B) if the facility is to be located in the unorganized township, a majority of the registered voters who live within 100 miles of the proposed facility votes to approve the issuance of the permit at a general election of the state or at a special election of the state called for the purpose; and

(3) issuance of the permit is approved by a majority of the registered voters at a general or special statewide election.

(d) The commissioner shall adopt regulations governing the issuance of permits required by this section.

Sec. 18.45.120. PROOF OF FINANCIAL RESPONSIBILITY REQUIRED FOR FACILITY OPERATION. (a) A person may not operate a high level radioactive waste disposal facility unless he has furnished proof to the commissioner of financial ability to care for the radioactive material which will be used in the facility until the material is no longer a threat to health or safety, as determined by the commissioner by regulation. Financial responsibility may be demonstrated by self-insurance, insurance, surety, or guarantee, under terms the commissioner may prescribe.

(b) Acceptance of proof of financial responsibility under this section expires

(1) one year from its issuance for self-insurance;

(2) on the effective date of a change in the surety bond, guarantee, or insurance agreement; or

(3) on the expiration or cancellation of the surety bond, guarantee, or insurance agreement.

(c) The person whose proof of financial responsibility is accepted by the commissioner under this section shall notify the commissioner at

least 30 days before the effective date of a change, expiration or cancellation in the surety bond, guarantee, or insurance agreement. Application for renewal of acceptance of proof of financial responsibility under this section must be filed at least 30 days before the date of expiration.

(d) The commissioner, after notice and hearing, may revoke acceptance of proof of financial responsibility if he determines that

(1) acceptance was procured by fraud or misrepresentation; or

(2) a change of circumstance has occurred, other than a change specified in (b)(1) - (3) of this section, which would have warranted denial of the application.

* Sec. 3. AS 18.45.110(a) is amended to read:

Sec. 18.45.110. FACILITIES [HIGH LEVEL RADIOACTIVE WASTE DISPOSAL FACILITY] PERMIT. (a) A person may not construct a nuclear fuel production facility, nuclear utilization facility, nuclear reprocessing facility, nuclear enhancement facility, or high level radioactive waste disposal facility in the state unless he has first obtained a permit from the commissioner to construct the facility on land designated by the legislature under (b) of this section.

* Sec. 4. AS 18.45.110(b) is amended to read:

(b) The legislature shall designate by law the land in the state on which a nuclear fuel production, utilization, reprocessing, enhancement, or high level radioactive waste disposal facility may be located.

* Sec. 5. AS 18.45.120(a) is amended to read:

(a) A person may not operate a nuclear fuel production facility, a nuclear utilization facility, a nuclear reprocessing facility, a nuclear enhancement facility, or a high level radioactive waste disposal facility unless he has furnished proof to the commissioner of

financial ability to care for the radioactive material which will be used in the facility until the material is no longer a threat to health or safety, as determined by the commissioner by regulation. Financial responsibility may be demonstrated by self-insurance, insurance, surety or guarantee, under terms the commissioner may prescribe.

* Sec. 6. AS 18.45 is amended by adding new sections to read:

Sec. 18.45.130. TRANSPORTATION OF RADIOACTIVE WASTE MATERIAL.

(a) The transportation of high level radioactive waste material, except to a facility approved for operation under this chapter or for purposes of disposal outside the state, is prohibited.

(b) A person may not transport radioactive waste material in the state unless he has first obtained a permit from the commissioner. The commissioner shall adopt regulations governing the issuance of permits required by this subsection, and shall establish and implement a system to record by manifest the movement of radioactive waste materials which are transported.

(c) This section does not apply to the transportation of radioactive waste material by the federal government. When an agency of the federal government proposes to transport radioactive waste material in the state, the agency shall notify the commissioner and the Department of Public Safety of its plans. When notice is received from the federal agency, the commissioner and the commissioner of public safety may take any action they regard as necessary to protect the health and safety of persons in the vicinity of the route to be used to transport the radioactive waste material. The notice provisions of this subsection do not apply if advance notice would represent a threat to national security.

Sec. 18.45.140. PROOF OF RESPONSIBILITY FOR DISPOSAL OF HIGH LEVEL RADIOACTIVE WASTES REQUIRED. (a) A person may not dispose of high level radioactive wastes in the state unless he has furnished

proof to the commissioner of financial ability to care for the radioactive waste material. Financial responsibility may be demonstrated by self-insurance, insurance, surety, or guarantee, under terms the commissioner may prescribe.

(b) Acceptance of proof of financial responsibility under this section expires:

- (1) one year from its issuance for self-insurance;
- (2) on the effective date of a change in the surety bond, guarantee, or insurance agreement; or
- (3) on the expiration or cancellation of the surety bond, guarantee, or insurance agreement.

(c) The person whose proof of financial responsibility is accepted by the commissioner under this section shall notify the commissioner at least 30 days before the effective date of a change, expiration or cancellation in the surety bond, guarantee, or insurance agreement. Application for renewal of acceptance of proof of financial responsibility under this section must be filed at least 30 days before the date of expiration.

(d) The commissioner, after notice and hearing, may revoke acceptance of proof of financial responsibility if he determines that

- (1) acceptance was procured by fraud or misrepresentation; or
- (2) a change of circumstance has occurred, other than a change specified in (b)(1) - (3) of this section, which would have warranted denial of the application.

Sec. 18.45.150. PENALTIES. (a) A person who violates a provision of AS 18.45.130 is guilty of a class C felony.

(b) In addition to the penalty prescribed for a class C felony under AS 12.55.035(b)(2) and (c), a person who violates a provision of

AS 18.45.130 - 18.45.140 is subject to

- (1) a penalty of \$50,000 for each offense; each day that the violation continues constitutes a separate offense;
- (2) the payment to the state of expenses incurred by the state in removing, correcting, or abating the adverse effects of the violation; and
- (3) actual damages resulting from the violation.

Sec. 18.45.160. DEFINITIONS. In AS 18.45.100 - 18.45.160,

- (1) "commissioner" means the commissioner of environmental conservation;
- (2) "high level radioactive waste" means
 - (A) used nuclear reactor fuel;
 - (B) waste produced during the reprocessing of used nuclear reactor fuel; and
 - (C) elements having an atomic number greater than 92 and containing 10 or more nanocuries per gram;
- (3) "manifest" means the form used for identifying the quantity, composition, origin, routing, and destination of radioactive wastes during transportation; and
- (4) "nuclear fuel production facility" means a facility which purifies radioactive mineral concentrates and fabricates fissionable material to be used for producing energy in a nuclear reactor.
- ⁵~~(4)~~ "nuclear utilization facility" means an apparatus, device, or equipment in which nuclear fission is sustained in a self-supporting and controlled chain reaction; term does not include an apparatus, device, or equipment used exclusively for educational, medical, or research purposes.

* Sec. 7. AS 46.03.250 is amended to read:

Sec. 46.03.250. AUTHORITY. The department shall adopt regulations

- (1) establishing standards governing the discharge of low level radioactive materials [RADIONUCLIDES] to the air, water, land,

and subsurface land of the state;

(2) establishing safeguards for radioactive waste material which do not constitute a threat to public health or safety and which may be stored or disposed in the state; and

(3) establishing procedures for the storage and disposal of radioactive materials used in medicine, education, instruments, industrial testing, or scientific research.

* Sec. 8. AS 46.03.260 is amended to read:

-- Sec. 46.03.260. USE OF RADIOACTIVE MATERIALS [ATOMIC RADIATION]

A person who conducts an operation which results in the discharge of low level radioactive materials [RADIONUCLIDES] to the air, water, land or subsurface land of the state must obtain a permit from the department before commencing the discharge.

* Sec. 9. AS 46.03.900 is amended by adding a new paragraph to read:

(30) "low level radioactive materials" means a radioactive waste other than

(A) used nuclear reactor fuel;

(B) waste produced during the reprocessing of used nuclear reactor fuel; and

(C) elements having an atomic number greater than 92 and containing 10 or more nanocuries per gram.

* Sec. 10. AS 46.03.020(10) is amended by adding a new subparagraph to read:

(I) handling, transportation, treatment, storage, and disposal of hazardous wastes, and ~~safe handling and storage of hazardous materials;~~

* Sec. 11. AS 46.03.100 is amended by adding a new subparagraph to read:

(c) A permit for disposing of hazardous wastes shall be conditioned upon proof of financial responsibility as provided in AS 46.03.830.

* Sec. ~~11~~¹². AS 46.03 is amended by adding new sections to read:

ARTICLE 5. RADIATION AND HAZARDOUS WASTE PROTECTION.

Sec. 46.03.296. DISPOSAL OF HAZARDOUS WASTES. (a) It is un-

Am #1

treat, store or

lawful disposal of hazardous wastes in the state unless ^{authorized by permit}

- (1) the waste has been treated to remove or reduce its harmful properties by the best available technology; and
- (2) it is disposed of in a manner which will ensure the protection of human health, livestock, wildlife, property, and the environment.

(b) The department shall adopt regulations in accordance with the Administrative Procedure Act (AS 44.62) for the disposal of hazardous wastes to ensure the protection of human health, livestock, wildlife, property, and the environment.

Sec. 46.03.301. CONTROL OF HAZARDOUS WASTES. The department shall, by regulations adopted under the Administrative Procedure Act (AS 44.62), establish a state hazardous waste program; the state hazardous waste program shall

Am 3

(1) be consistent with the Federal Resource Conservation and Recovery Act of 1976 (P.L. 94-580, 42 U.S.C. 6901-6987);

(2) qualify the department to ^{receive final authorization} ~~adopt, administer, and enforce~~ a hazardous waste program in accordance with the Federal Resource Conservation and Recovery Act;

(3) establish criteria to identify the characteristics of hazardous wastes;

(4) enumerate specific hazardous wastes subject to the provisions of AS 46.03.306 and 46.03.311;

(5) identify the source or sources of hazardous wastes enumerated under (4) of this section;

(6) determine the amount of ^A [each] hazardous waste [enumerated under (4) of this section] which is so small as not to present a hazard to public health, livestock, fish, wildlife, and the environment of the state when disposed of;

substantially equivalent with the federal Resource Conservation and Recovery Act of 1976 (P.L. 94-580) unless the commissioner determines, in accordance with regulations adopted under this chapter, that a specific hazardous waste poses a substantial threat to the public health and welfare.

⁸
(7) exempt a person who ^{GENERATES} ~~produces~~ ^{TREATS} ~~processes~~, transports, stores, or disposes of a hazardous waste from the provisions of this chapter if the quantity of the hazardous waste is less than the amount identified in (6) of this section; and

⁹
~~(8) avoid duplication of federal laws and regulations relating to the control of hazardous wastes.~~

(10) establish criteria for identification of appropriate hazardous waste disposal site locations and require opportunity for public participation in site selection and issuance of hazard waste disposal permits.

Sec. 46.03.306. HAZARDOUS WASTE PERMIT. (a) A person may not process, transport, store, or dispose of a hazardous waste as defined by the department by regulation unless that person first secures a permit from the department and submits to the department any reports or manifests which the department may require for handling the hazardous wastes.

(b) A person who generates hazardous waste is not required to obtain a permit under (a) of this section unless the person also processes, transports, stores, or disposes of the hazardous waste.

Sec. 46.03.311. HAZARDOUS WASTE REPORTS. A person who generates hazardous wastes shall submit to the department reports or manifests which the department may require for handling the hazardous wastes.

Sec. 46.03.316. PUBLIC RECORDS. (a) Permits, permit applications, records, reports, and information and documentation obtained under AS 46.03.306 or 46.03.311 are available to the public for inspection and copying. However, upon a showing satisfactory to the commissioner that a record, report, permit, application, or information would, if made public, divulge methods or processes entitled to protection as trade secrets, the commissioner shall treat the record, report, permit, application, or information as confidential.

(b) Information which is confidential may be transmitted under continuing restriction of confidentiality to other officers, employees or authorized representatives of the state or of the United States if

(1) the person responsible for furnishing the record, report, permit, application, or information to which such information pertains is informed at least two weeks before the transmittal; and

(2) the information has been acquired by the department under the provisions of AS 46.03.296 - 46.03.316.

(c) The provisions of this section do not limit the department's authority to release confidential information during emergency situations.

* Sec. ¹³ 12. AS 46.03.900 is amended by adding new paragraphs to read:

Do not add RCRA
(30) ~~"dispose"~~ has the same meaning as the term is defined in 42 U.S.C. 6903(3) *(disposal)*

(31) "hazardous waste" means a solid waste or combination of wastes which because of quantity, concentration, or physical, chemical, or infectious characteristics may

(A) cause, or significantly contribute to, an increase in mortality or an increase in serious irreversible or incapacitating reversible illness; or

for protection of
(B) pose a substantial hazard to human health or the environment when improperly disposed of; *with regard, etc.*

(32) "manifest" means the form used for identifying the quantity, composition, origin, routing, and destination of hazardous wastes;

(same) parallel -> dispose
(33) "storage" means the containment of hazardous waste, either on a temporary basis or for a period of years, in a manner which does not constitute disposal of the hazardous waste.

5 ~~(34)~~ *Treatment has the same meaning as provided in 42 U.S.C. 6903 (27).*

Section 14. AS 46.03.790 is amended to read:

AS 46.03.790. CRIMINAL PENALTIES. (a) A person who violates or who causes or permits a violation of a provision of this chapter or AS 46.04, or of a regulation, lawful order of the department, or permit, approval, or acceptance, or term or condition of a permit, approval, or acceptance issued under this chapter or AS 46.04 is guilty of a [violation] Class B misdemeanor.

(b) A person who wilfully violates a provision of this chapter, or of a regulation, lawful order of the department, or permit, approval, or acceptance, or term or condition of a permit, approval, or acceptance issued under this chapter or AS 46.04 is guilty of a Class A misdemeanor.

(c) Each day on which a violation described in (a) or (b) of this section occurs is considered a separate violation.

Sec. 15. AS 46.03.830, PROOF OF FINANCIAL RESPONSIBILITY, is amended by adding new subsections to read:

(a) A person may not operate a petrochemical production facility or a hazardous waste disposal site unless the the person has furnished proof to the commissioner of financial ability to control a hazardous substance which will be used in or produced or disposed of or stored at the site of the facility. Proof of financial responsibility shall include responsibility after closure of the facility or site and may be demonstrated by self-insurance, surety, or guarantee, under regulations issued by othe department.

(b) Acceptance of proof of financial responsibility under this section expires

(1) one year from its issuance for self-insurance;

(2) on the effective date of a change in the surety bond, guarantee, or insurance agreement; or

(3) on the expiration or cancellation of the surety bond, guarantee, or insurance agreement.

P.

(c) The person whose proof of financial responsibility is accepted by the department under this section shall notify the department at least 30 days before the effective date of a change, expiration, or cancellation in the surety bond, guarantee, or insurance agreement. Application for renewal of acceptance of proof of financial responsibility under this section must be filed at least 30 days before the date of expiration.

(d) The department, after notice and hearing, may revoke acceptance of proof of financial responsibility if it determines that acceptance was procured by fraud or misrepresentation, or that a change of circumstance has occurred which warrants revocation under regulations issued by the department.

* Sec. ~~13~~¹⁶. AS 18.45.010 - 18.45.080 are repealed.

* Sec. ~~14~~¹⁷. Sections 1, 2, 6 - 9, and 13 of this Act take effect immediately in accordance with AS 01.10.070(c).

* Sec. ~~15~~¹⁸. Sections 3 - 5 of this Act take effect on the date of a final

-10-

HCS CSSB 29(Jud)

court order ruling AS 18.45.100 as enacted by sec. 1 of this Act invalid or unconstitutional.

* Sec. ~~16~~¹⁹. Sections 10 - 12 of this Act take effect July 1, 1981.

5/28/81

Chenoweth

Holdsworth "Contract is Nuclear Fuel production Facility?" *

Original sponsor: Kerttula

1 IN THE SENATE

BY THE JUDICIARY COMMITTEE

2 HOUSE CS FOR CS FOR SENATE BILL NO. 29 (Judiciary)

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 TWELFTH LEGISLATURE - FIRST SESSION

5 A BILL

6 For an Act entitled: "An Act amending laws relating to nuclear and radio-
7 active materials and adding provisions of law regulat-
8 ing hazardous wastes; and providing for an effective
9 date."

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

11 * Section 1. AS 18.45 is amended by adding a new section to read:

12 ~~Holdsworth~~ * Sec. 18.45.100. NUCLEAR FACILITIES PROHIBITED. A person may not
13 construct a nuclear fuel production facility, a nuclear utilization
14 facility, a nuclear reprocessing facility, or a nuclear enhancement
15 facility in the state.

16 * Sec. 2. AS 18.45 is amended by adding new sections to read:

17 18.45.110 (A) Sec. 18.45.110. HIGH LEVEL RADIOACTIVE WASTE DISPOSAL FACILITY
18 PERMIT. (a) A person may not construct a high level radioactive waste
19 disposal facility in the state unless he has first obtained a permit
20 from the commissioner to construct the facility on land designated by
21 the legislature under (b) of this section.

22 (b) The legislature shall designate by law the land in the state
23 on which a high level radioactive waste disposal facility may be
24 located.

25 (c) A permit may not be issued by the commissioner under this
26 section unless

27 (1) the governor has approved the permit;

28 (2) local approval has been obtained; local approval is

29 obtained

1 (A) if the municipality with jurisdiction over the
2 proposed facility site has approved the permit; or

3 (B) if the facility is to be located in the unorganized
4 borough, a majority of the registered voters who live within 100
5 miles of the proposed facility votes to approve the issuance of
6 the permit at a general election of the state or at a special
7 election of the state called for the purpose; and

8 (3) issuance of the permit is approved by a majority of the
9 registered voters at a general or special statewide election.

10 (d) The commissioner shall adopt regulations governing the issu-
11 ance of permits required by this section.

12 Sec. 18.45.120. PROOF OF FINANCIAL RESPONSIBILITY REQUIRED FOR
13 FACILITY OPERATION. (a) A person may not operate a high level radio-
14 active waste disposal facility unless he has furnished proof to the
15 commissioner of financial ability to care for the radioactive material
16 which will be used in the facility until the material is no longer a
17 threat to health or safety, as determined by the commissioner by regu-
18 lation. Financial responsibility may be demonstrated by self-insurance,
19 insurance, surety, or guarantee, under terms the commissioner may pre-
20 scribe.

21 (b) Acceptance of proof of financial responsibility under this
22 section expires

23 (1) one year from its issuance for self-insurance;

24 (2) on the effective date of a change in the surety bond,
25 guarantee, or insurance agreement; or

26 (3) on the expiration or cancellation of the surety bond,
27 guarantee, or insurance agreement.

28 (c) The person whose proof of financial responsibility is accepted
29 by the commissioner under this section shall notify the commissioner at

1 least 30 days before the effective date of a change, expiration or
2 cancellation in the surety bond, guarantee, or insurance agreement.
3 Application for renewal of acceptance of proof of financial responsi-
4 bility under this section must be filed at least 30 days before the
5 date of expiration.

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7 tance of proof of financial responsibility if he determines that

8 (1) acceptance was procured by fraud or misrepresentatiⁿ ;
9 or

10 (2) a change of circumstance has occurred, other than a
11 change specified in (b)(1) - (3) of this section, which would have
12 warranted denial of the application.

13 * Sec. 3. AS 18.45.110(a) is amended to read:

14 Sec. 18.45.110. FACILITIES [HIGH LEVEL RADIOACTIVE WASTE DISPOSAL
15 FACILITY] PERMIT. (a) A person may not construct a nuclear fuel pro-
16 duction facility, nuclear utilization facility, nuclear reprocessing
17 facility, nuclear enhancement facility, or high level radioactive waste
18 disposal facility in the state unless he has first obtained a permit
19 from the commissioner to construct the facility on land designated by
20 the legislature under (b) of this section.

21 * Sec. 4. AS 18.45.110(b) is amended to read:

22 (b) The legislature shall designate by law the land in the state
23 on which a nuclear fuel production, utilization, reprocessing, enhance-
24 ment, or high level radioactive waste disposal facility may be located.

25 * Sec. 5. AS 18.45.120(a) is amended to read:

26 (a) A person may not operate a nuclear fuel production facility,
27 a nuclear utilization facility, a nuclear reprocessing facility, a
28 nuclear enhancement facility, or a high level radioactive waste dis-
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1 financial ability to care for the radioactive material which will be
2 used in the facility until the material is no longer a threat to health
3 or safety, as determined by the commissioner by regulation. Financial
4 responsibility may be demonstrated by self-insurance, insurance, surety,
5 or guarantee, under terms the commissioner may prescribe.

6 * Sec. 6. AS 18.45 is amended by adding new sections to read:

7 Sec. 18.45.130. TRANSPORTATION OF RADIOACTIVE WASTE MATERIAL.

8 (a) The transportation of high level radioactive waste material,
9 except to a facility approved for operation under this chapter or for
10 purposes of disposal outside the state, is prohibited.

11 (b) A person may not transport radioactive waste material in the
12 state unless he has first obtained a permit from the commissioner. The
13 commissioner shall adopt regulation governing the issuance of permits
14 required by this subsection, and shall establish and implement a system
15 to record by manifest the movement of radioactive waste materials which
16 are transported.

17 (c) This section does not apply to the transportation of radio-
18 active waste material by the federal government. When an agency of the
19 federal government proposes to transport radioactive waste material in
20 the state, the agency shall notify the commissioner and the Department
21 of Public Safety of its plans. When notice is received from the federal
22 agency, the commissioner and the commissioner of public safety may take
23 any action they regard as necessary to protect the health and safety of
24 persons in the vicinity of the route to be used to transport the radio-
25 active waste material. The notice provisions of this subsection do not
26 apply if advance notice would represent a threat to national security.

27 Sec. 18.45.140. PROOF OF RESPONSIBILITY FOR DISPOSAL OF HIGH
28 LEVEL RADIOACTIVE WASTES REQUIRED. (a) A person may not dispose of
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3 self-insurance, insurance, surety, or guarantee, under terms the commis-
4 sioner may prescribe.

5 (b) Acceptance of proof of financial responsibility under this
6 section expires

7 (1) one year from its issuance for self-insurance;

8 (2) on the effective date of a change in the surety bond,
9 guarantee, or insurance agreement; or

10 (3) on the expiration or cancellation of the surety bond,
11 guarantee, or insurance agreement.

12 (c) The person whose proof of financial responsibility is accepted
13 by the commissioner under this section shall notify the commissioner at
14 least 30 days before the effective date of a change, expiration or
15 cancellation in the surety bond, guarantee, or insurance agreement.
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25 warranted denial of the application.

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27 of AS 18.45.130 is guilty of a class C felony.

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29 under AS 12.55.035(b)(2) and (c), a person who violates a provision of

1 AS 18.45.130 - 18.45.140 is subject to

2 (1) a penalty of \$50,000 for each offense; each day that the
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4 (2) the payment to the state of expenses incurred by the
5 state in removing, correcting, or abating the adverse effects of the
6 violation; and

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13 (B) waste produced during the reprocessing of used
14 nuclear reactor fuel; and

15 (C) elements having an atomic number greater than 92
16 and containing 10 or more nanocuries per gram;

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18 quantity, composition, origin, routing, and destination of radioactive
19 wastes during transportation; and

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22 supporting and controlled chain reaction; term does not include an
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1 and subsurface land of the state;

2 (2) establishing safeguards for radioactive waste materials
3 which do not constitute a threat to public health or safety and which
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9 Sec. 46.03.260. USE OF RADIOACTIVE MATERIALS [ATOMIC RADIATION].
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22 * Sec. 10. AS 46.03.020(10) is amended by adding a new subparagraph to
23 read:

24 (I) handling, transportation, treatment, storage, and
25 disposal of hazardous wastes, and ~~safe handling and storage of~~
26 hazardous materials; *adding DEC (M...)*

27 * Sec. 11. AS 46.03 is amended by adding new sections to read:

28 *Article Problem - do not support* ARTICLE 5. RADIATION AND HAZARDOUS WASTE PROTECTION.

29 Sec. 46.03.296. DISPOSAL OF HAZARDOUS WASTES. (a) It is un-

← *treat, show*
1 lawful to dispose of hazardous wastes in the state unless *authorized by permit*
2 (1) the waste has been treated to remove or reduce its harmful
3 properties by the best available technology; and

4 (2) it is disposed of in a manner which will ensure the
5 protection of human health, livestock, wildlife, property, and the
6 environment.

7 (b) The department shall adopt regulations in accordance with the
8 Administrative Procedure Act (AS 44.62) for the disposal of hazardous
9 wastes to ensure the protection of human health, livestock, wildlife,
10 property, and the environment.

11 Sec. 46.03.301. CONTROL OF HAZARDOUS WASTES. The department
12 shall, by regulations adopted under the Administrative Procedure Act
13 (AS 44.62), establish a state hazardous waste program; the state
14 hazardous waste program shall

15 (1) be consistent with the Federal Resource Conservation and
16 ? Recovery Act of 1976 (P.L. 94-580, 42 U.S.C. 6901-6987);

17 (2) qualify the department to adopt, administer, and enforce
18 a hazardous waste program in accordance with the Federal Resource
19 Conservation and Recovery Act;

20 (3) establish criteria to identify the characteristics of
21 hazardous wastes;

22 (4) enumerate specific hazardous wastes subject to the
23 provisions of AS 46.03.306 and 46.03.311;

24 (5) identify the source or sources of hazardous wastes
25 enumerated under (4) of this section;

26 (6) determine the amount of each hazardous waste enumerated
27 under (4) of this section which is so small as not to present a hazard
28 to public health, livestock, fish, wildlife, and the environment of the
29 state when disposed of;

1 (7) exempt a person who produces, processes, transports,
2 stores, or disposes of a hazardous waste from the provisions of this
3 chapter if the quantity of the hazardous waste is less than the amount
4 identified in (6) of this section; and

5 (8) avoid duplication of federal laws and regulations relat-
6 ing to the control of hazardous wastes.

7 Sec. 46.03.306. HAZARDOUS WASTE PERMIT. (a) A person may not
8 process, transport, store, or dispose of a hazardous waste as defined
9 by the department by regulation unless that person first secures a
10 permit from the department and submits to the department any reports or
11 manifests which the department may require for handling the hazardous
12 wastes.

13 (b) A person who generates hazardous waste is not required to
14 obtain a permit under (a) of this section unless the person also
15 processes, transports, stores, or disposes of the hazardous waste.

16 Sec. 46.03.311. HAZARDOUS WASTE REPORTS. A person who generates
17 hazardous wastes shall submit to the department reports or manifests
18 which the department may require for handling the hazardous wastes.

19 *Handwritten note: H. 46.03.311 - change to be made, etc. with each report.*
20 Sec. 46.03.316. PUBLIC RECORDS. (a) Permits, permit applica-
21 tions, records, reports, and information and documentation obtained
22 under AS 46.03.306 or 46.03.311 are available to the public for in-
23 spection and copying. However, upon a showing satisfactory to the
24 commissioner that a record, report, permit, application, or information
25 would, if made public, divulge methods or processes entitled to protec-
26 tion as trade secrets, the commissioner shall treat the record, report,
27 permit, application, or information as confidential.

28 (b) Information which is confidential may be transmitted under a
29 continuing restriction of confidentiality to other officers, employees,
or authorized representatives of the state or of the United States if

1 (1) the person responsible for furnishing the record,
2 report, permit, application, or information to which such information
3 pertains is informed at least two weeks before the transmittal; and

4 (2) the information has been acquired by the department
5 under the provisions of AS 46.03.296 - 46.03.316.

6 (c) The provisions of this section do not limit the department's
7 authority to release confidential information during emergency situa-
8 tions.

9 * Sec. 12. AS 46.03.900 is amended by adding new paragraphs to read:

10 *New Language* ← (30) "dispose" has the same meaning as the term is defined in
11 42 U.S.C. 6903(3);

12 (31) "hazardous waste" means a solid waste or combination of
13 wastes which because of quantity, concentration, or physical, chemical,
14 or infectious characteristics may

15 (A) cause, or significantly contribute to, an increase
16 in mortality or an increase in serious irreversible or incapaci-
17 tating reversible illness; or

18 (B) pose a substantial hazard to human health or the
19 environment when improperly disposed of;

20 (32) "manifest" means the form used for identifying the
21 quantity, composition, origin, routing, and destination of hazardous
22 wastes;

23 *New Language* (33) "storage" means the containment of hazardous waste,
24 either on a temporary basis or for a period of years, in a manner which
25 does not constitute disposal of the hazardous waste.

26 ← * Sec. 13. ~~(34) treatment~~ AS 18.45.010 - 18.45.080 are repealed.

27 * Sec. 14. Sections 1, 2, 6 - 9, and 13 of this Act take effect immedi-
28 ately in accordance with AS 01.10.070(c).

29 * Sec. 15. Sections 3 - 5 of this Act take effect on the date of a final

1 court order ruling AS 18.45.100 as enacted by sec. 1 of this Act invalid or
2 unconstitutional.

3 * Sec. 16. Sections 10 - 12 of this Act take effect July 1, 1981.
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50 H10

SUGGESTED AMENDMENTS, CSSB-29

1. Hazardous materials deletion

Page 7, line 25, delete "and safe handling and storage of hazardous materials."

2. Reference to landfill.

Page 7, line 29, amend section to read:

Sec. 46.03.296. DISPOSAL OF HAZARDOUS WASTES. (a) It is unlawful to dispose of hazardous wastes in any landfill in the state unless:

3. Defining universe of hazardous wastes.

Sohis Prefers — Option 1: Page 8, line 20 through 25, delete subsections (3), (4) and (5), replacing with:

(3) adopt Part 261, Identification and Listing of Hazardous Wastes, as contained in regulations published under the Resource Conservation and Recovery Act of 1976.

Option 2: Same lines, add the words, "consistent with the Federal Resource Conservation and Recovery Act of 1976 (P.L. 94-580, 42 U.S.C. 6901-6987)." to each item, (3), (4) and (5).

4. Page 9, line 1: substitute words "generates" for "produces" and "treats" for "processes".

This makes wording consistent with RCRA. Same word changes should be made in following sections, elsewhere in bill.

5. Page 10, line 9: Definitions should be made consistent with RCRA.

To: HCS CSSB 29()

A M E N D M E N T

- * Sec. 46.03.100. Waste disposal permit. ADD:
 - (c) A permit for disposing of hazardous wastes shall be conditioned upon proof of financial responsibility as provided in AS 46.03.830.
- * Sec. 46.03.301. Page 9, Line 7, ADD NEW SUBSECTION (9):
 - (9) establish criteria for identification of appropriate hazardous waste disposal site locations and require opportunity for public participation in site selection and issuance of hazard waste disposal permits.
- * Sec. 46.03.790. is amended by adding a new subsection to read:
 - (a) increase penalty from class B to class A misdemeanor and raise fine to \$10,000.
- * Sec. 46.03.824. is amended by adding a new subsection to read:
 - (b) In an action seeking damages for injury caused to persons or property by the entry of a hazardous substance in or upon the waters or lands of the state, in addition to actual damages awarded under (a) of this section, the court may award punitive damages in an amount not to exceed three times the award of actual damages made under (a) of this section.
- * Sec. 46.03.826. Definitions. is amended by adding a new subsection to read:
 - 3) (A) An element or compound, including a petrochemical, which, when it enters in or upon the waters or surface or subsurface lands of the state, presents an imminent and substantial danger to the public health or welfare, including but not limited to fish, animals, vegetation, or any part of the natural habitat in which they are found.
- * Sec. 46.30.830. PROOF OF FINANCIAL RESPONSIBILITY. is amended by adding new subsections to read:
 - (a) A person may not operate a petrochemical production facility or a hazardous waste disposal site unless the person has furnished proof to the commissioner of financial ability to control a hazardous substance which will be used in or produced or disposed of or stored at the site of the facility. Proof of financial responsibility shall include responsibility after closure of the facility or site and may be demonstrated by self-insurance, insurance, surety, or guarantee, under regulations issued by the department.
 - (b) Acceptance of proof of financial responsibility under this section expires
 - (1) one year from its issuance for self-insurance;
 - (2) on the effective date of a change in the surety bond, guarantee, or insurance agreement; or
 - (3) on the expiration or cancellation of the surety bond, guarantee, or insurance agreement.

(c) The person whose proof of financial responsibility is accepted by the department under this section shall notify the department at least 30 days before the effective date of a change, expiration, or cancellation in the surety bond, guarantee, or insurance agreement. Application for renewal of acceptance of proof of financial responsibility under this section must be filed at least 30 days before the date of expiration.

(d) The department, after notice and hearing, may revoke acceptance of proof of financial responsibility if it determines that acceptance was procured by fraud or misrepresentation; or that a change of circumstance has occurred which warrants revocation under regulations issued by the department.

Adopted

HCSCSSB 29

Page 6 - add the following definition:

"nuclear fuel production facility" means a facility which purifies radioactive mineral concentrates and fabricates fissionable material to be used for producing energy in a nuclear reactor.

U.S. ENVIRONMENTAL PROTECTION AGENCY

REGION X

1200 SIXTH AVENUE
SEATTLE, WASHINGTON 98101



REPLY TO M/S 530
ATTN OF:

MAY 8 1981

Thomas R. Hanna, Chief
Air & Solid Waste Management
Department of Environmental Conservation
Pouch 0
Juneau, Alaska 99811

RECEIVED

MAY 1 1981

Department of
Environmental Conservation

Dear Mr. Hanna:

We have received and reviewed the marked-up version of HCS CSSB 29, which you sent on April 22. In this draft of proposed hazardous waste legislation for Alaska, several of the problems we noted in our review of the original version have been resolved. From talking with you I am aware of other changes you are making which will also improve the bill relative to the requirements for authorization of a State hazardous waste management program under RCRA. The comments which follow, however, are based on the version of the bill which you submitted to us. It should be noted that our review is based on the requirements for final authorization. Please contact me if you have any questions regarding the bill's adequacy relative to the requirements for interim authorization.

1. We note that AS 46.03.50 establishes a permit requirement for generation and transportation of hazardous wastes, as well as their treatment (processing), storage, and disposal. Permits for generators and transporters are not, of course, required under the Federal program.

DONE -
CORRECTED

Also, this section ties the permit requirement to activities involving wastes listed under 46.03.340(2). However, 46.03.340(1) references characteristics of hazardous wastes which are to be established. It must be ensured that wastes which are not listed but are hazardous because of their characteristics are also covered under the permit requirement.

✓

2. The language of 46.03.370(a), specifically the conjunction "or" between sections (1) and (2), suggests that if a waste is processed according to (1), it would not have to be disposed of according to (2), that is, "in a manner which will ensure the protection of human health, livestock, wildlife, property, and the environment."

DONE -
CORRECTED

3. ADEC would be required by 46.03.370(b) to develop regulations for hazardous waste disposal. Since regulations are not mentioned for other activities (generation, transportation, treatment, and storage), it becomes unclear whether the bill provides authority to develop the full complement of regulations necessary to establish and operate a hazardous waste program.

DONE -
CORRECTED

4. AS 46.03.380 discusses criminal penalties and refers to violations of "this chapter," presumably Chapter 03. However, there already exists a section on criminal penalties, AS 46.03.790, which also covers violations of provisions of "this chapter". The relation between these two sections is unclear.

CORRECTED

* AS 46.03.380(b) makes reference to AS 12.55.035(b)(3) and (c). Since we have not been provided with a copy of the referenced statute, we are not able to comment on whether it meets RCRA requirements. If the fine for class A misdemeanors is less than the amount required under RCRA (\$10,000), then 46.03.380 establishes a criminal penalty adequate only for "corporations".

NOT
COMPLETELY
CORRECTED

the Furthermore, the proposed legislation does not address civil penalties. There is a pre-existing section (46.03.760) which covers violations of provisions of "this chapter", but as with the criminal penalty section, it is unclear to us whether this section would apply to the hazardous waste program. If 46.03.760 is applicable to hazardous waste program violations, it does not meet RCRA requirements for a civil penalty of \$10,000 per day.

PARTIALLY
CORRECTED

5. The definition of "hazardous waste" in 46.03.900(33) references material "for which no use or reuse is intended and which is to be disposed of". This definition is too limiting in that RCRA requires regulation of wastes which are to be treated, and regulation would extend to storage activities prior to treatment. This is an important point in that it could well be argued that the wastes to be treated are not the wastes which are to be disposed of. Furthermore, although RCRA gives special consideration to wastes which are recycled or reused, all activities prior to reuse would be regulated, including generation, transportation, and storage.

CORRECTED

6. We remain concerned about ADEC's entry and inspection authority since it is tied to the consent of the owner or occupier (46.03.020(6)). This provision is contrary to the intent of RCRA 3007(a), and could prove a significant obstacle to Alaska's obtaining authorization.

NOT
APPROPRIATE

7. Information used or obtained in the administration of a State hazardous waste program must be available to EPA without restriction. We note that State regulations provide for sharing of information unless exempt by law. In 46.03.020(6) there is a reference to confidential information but it is unclear whether this reference constitutes such an exemption. If it does, a modification of this provision would be necessary.

DONE -
CORRECTED

8. We recommend that you consider adding language to the bill which would allow the State to either administer or adopt as its own any Federal permits issued prior to authorization of Alaska's program. Such a provision would prevent the State from having to re-issue permits upon assumption of Phase II program responsibilities. The language of 46.03.110(e), relative to NPDES permits, could be followed for hazardous waste permits.

NOT
DESIRABLE

9. AS 46.03.765 refers to injunctions for violations of Chapter 03, regulations, permits, etc. This section goes on to provide for temporary or preliminary relief "upon a showing of an imminent threat of continued violation". In contrast, Section 7003 of RCRA ("imminent hazard") discusses injunctions "notwithstanding any other provision of this Act". The point is that in Alaska injunctions are tied to actual violations, whereas under RCRA there is no need to specify violations of regulations or permit conditions in order to take action. Thus, when compared to RCRA 7003, AS 46.03.765 is potentially limiting.

N.A.

10. Certain permitting procedures are established in 46.03.110. In the first place, it is unclear whether this section applies to all hazardous waste permits. (It could be construed that because of Section 46.03.100, the section would apply to hazardous waste disposal permits.)

N.A.

If Section 46.03.110 applies to any or all hazardous waste permits, the following concerns arise. Section 46.03.110(a) requires that applications be made at least 60 days before commencement of a proposed discharge. As an aside, it should be clear that issuance of a hazardous waste permit would take longer than 60 days. More importantly, it is unclear how the word "discharge" pertains to hazardous waste management activities. (This latter point again raises the question of whether this section would even apply to hazardous waste permits.)

N.A.

AS 46.03.110(b) gives very specific requirements for public notice of permit applications. While there does not appear to be a conflict between this section and the permitting procedures laid out in 40 CFR Part 124, the specificity of this section raises the legal question of how far ADEC can go in developing regulations covering other specific requirements without additional statutory authority. Such specific requirements would be necessary if the State is to have a permitting program equivalent to the Federal program. In short, we wish to be assured that Alaska has the authority to develop a program with permitting procedures equivalent to those referenced in 40 CFR 123.7.

N.A. -
TAKEN CARE
OF IN NEW
BILL

We continue to appreciate the opportunity to work closely with you as you develop your legislation. Please call me if you have any questions.

Sincerely,

David Hanline

David Hanline
Program Development Section

A M E N D M E N T

In the HOUSE

By Clocksin

TO: HCS CSSB 29()

"* Sec. . AS 46.03.824 is amended by adding a new subsection to read:
(b) In an action seeking damages for injury caused to persons or property by the entry of a petrochemical in or upon the waters or lands of the state, in addition to actual damages awarded under (a) of this section, the court may award punitive damages in an amount not to exceed three times the award of actual damages made under (a) of this section."

"* Sec. . AS 46.03.826(3)(B) is amended to read:

(B) oil and petrochemicals;"

"hazardous waste"

*→ Definition of it
Hazardous*

" Sec. . AS 46.03 is amended by adding a new section to read:

Sec. 46.03.830. PROOF OF FINANCIAL RESPONSIBILITY REQUIRED FOR PETROCHEMICAL FACILITY OPERATION. (a) A person may not operate a petrochemical facility unless the person has furnished proof to the commissioner of financial ability to control a hazardous substance which will be used in or produced by the facility. Proof of financial responsibility may be demonstrated by self-insurance, insurance, surety, or guarantee, under regulations issued by the department.

(b) Acceptance of proof of financial responsibility under this section expires

- (1) one year from its issuance for self-insurance;
- (2) on the effective date of a change in the surety bond, guarantee, or insurance agreement; or
- (3) on the expiration or cancellation of the surety bond, guarantee, or insurance agreement.

(c) The person whose proof of financial responsibility is accepted by the department under this section shall notify the department at least 30 days before the effective date of a change, expiration, or cancellation in the surety bond, guarantee, or insurance agreement. Application for renewal of acceptance of proof of financial responsibility under this section must be filed at least 30 days before the date of expiration.

(d) The department, after notice and hearing, may revoke acceptance of proof of financial responsibility if it determines that acceptance was procured by fraud or misrepresentation; or that a change of circumstance has occurred which warrants revocation under regulations issued by the department."

Marathon Oil Company Comments on House Committee Substitute for Committee Substitute for Senate Bill 29

Recently, concern has been expressed over possible hazardous waste problems resulting from development of an in-state petrochemical industry. Concern has also been voiced that nuclear wastes from the "Lower 48" may be disposed in Alaska. In response to these concerns, legislation has been introduced in both the House and Senate. Apparently, HCS CSSB 29 represents an attempt to combine three bills dealing with control of hazardous materials (SB 239); transportation, storage, and disposal of hazardous wastes and nuclear materials (HB 72); and control of nuclear materials (SB 29).

Management of hazardous wastes and control of nuclear materials involve two entirely different areas of expertise and, in our opinion, should not be addressed in the same bill. For this reason, our specific comments on the proposed legislation will be presented in two sections.

Nuclear Materials

Section 18.45.130 (b) of HCS CSSB 29 would require a transporter of low level radioactive wastes to obtain a permit and comply with a manifest/record keeping system implemented by the Department of Environmental Conservation. An example of how this would apply to oil industry operations would be in the transportation of radioactive scale which forms naturally in well tubing and oil field separation equipment. This material must occasionally be removed and is often sent to a laboratory for analysis. Transportation of radioactive materials, such as this scale, is already strictly regulated under the hazardous materials transportation regulations of the federal Department of Transportation. These regulations establish specific packing, labeling, manifesting, and transportation requirements for all hazardous materials. Under the federal regulations, materials with a specific activity of 2 nanocuries per gram or less are not classed as radioactive material. However, under the proposed bill, transportation of the same material would require the permit and extensive record keeping mentioned above.

Section 46.03.260 of the proposed bill would require a person who conducts an operation resulting in any discharge of low level radioactive material to obtain a permit before commencing the discharge. Oil field operations which would be affected by this section are radioactive tracer surveys in water injection wells.

Radioactive tracer surveys involve the injection of extremely small quantities (typically less than 1 gram) of radioactive materials into the well to determine the flow rate into the formation and the variation of flowrates between the zones. Common elements used in these surveys include Iridium 192 and Iodine. Both of these elements are extremely low level radiation sources and have halflives of 75 days and 8 days, respectively.

Use of both of these materials is controlled and permitted under a license issued by the United States Nuclear Regulatory Commission. The license specifies terms and conditions for storage, transportation, and leak testing of radioactive materials and equipment, and establishes training requirements for personnel. HCS CSSB 29 would require the operator to obtain an additional permit each time this equipment is used.

This bill would have a pervasive effect upon the oil industry, and many other industries as well, because of the all inclusive definition of low level radioactive wastes. According to section 18.45.170 and section 9. AS 46.03.900 a low level radioactive waste would be any radioactive waste which has an atomic number of 92 or less and emits less than 10 nanocuries per gram. The definition establishes no lower limit for radioactive activity and therefore would include all radioactive wastes no matter how innocuous. Under the present definition disposal of a smoke detector or a wrist watch with a luminous dial could be considered low level radioactive waste disposal. It would seem obvious that the definition of low level radioactive waste should contain a reasonable lower limit.

Despite the fact that each of the previously mentioned areas is already adequately controlled by federal regulations, the proposed bill gives authority to the Department of Environmental Conservation to also govern these activities. In addition, the bill gives the Department of Environmental Conservation the discretion to determine what levels of radioactivity would constitute a threat to public health. It is difficult to understand how the Department of Environmental Conservation would have a greater level of expertise in nuclear science and nuclear waste management than both the U.S. Nuclear Regulatory Commission and the Department of Transportation Hazardous Materials Office. How would the department be more qualified than these other agencies to define the levels of radioactivity which would constitute a threat to public health? If, on the other hand, the Department of Environmental Conservation simply adopts the present federal regulations, what is the need for establishing a state permitting and regulatory system?

Hazardous Wastes

The second portion of HCS CSSB 29 would apply to handling, treatment, storage, transportation and disposal of hazardous wastes.

In its present form the legislation could apply to many oil field wastes. One such waste would be excess drilling fluid. Another example would be the water which is produced from the formation along with the oil. Discharge of both of these materials is already controlled under permits issued by either the state or federal government.

Regulations to implement the Resource Conservation and Recovery Act (RCRA) were promulgated by the United States Environmental Protection Agency in May of 1980. During development of these regulations there was some question as to their applicability to drilling fluids and produced waters. To clarify the matter, a provision was placed in the regulations to specifically exclude these materials. Congress has directed the Environmental

Protection Agency to conduct research to determine if drilling fluids and produced waters do present any hazard to the environment. The results of this study will be reported back to Congress, at which time it will be determined what hazardous material regulations, if any, should apply to these wastes. Since this information is not yet available, HCS CSSB 29 should include a provision requiring that the resulting state regulations not be more stringent than the federal regulations. Failing that, the bill should contain the exact exclusion as the federal regulations. This exclusion reads:

"The following solid wastes are not hazardous wastes:
drilling fluids, produced waters, and other wastes associated
with the exploration, development, or production of crude oil,
natural gas or geothermal energy."

Other solid wastes exempted by the same section in the federal regulations include household wastes, wastes used as fertilizers for agricultural crops, wastes resulting from the raising of animals, mining overburden returned to the mine site, and wastes generated from emission controls on facilities combusting coal or fossil fuels. Presently, none of these wastes are specifically exempted in this bill.

Section 10 AS 46.03.020(10) provides the Department of Environmental Conservation with the authority to adopt regulations for the disposal of hazardous wastes. Presumably these regulations would be similar to the Resource Conservation and Recovery Act (RCRA) regulations which were promulgated after more than five years of intensive research and study by the EPA. Identification and classification of hazardous wastes alone required years of research, vast resources of man power, and millions and millions of dollars. Yet the authority for just such a massive program is granted to the Department of Environmental Conservation by the proposed bill. Additionally, section 46.32.030 authorizes the department to establish and implement a system to record by manifest the movement of hazardous waste within the state. This program would be duplicative of the manifest and record keeping requirements established by the federal RCRA regulations.

The federal hazardous waste (RCRA) regulations promulgated in May of 1980 consist of more than 500 pages which are constantly being revised and supplemented. The Department of Transportation's hazardous material transportation regulations promulgated in September of 1978 contain 1,050 pages which are also being revised regularly. Is this the type of system you would want to establish in Alaska? Hazardous waste regulation is an extremely complex area that, to accomplish the stated goals, would require extensive expertise, research, and funding. A state hazardous waste program, to be nearly as effective as the federal program, would require a huge increase in the staff and budget requirements of the Department of Environmental Conservation. If the objective of this legislation is only to allow the department to adopt the program established by EPA, we fail to see the need or benefit to the state. In addition, such action definitely would not be in keeping with the philosophy of eliminating duplicative and burdensome regulations and permits.

The proponents of this bill would have you believe that all sorts of hazardous waste "nightmares" may result in Alaska if this bill is not passed. That is just not true. The lack of this bill and state hazardous waste regulations does not mean hazardous waste disposal will be unregulated. In fact, hazardous wastes are regulated quite stringently. The RCRA regulations are some of the most comprehensive regulations ever promulgated by a federal agency. They will provide more than adequate protection from hazardous waste storage, transportation, and disposal in Alaska.

STATE STATUTORY AUTHORITY
REQUIREMENTS FOR
HAZARDOUS WASTE CONTROL

For Assumption of
Federal Programs Under the
Resource Conservation and Recovery Act

FEDERAL LEGAL REQUIREMENTS

ALASKA AUTHORITY

- | | |
|---|---|
| I. <u>Identification and Listing of Hazardous Wastes</u> | AS 45.03.020 |
| A. General Authority for Control | AS 46.03.020 |
| II. <u>Setting of Standards for Generators</u> | |
| A. Application to all types of Generators | AS 46.03.020 |
| B. Storage and recordkeeping | AS 46.03.020 |
| C. Reporting of quantities | AS 46.03.020 |
| D. Require compliance with safety and health stds | AS 46.03.020, 760, 765, 790
822, 850, 710, |
| E. Establishment of manifest system | AS 46.03.020, <u>HCS CSSB-29</u> |
| III. <u>Setting of Standards for Transporters</u> | |
| A. Application to all types of Transporters | AS 46.03.020, <u>HCS CSSB-29</u> |
| B. Recordkeeping | AS 46.03.020, <u>HCS CSSB-29</u> |
| C. Use of a manifest system | AS 46.03.020, <u>HCS CSSB-29</u> |
| D. Transported wastes accompanied by manifest | AS 46.03.020, <u>HCS CSSB-29</u> |
| E. Notification and cleanup requirements for spills | AS 46.03.020, 755, 822, |
| IV. <u>Setting of Standards for Storage, Treatment and Disposal</u> | |
| A. Prevention of accidental release | AS 46.03.020, <u>HCS CSSB-29</u> |
| B. Closure and post-closure requirements | AS 46.03.020, <u>HCS CSSB-29</u> |

FEDERAL LEGAL REQUIREMENTS (CONT)

ALASKA AUTHORITY

- IV. Standards for Storage, Treatment and Disposal (cont)
- C. Security AS 46.03.020, 110
 - D. Training AS 46.03.020, 110
 - E. Inspection, monitoring, recordkeeping, Reporting AS 46.03.020, 110
- V. Powers of Inspection AS 46.03.020, 820, 850, 860
710
- VI. Enforcement Authority
- A. Emergency orders, court orders AS 46.03.020, 820, 850, 860
765
 - B. Authority to enjoin a threatened/continuing violation AS 46.03.820, 850, 860, 765
 - C. Authority to bring suit for civil and criminal penalties AS 46.03.710, 760, 765,
790, 850
- VII. Public Participation in the Enforcement Process
- A. Intervention by public in civil or administrative enforcement action by dept.; or -
 - B. Assurances that state will
 - a. Investigate and provide written responses to citizen complaints AS 46.03.020
 - b. Not oppose intervention of any citizen where permissive intervention is authorized AS 46.03.020
 - c. Publish and provide 30 days for public comment on any proposed settlement of state enforcement action AS 46.03.020
- VIII. Sharing of Information with EPA Upon Request and Without Restriction AS 46.03.020,
AS 09.25.110-120
- IX. Authority Over Indian Lands (if Sought) -

Original sponsor: Kerttula

Offered: 3/18/81
Referred: Judiciary

1 IN THE SENATE

BY THE RESOURCES COMMITTEE

2 HOUSE CS FOR CS FOR SENATE BILL NO. 29 (Resources)

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 TWELFTH LEGISLATURE - FIRST SESSION

5 A BILL

6 For an Act entitled: "An Act relating to ^{radioactive} nuclear materials and (extremely ^{radioactive} hazardous and hazardous wastes;) and providing for an
7 effective date."
8

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

10 * Section 1. AS 18.45 is amended by adding a new section to read:

11 Sec. 18.45.100. NUCLEAR FACILITIES PROHIBITED. A person may not
12 construct a nuclear fuel production facility, a nuclear utilization
13 ^{power reactor} facility, a nuclear reprocessing facility, or a nuclear enhancement
14 facility in the state.

15 * Sec. 2. AS 18.45 is amended by adding new sections to read:

16 Sec. 18.45.110. HIGH LEVEL NUCLEAR WASTE DISPOSAL FACILITY SITING
17 PERMIT REQUIRED. (a) A person may not construct a high level nuclear
18 waste disposal facility in the state unless he has first obtained a
19 permit from the department to construct the facility on land designated
20 by the legislature under (b) of this section.

21 ^{46.03.250} (b) ^{Delat. S. → Sit → h.} The legislature shall designate by law the land in the state
22 ^{Page 7, Line 5} on which a high level nuclear waste disposal facility may be located.

23 (c) The department shall adopt regulations governing the issuance
24 of permits required by (a) of this section. However, a permit may not
25 be issued by the department unless

26 (1) the governor has approved the permit;

27 (2) local approval has been obtained; local approval is
28 obtained

29 (A) if the municipality with jurisdiction over the

1 proposed facility site has approved the permit; and

2 (B) if the facility is to be located in the unorganized
3 borough, a majority of the registered voters who live within 100
4 miles of the proposed facility votes to approve the issuance of
5 the permit for the facility at a general or special election of
6 the state called for the purpose; and

7 (3) issuance of the permit is approved by a majority of the
8 registered voters at a general or special statewide election.

9 Sec. 18.45.120. PROOF OF FINANCIAL RESPONSIBILITY REQUIRED FOR
10 FACILITY OPERATION. (a) A person may not operate a high level nuclear
11 waste disposal facility unless he has furnished proof to the commis-
12 sioner of financial ability to care in perpetuity for the nuclear
13 material which will be used in the facility. Financial responsibility
14 may be demonstrated by self-insurance, insurance, surety, or guarantee,
15 under terms the department may prescribe.

16 (b) Acceptance of proof of financial responsibility under this
17 section expires

18 (1) one year from its issuance for self-insurance;

19 (2) on the effective date of a change in the surety bond,
20 guarantee, or insurance agreement; or

21 (3) on the expiration or cancellation of the surety bond,
22 guarantee, or insurance agreement.

23 (c) The person whose proof of financial responsibility is accepted
24 by the department under this section shall notify the department at
25 least 30 days before the effective date of a change, expiration or
26 cancellation in the surety bond, guarantee, or insurance agreement.
27 Application for renewal of acceptance of proof of financial responsi-
28 bility under this section must be filed at least 30 days before the
29 date of expiration.

1 (d) The department, after notice and hearing, may revoke accep-
2 tance of proof of financial responsibility if it determines that

3 (1) acceptance was procured by fraud or misrepresentation;
4 or

5 (2) a change of circumstance has occurred, other than a
6 change specified in (b)(1) - (3) of this section, which would have
7 warranted denial of the application.

8 * Sec. 3. AS 18.45.110(a) is amended to read:

9 Sec. 18.45.110. FACILITIES [HIGH LEVEL NUCLEAR WASTE DISPOSAL
10 FACILITY] SITING PERMIT REQUIRED. (a) A person may not construct a
11 nuclear fuel production facility, nuclear utilization facility, nuclear
12 reprocessing facility, nuclear enhancement facility, or high level
13 nuclear waste disposal facility in the state unless he has first ob-
14 tained a permit from the department to construct the facility on land
15 designated by the legislature under (b) of this section.

16 * Sec. 4. AS 18.45.110(b) is amended to read:

17 (b) The legislature shall designate by law the land in the state
18 on which a nuclear fuel production, utilization, reprocessing, enhance-
19 ment, or high level nuclear waste disposal facility may be located.

20 * Sec. 5. AS 18.45.120(a) is amended to read:

21 (a) A person may not operate a nuclear fuel production facility,
22 a nuclear utilization facility, a nuclear reprocessing facility, a nu-
23 clear enhancement facility, or a high level nuclear waste disposal
24 facility unless he has furnished proof to the commissioner of financial
25 ability to care in perpetuity for the nuclear material which will be
26 used in the facility. Financial responsibility may be demonstrated by
27 self-insurance, insurance, surety, or guarantee, under terms the depart-
28 ment may prescribe.

29 * Sec. 6. AS 18.45 is amended by adding new sections to read:

1 Sec. 18.45.130. TRANSPORTATION OF NUCLEAR WASTE MATERIAL. (a)

2 The transportation of high level nuclear waste material, except for
3 purposes of disposal outside the state, is prohibited.

4 (b) A person may not transport low level nuclear waste material
5 in the state unless he has first obtained a permit from the department.
6 The department shall adopt regulations governing the issuance of permits
7 required by this subsection, and shall establish and implement a system
8 to record by manifest the movement of low level nuclear waste materials
9 which are transported.

10 (c) The provisions of (a) and (b) of this section do not apply to
11 the transportation of nuclear waste material by the federal government.
12 When the federal government proposes to transport nuclear waste material
13 in the state, the agency of the federal government shall notify the
14 commissioner and the Department of Public Safety of its plans. When
15 notification is received from the federal agency, the commissioner and
16 the commissioner of public safety may take any action they regard as
17 necessary to protect the health and safety of persons in the vicinity
18 of the route used to transport the nuclear waste material. The notifi-
19 cation provisions of this subsection do not apply if advance notice to
20 the commissioner would represent a threat to national security.

21 Sec. 18.45.140. STORAGE AND DISPOSAL OF NUCLEAR WASTE MATERIAL.

22 (a) The storage and disposal in the state of nuclear waste material
23 which would constitute a threat to the health or safety of the public
24 is prohibited.

25 (b) The provisions of (a) of this section do not apply to

26 (1) material of a kind or quantity which, when stored or
27 disposed, would not constitute a threat to the health or safety of the
28 public as determined by the department under AS 46.03.250 by regula-
29 tion;

1 (2) radioactive materials used in medicine; and

2 (3) radioactive materials, not exceeding an amount deter-
3 mined by the department by regulation under AS 46.03.250, used in
4 education, x-ray or photographic process testing, security screening,
5 or scientific research which are stored or disposed of in conformity
6 with procedures established by the department by regulation.

7 Sec. 18.45.150. PROOF OF RESPONSIBILITY FOR DISPOSAL OF HIGH
8 LEVEL NUCLEAR WASTES REQUIRED. (a) A person may not dispose of high
9 level nuclear wastes in the state unless he has furnished proof to the
10 commissioner of financial ability to care for the disposed nuclear
11 waste material. Financial responsibility may be demonstrated by self-
12 insurance, insurance, surety, or guarantee, under terms the department
13 may prescribe.

14 (b) Acceptance of proof of financial responsibility under this
15 section expires

16 (1) one year from its issuance for self-insurance;

17 (2) on the effective date of a change in the surety bond,
18 guarantee, or insurance agreement; or

19 (3) on the expiration or cancellation of the surety bond,
20 guarantee, or insurance agreement.

21 (c) The person whose proof of financial responsibility is accepted
22 by the department under this section shall notify the department at
23 least 30 days before the effective date of a change, expiration or
24 cancellation in the surety bond, guarantee, or insurance agreement.
25 Application for renewal of acceptance of proof of financial responsi-
26 bility under this section must be filed at least 30 days before the
27 date of expiration.

28 (d) The department, after notice and hearing, may revoke accept-
29 ance of proof of financial responsibility if it determines that

Uranium Mine
Tailings → Nuclear Waste

1 (1) acceptance was procured by fraud or misrepresentation;
2 or

3 (2) a change of circumstance has occurred, other than a
4 change specified in (b)(1) - (3) of this section, which would have
5 warranted denial of the application.

6 Sec. 18.45.160. PENALTIES. (a) A person who violates a provision
7 of AS 18.45.130 - 18.45.140 is guilty of a class C felony.

8 (b) In addition to the penalty prescribed for a class C felony
9 under AS 12.55.035(b)(2) and (c), a corporation which violates a
10 provision of AS 18.45.130 - 18.45.140 is subject to

11 (1) a penalty of \$50,000 for each offense; each day that the
12 violation continues constitutes a separate offense;

13 (2) the payment to the state of expenses incurred by the
14 state in removing, correcting, or abating the adverse effects of the
15 violation; and

16 (3) actual damages resulting from the violation.

17 Sec. 18.45.170. DEFINITIONS. In AS 18.45.100 - 18.45.170,

18 (1) "commissioner" means the commissioner of environmental
19 conservation;

20 (2) "department" means the Department of Environmental
21 Conservation;

22 (3) "high level nuclear waste" means

23 (A) used nuclear reactor fuel;

24 (B) waste produced during the reprocessing of used
25 nuclear reactor fuel; and

26 (C) elements having an atomic number greater than 92
27 and emitting 10 or more nanocuries per gram;

28 (4) "low level nuclear waste" means a radioactive waste
29 other than a high level nuclear waste; and

1 (5) "manifest" means a shipping or storage document contain-
2 ing a list of the contents, value, origin, carrier, and destination of
3 the nuclear waste materials to be transported, required to be carried
4 by the person providing transportation of the wastes.

5 * Sec. 7. AS 46.03.250 is amended to read:

6 Sec. 46.03.250. AUTHORITY. The department shall adopt regula-
7 tions

8 (1) establishing standards governing the discharge^{waste} of low
9 level radiation [RADIONUCLIDES] to the air, water, land, and subsurface
10 land of the state;

11 (2) defining nuclear waste material^{exposure} which does not consti-
12 tute a threat to public health or safety and which may be stored or
13 disposed in the state; and

14 (3) establishing procedures for the storage and disposal of
15 radioactive materials used in medicine, education, x-ray or photo-
16 graphic process testing, security screening, or scientific research.

17 * Sec. 8. AS 46.03.260 is amended to read:

18 Sec. 46.03.260. USE OF NUCLEAR [ATOMIC] RADIATION. A person who
19 conducts an operation which results in the discharge of low level^{waste}
20 radiation [RADIONUCLIDES] to the air, water, land or subsurface land of
21 the state must obtain a permit from the department before commencing
22 the discharge.

23 * Sec. 9. AS 46.03.790(a) is amended to read:

24 (a) A person who violates or who causes or permits a violation of
25 a provision of this chapter or AS 46.04, or of a regulation, lawful
26 order of the department, or permit, approval, or acceptance, or term or
27 condition of a permit, approval, or acceptance issued under this chapter
28 or AS 46.04 is guilty of a class B misdemeanor [VIOLATION].

29 * Sec. 10. AS 46.03.790(b) is amended to read:

1 (b) A person who wilfully violates a provision of this chapter,
2 or of a regulation, lawful order of the department, or permit, approval,
3 or acceptance, or term or condition of a permit, approval, or accept-
4 ance issued under this chapter or AS 46.04 is guilty of a class A
5 misdemeanor.

6 * Sec. 11. AS 46.03.900 is amended by adding a new paragraph to read:

7 (30) "low level nuclear waste" means a radioactive waste
8 other than

9 (A) used nuclear reactor fuel;

10 (B) waste produced during the reprocessing of used
11 nuclear reactor fuel; ^{or waste from the reprocessing of fuel} and ^{S.A. → H.S.S.}

12 (C) elements having an atomic number greater than 92
13 and emitting 10 or more nanocuries per gram.

14 * Sec. 12. AS 46.03.020(10)(H) is amended to read:

15 (H) any other purpose which [SUCH OTHER PURPOSES AS]
16 may be required to implement [FOR THE IMPLEMENTATION OF] the
17 policy declared in AS 46.03.010;

18 * Sec. 13. AS 46.03.020(10) is amended by adding a new subparagraph to
19 read:

20 (I) procedures required to handle, transport, treat,
21 store, and dispose of extremely hazardous wastes and hazardous
22 wastes;

23 * Sec. 14. AS 46 is amended by adding a new chapter to read:

24 CHAPTER 32. WASTES.

25 Sec. 46.32.010. DISPOSAL OF EXTREMELY HAZARDOUS WASTES. (a) It
26 is unlawful to dispose of extremely hazardous wastes in the state
27 without a permit issued by the department.

28 (b) A permit may be issued by the department only for the disposal
29 of extremely hazardous wastes which, when disposed of, will ensure the

1 protection of human health, livestock, wildlife, property, and the
2 environment.

3 Sec. 46.32.020. DISPOSAL OF HAZARDOUS WASTES. (a) It is un-
4 lawful to dispose of hazardous wastes in the state unless

5 (1) the waste has been processed to remove its harmful
6 properties to the maximum extent feasible; or

7 (2) it is disposed of in a manner which will ensure the
8 protection of human health, livestock, wildlife, property, and the
9 environment.

10 (b) The department shall adopt regulations in accordance with the
11 Administrative Procedure Act (AS 44.62) for the disposal of hazardous
12 wastes to ensure the protection of human health, livestock, wildlife,
13 property, and the environment.

14 Sec. 46.32.030. TRANSPORTATION OF EXTREMELY HAZARDOUS WASTES.

15 (a) The transportation of extremely hazardous wastes, except for
16 purpose of ^{product recovery treatment} disposal in accordance with AS 46.32.010(b), is prohibited.

17 (b) A person may not transport extremely hazardous wastes in the
18 state unless he first obtains a permit from the department. The depart-
19 ment shall adopt regulations governing the issuance of permits required
20 by this subsection, and shall establish and implement a system to
21 record by manifest the movement of extremely hazardous wastes which are
22 transported.

23 (c) The provisions of (a) and (b) of this section do not apply to
24 the transportation of extremely hazardous wastes by the federal govern-
25 ment. When the federal government proposes to transport extremely
26 hazardous wastes in the state, the agency of the federal government
27 shall notify the commissioner and the Department of Public Safety of
28 its plans. When notification is received from the federal agency, the
29 commissioner and the commissioner of public safety may take any action

No permit authority storage, transport, & transport of waste

1 they regard as necessary to protect the health and safety of persons in
2 the vicinity of the route used to transport the extremely hazardous
3 wastes. The notification provisions of this subsection do not apply if
4 advance notice to the commissioner would represent a threat to national
5 security.

6 Sec. 46.32.040. TRANSPORTATION OF HAZARDOUS WASTES. (a) The
7 department shall establish and implement a system to record by manifest
8 the movement of hazardous wastes in excess of 1,000 kilograms per month
9 which are transported.

10 (b) A person may not transport hazardous wastes in excess of
11 1,000 kilograms per month in the state unless he transports the hazar-
12 dous wastes in accordance with (a) of this section.

13 (c) The provisions of (a) and (b) of this section do not apply to
14 the transportation of hazardous wastes by the federal government. When
15 the federal government proposes to transport hazardous wastes in the
16 state, the agency of the federal government shall notify the commis-
17 sioner and the Department of Public Safety of its plans. When notifica-
18 tion is received from the federal agency, the commissioner and the
19 commissioner of public safety may take any action they regard as neces-
20 sary to protect the health and safety of persons in the vicinity of the
21 route used to transport the hazardous wastes. The notification provi-
22 sions of this subsection do not apply if advance notice to the commis-
23 sioner would represent a threat to national security.

24 Sec. 46.32.050. DEPARTMENT TO DEFINE EXTREMELY HAZARDOUS WASTES
25 AND HAZARDOUS WASTES BY REGULATION. The department shall, by regula-
26 tions adopted in accordance with the Administrative Procedure Act
27 (AS 44.62), classify substances as extremely hazardous wastes and
28 hazardous wastes.

29 Sec. 46.32.060. PENALTY. (a) A person who violates this chapter

1 or a regulation adopted under this chapter is guilty of a class A
2 misdemeanor.

3 (b) In addition to the penalty prescribed for a class A mis-
4 demeanor under AS 12.55.035(b)(3) and (c), a corporation which violates
5 this chapter or a regulation adopted under this chapter is subject to

6 (1) a penalty of \$50,000 for each offense; each day that the
7 violation continues constitutes a separate offense;

8 (2) the payment to the state of expenses incurred by the
9 state in removing, correcting, or abating the adverse effects of the
10 violation; and

11 (3) actual damages resulting from the violation.

12 Sec. 46.32.070. DEFINITIONS. In this chapter

13 (1) "department" means the Department of Environmental
14 Conservation;

15 (2) "extremely hazardous waste" means a hazardous waste or
16 combination of hazardous wastes which will likely cause the death of,
17 or result in disabling personal injury or serious illness to, a person
18 who has been exposed to it;

19 (3) "hazardous waste" means a waste, or combination of
20 wastes, which because of its quantity, concentration, or physical,
21 chemical or infectious characteristics may

22 (A) cause, or significantly contribute to, an increase
23 in mortality or an increase in serious irreversible, or incapaci-
24 tating reversible illness; or

25 (B) pose a substantial present or potential hazard to
26 human health, livestock, wildlife, property, or the environment
27 when improperly disposed of;

28 (4) "manifest" means a shipping or storage document contain-
29 ing a list of the contents, value, origin, carrier, and destination of

1 the extremely hazardous and hazardous wastes to be transported, required
2 to be carried by the person providing transportation of the wastes.

3 (5) "waste" means material for which no use or reuse is
4 intended and which is to be disposed of; the term does not include
5 nuclear waste subject to AS 18.45.

6 * Sec. 15. AS 18.45.010 - 18.45.080 are repealed.

7 * Sec. 16. Sections 1, 2, 6 - 11, and 15 of this Act take effect immedi-
8 ately in accordance with AS 01.10.070(c).

9 * Sec. 17. Sections 3 - 5 of this Act take effect on the date of a
10 final court order ruling AS 18.45.100 as enacted by sec. 1 of this Act
11 invalid or unconstitutional.

12 * Sec. 18. Sections 12 - 14 of this Act take effect July 1, 1981.
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Official Business

Alaska State Legislature

House of Representatives

Committee on Judiciary

Pouch V
State Capitol
Juneau, Alaska 99811

To: Representative Fred Brown
Chairman
House Judiciary Committee

Date: May 12, 1981

From: Michael Ford *M.F.*
Counsel
House Judiciary Committee

Re: House CS for CSSB 29(Judiciary) Teleconference

Please note that the above legislation, presently before the committee in workdraft form, deals with both nuclear and hazardous waste disposal. The teleconference is intended only to address the hazardous waste portion of this bill. (which begins on page eight of the work draft)

The teleconference agenda is designed with the following key issues in mind:

- A. Federal Resource Recovery and Conservation Act - In 1976 congress passed comprehensive legislation governing the disposal of hazardous waste. The effect of this law upon the State of Alaska will be addressed by Mr. Bulanowski of the NCSL.
- B. How should the individual States regulate the disposal of hazardous waste? Arkansas is the first and to date only state to receive E.P.A. approval of their hazardous waste law. Dr. Phyllis Garnett will discuss the Arkansas approach and implementation of their program.
- C. How should "hazardous waste" be defined? The State of Washington uses a two level definition, dangerous and extremely dangerous waste.

AGENDA

TELECONFERENCE ON HAZARDOUS WASTE LEGISLATION
ALASKA HOUSE JUDICIARY COMMITTEE
May 12, 1981
2:00 - 4:00 p.m. PST

- 2:00-2:10 Introduction and Welcome
Representative Fred Brown, Chairman,
Alaska House Judiciary Committee
- 2:10-2:25 Gerard Bulanowski, Senior Research Associate
National Conference of State Legislatures
- This presentation will describe:
- o The Resource Conservation and Recovery Act of 1976 (RCRA);
 - o The opportunities for state action; and
 - o The requirements of a RCRA state hazardous waste program;
- 2:25-2:35 Questions and Answers for Mr. Bulanowski
- 2:35-2:50 Dr. Phyllis Garnett, Director, Arkansas Legislative Science
Information Liaison Office, and Chairperson of Technical
Advisory Committee on Hazardous Waste
- This presentation will describe:
- o Arkansas enabling legislation for a RCRA State hazardous waste program;
 - o Arkansas' method for implementing their hazardous waste legislation; and
 - o Views of the benefits of a state vs. EPA controlled hazardous waste program.
- 2:50-3:00 Questions and Answers for Dr. Garnett
- 3:00-3:15 Tom Hanna, Alaska Department of Environmental Conservation
- This presentation will describe:
- o Alaska's current hazardous waste efforts.
- 3:15-3:25 Questions and Answers for Mr. Hanna
- 3:15-3:40 James C. Knudson, Hazardous Waste Section Washington Department
of Ecology
- This presentation will describe:
- o Washington's degree of hazard definition of hazardous waste; and
 - o Current negotiations with the EPA concerning changes in the definition so as to comply with the EPA state program requirements.
- 3:40-3:50 Question and Answers for Mr. Knudson
- 3:50-400 General Discussion

HAZARDOUS MATERIALS & WASTE IN ALASKA--SUMMARY

HAZARDOUS MATERIALS IMPORTED INTO ALASKA

Air freight-	1,350 tons/year - transported to Alaska by airlines
Vessel-	3,195 tons/year - shipments to Anchorage port only
Alaskan RR-	11,911 tons/year
Motor carrier -	<u>1,012 tons/year</u>
TOTAL	17,468 tons/year

PRESENTLY IN INVENTORY AWAITING DISPOSAL

PCB's - 2,831 tons
Military - 3,787 tons

WASTE GENERATION IN STATE (tons/year)

Industrial generators	3,420 tons/year
Small Generators	500 tons/year
Military (from Dept. of Defense publication)	<u>21,460 tons/year</u>
Total	25,380 tons/year

HARDOUS WASTE EXPORTED FROM ALASKA TO DISPOSAL FACILITY

Chem-Security (Oregon) - 2-4 tons (23 shipments) over the last 2 years

HAZAROUS WASTE GENERATED IN ALASKA* (TONS/YEAR)

LARGE INDUSTRY

<u>Waste</u>	<u>Approximate Amount</u>
Combustible/flammable liquid	1,403
Corrosives	941
Poison	736 (including 317 pounds/year of acute hazardous waste)
Oxidizer	192
Other regulated material (ORM)	<u>147</u>
	3,420 tons/year
SMALL GENERATORS **	500 tons/year
MILITARY	<u>21,460</u> tons/year
Total:	<u>25,380</u> tons/year

*Information gathered from Alaskan companies which notified U.S.EPA that they are generators of hazardous waste. Since no data on volumes generated was required by EPA, volumes used in this report are the minimum amount required for notification by EPA. Therefore, actual volume generated could be much higher than amounts shown. This waste requires disposal in approved disposal facilities.

**Figures based on National averages

HAZARDOUS MATERIALS IMPORTED TO ALASKA

Type	Air Freight	Alaska RR	Vessel Shipments to Anchorage	Total
Flammable compressed gas	257	6,580	396-flammable 180-non-flammable <u>576-total</u>	7,413
Combustible flammable liquid	216	1,448	1,872	3,536
Explosives	68	1,276	212	1,556
Poison	27	340	220	587
Oxidizers	27	32	188	247
Corrosives	27	1,456	116	1,599
Radioactive (RAM)	27	-	-	-
Flammable solids	13	-	8	21
Other regulated material (CRM)	<u>689</u>	<u>788</u>	<u>-</u>	<u>1,477</u>
Total	1,350 tons/yr	11,911 tons/yr	3,195 tons/yr	16,456 tons/yr
			Motor Carrier* tons/yr.	<u>1,012</u>
			Grand Total tons/yr.	<u>17,468</u>

*Motor carriers tonnage is based on the number of fully loaded shipments

ALASKA HAZARDOUS WASTE HANDLERS

	<u>North</u>	<u>Central</u>	<u>South</u>	<u>Total</u>
Generators	12	22	2	36
Transporters	1	12	-	13
TSD's	12	14	2	28
TOTAL	25	48	4	77

FEBRUARY 1981

GENERATORS OF PCB - STATE OF ALASKA
 TOTAL- 522,229 Gallons or 2831 Tons

Description	Approximate Quantity	Facility	Region
Miscellaneous items	80.7 ft ³ = 604 gal.	Fort Greeley	N
PCB items in containers	13,000 kg = 2539 gal.	Forts Greeley, Wainwright, & Richardson	N,N,C
10 transformers	500 gals.	Bar Main-USAF	N
1 large capacitor	1 gal.	Fairbanks Public Service, Alascom Bldg.	N
miscellaneous items	6 kg. = 1 gal.	Pedro Dome-Alascom	N
101 transformers	5,050 gals.	McGrath Light & Power	C
2 transformers in storage	100 gals.	McGrath Light & Power	C
2 contaminated transformers	100 gals.	McGrath Light & Power	C
10 transformers in storage	500 gals.	Merrill Field Complex- FAA	C
4 transformers	200 gals.	Anchorage Int'l Complex	C
PCB capacitors	220 ft. = 1,646 gals.	MAR Enterprises	C
13 drums	715 gals.	Corps of Engineers, Anchorage	C
2 transformers	100 gals.	Boswell Bay-Alascom	C
4 contaminated transformers	200 gals.	Boswell Bay-Alascom	C
6 transformers	300 gals.	Cape Yakataga- Alascom	C
11 large capacitors	11 gals.	Neklasson Lake- Alascom	C
55 transformers in service	2,750 gals.	U.S. Coast Guard- Kodiak Island	C
15 contaminated transformers	750 gals.	U.S. Coast Guard- Kodiak Island	C
62 5-gal. cans	310 gals.	U.S. Coast Guard- Kodiak Island	C
transformers and generators	240 lbs. = 22 gal.	U.S. Coast Guard- Kodiak Island	C

Description	Approximate Quantity	Facility	Region
Contaminated Oil	1,500 lbs. = 138 gals.	U.S.Coast Guard- Kodiak Island	C
6 large transformers in storage	480 gals.	Cape Sarichef - Dept. of Interior	C
2 transformers in service	100 gals.	Alaska Power Admin. Eklutna Power Project	C
2 transformers	100 gals.	Home Electric Assn.	C
5 transformers in storage	250 gals.	Kodiak Electric Assn.	C
8206 transformers in use	410,300 gals.	Matanuska Electric Assn.	C
1666 transformers in storage	83,300 gals.	Matanuska Electric Assn.	C
2 capacitors in storage	2 gals.	Matanuska Electric Assn.	C
Miscellaneous items	561 kg. = 110 gals.	Alaska Railroad	C
87 transformers & switches	4350 gals.	Alaska Railroad	C
1 transformer in service	50 gals.	Naval Security Groups - Adak	C
32 capacitors in service	32 gals.	Naval Security Groups - Adak	C
4 capacitors in storage	4 gals.	Naval Security Groups - Adak	C
36 transformers in service	1800 gals.	Naval Station - Adak	C
58 transformers in storage	2900 gals.	Naval Station - Adak	C
29 transformers in service	1450 gals.	Mt. Edgecumbe	S
4 transformers in storage	200 gals.	Mt. Edgecumbe	S
Items in service	77 kg = 15 gals.	Alaska Power Admin.- Snettisham Project	S
4 transformers in service	200 gals.	Alaska Power Admin.- Snettisham Project	S
1 transformer	50 gals.	State of Alaska - w/in Ketchikan Public Utilities System	S

TOTAL PCB IN ALASKA - 522,229 gallons

(3)(a) "General license" means a license effective pursuant to regulations promulgated by the state radiation control agency, without the filing of an application, to transfer, acquire, own, possess, or use quantities of, or devices or equipment utilizing, byproduct, source, special nuclear materials, or other radioactive material occurring naturally or produced artificially.

(b) "Specific license" means a license, issued after application to use, manufacture, produce, transfer, receive, acquire, own, or possess quantities of, or devices or equipment utilizing byproduct, source, special nuclear materials, or other radioactive materials occurring naturally or produced artificially.

(4) "Person" means any individual, corporation, partnership, firm, association, trust, estate, public or private institution, group, agency, political subdivision of this state, any other state or political subdivision or agency thereof, and any legal successor, representative, agent, or agency of the foregoing, other than the United States Atomic Energy Commission, or any successor thereto, and other than federal government agencies licensed by the United States Atomic Energy Commission, or any successor thereto.

(5) "Source material" means (a) uranium, thorium, or any other material which the governor declares by order to be source material after the United States Atomic Energy Commission, or any successor thereto, has determined the material to be such; or (b) ores containing one or more of the foregoing materials, in such concentration as the governor declares by order to be source material after the United States Atomic Energy Commission, or any successor thereto, has determined the material in such concentration to be source material.

(6) "Special nuclear material" means (a) plutonium, uranium 233, uranium enriched in the isotope 233 or in the isotope 235, and any other material which the governor declares by order to be special nuclear material after the United States Atomic Energy Commission, or any successor thereto, has determined the material to be such, but does not include source material; or (b) any material artificially enriched by any of the foregoing, but does not include source material.

(7) "Registration" means registration with the state department of social and health services by any person possessing a source of ionizing radiation in accordance with rules, regulations and standards adopted by the department of social and health services.

(8) "Radiation source" means any type of device or substance which is capable of producing or emitting ionizing radiation.

[Amended by Laws 1979 ch 141 § 126, effective March 27, 1979.]

70.98.070 Advisory council on nuclear energy and radiation

Amended by Laws 2nd Ex Sess 1975-76 ch 34 § 162, effective July 1, 1976; and repealed by Laws 2nd Ex Sess 1976-78 ch 108 § 43, effective March 16, 1978.

Sovereignty—Effective dates—1975-78 2nd ex. s. c 108: See notes following RCW 49.21F.010.

70.98.210 Recommended legislation

The agency shall study, formulate, and recommend to the legislature from time to time specific recommendations to further the purposes of this chapter. [Amended by Laws 2nd Ex Sess 1975-78 ch 108 § 14, effective March 16, 1978.]

Sovereignty—Effective dates—1975-78 2nd ex. s. c 108: See notes following RCW 49.21F.010.

CHAPTER 70.105—HAZARDOUS WASTE DISPOSAL

Sections	Definitions.	Sections	Criteria for receiving waste at disposal site.
70.105.010	Definitions.	70.105.070	Violations — Civil penalties — Enforcement — Procedure.
70.105.020	Standards and regulations— Adoption — Notice and hearing — Consultation with other agencies.	70.105.080	Violations — Gross misdemeanor.
70.105.030	List and information to be furnished by depositor of hazardous waste — Rules and regulations.	70.105.090	Powers and duties of department.
70.105.040	Disposal site or facility— Acquisition — Disposal fee schedule.	70.105.100	Exceptions — Other acts not affected.
70.105.050	Disposal at other than approved site prohibited — Exception.	70.105.110	Authority of attorney general.
70.105.060	Review of rules, regulations, criteria and fee schedules.	70.105.120	Department's powers as designated agency under federal act.
		70.105.130	Rules implemented under RCW 70.105.130—Review.

70.105.010 Definitions

The words and phrases defined in this section shall have the meanings indicated when used in this chapter unless the context clearly requires otherwise.

(1) "Department" means the department of ecology.

(2) "Director" means the director of the department of ecology or his designee.

(3) "Disposal site" means a geographical site in or upon which extremely hazardous wastes are disposed of in accordance with the provisions of this chapter.

(4) "Dispose or disposal" means the discarding or abandoning of extremely hazardous wastes or the treatment, decontamination, or recycling of such wastes once they have been discarded or abandoned.

(5) "Dangerous wastes" means any discarded, useless, unwanted, or abandoned nonradioactive substances, including but not limited to certain pesticides, or any residues or containers of such substances which are disposed of in such quantity or concentration as to pose a substantial present or potential hazard to human health, wildlife, or the environment because such wastes or constituents or combinations of such wastes:

(a) Have short-lived, toxic properties that may cause death, injury, or illness or have mutagenic, teratogenic, or carcinogenic properties; or

(b) Are corrosive, explosive, flammable, or may generate pressure through decomposition or other means.

(6) "Extremely hazardous waste" means any dangerous waste which

(a) will persist in a hazardous form for several years or more at a disposal site and which in its persistent form

(i) presents a significant environmental hazard and may be concentrated by living organisms through a food chain or may affect the genetic make-up of man or wildlife, and

(ii) is highly toxic to man or wildlife

(b) is disposed of at a disposal site in such quantities as would present an extreme hazard to man or the environment.

principal or private corporation, agency, or other entity whatsoever.

(8) "Castleido" shall have the meaning of the term as defined in ROW 16.58.030 as now or hereafter amended.

(9) "Solid waste advisory committee" means the same advisory committee as per RCW 70.05.010 through 70.05.070. [Enacted Laws 2nd Ex Sess 1975-76 ch 101 § 1.]

Appropriation—1975-76 2nd ex.s. c 101 § 12: "There is appropriated to the department of ecology from the state and local improvements revolving account of the general fund out of the proceeds of the sale of bonds or notes as authorized in chapter 43.63A RCW (Referendum 26) the sum of one million three hundred fifty-three thousand dollars, or as much thereof as may be necessary, for the following purposes:

"(1) The sum of one hundred fifty-three thousand dollars for the department to develop a comprehensive plan for the adequate treatment of extremely hazardous wastes being generated in the state, and the techniques and requirements necessary for adequately disposing of such wastes and for securing and monitoring disposal sites. The objective of such a comprehensive plan shall be to determine the statewide facility requirements for the adequate disposal of extremely hazardous wastes being generated in the state and for those expected to be generated in the future.

"(2) The sum of one million two hundred thousand dollars for the purchase of real property on the Hanford Reservation by the department for the construction of a disposal site for extremely hazardous wastes and for the construction of facilities necessary for the operation of the disposal site including, but not limited to, security and monitoring facilities." [1975-76 2nd ex.s. c 101 § 12.]

Key Number Digests: Health and Environment ⇨25.5.

70.105.020 Standards and regulations—Adoption—Notice and hearing—Consultation with other agencies

The department after notice and public hearing shall:

(1) Adopt regulations designating as extremely hazardous wastes subject to the provisions of this chapter those substances which exhibit characteristics consistent with the definition provided in RCW 70.105.010(9);

(2) Adopt and may revise when appropriate, minimum standards and regulations for disposal of extremely hazardous wastes to protect against hazards to the public, and to the environment. Before adoption of such standards and regulations, the department shall consult with appropriate agencies of interested local governments and secure technical assistance from the department of agriculture, the department of social and health services, the department of game, the department of natural resources, the department of fisheries, the department of labor and industries, and the state fire marshal. [Enacted Laws 2nd Ex Sess 1975-76 ch 101 § 2.]

Key Number Digests: Health and Environment ⇨25.5.

70.105.030 List and information to be furnished by depositor of hazardous waste—Rules and regulations

(1) After the effective date of the regulations adopted by the department designating extremely hazardous wastes, any person planning to dispose of extremely hazardous waste as designated by the department shall provide the operator of the disposal site with a list setting forth the extremely hazardous wastes for disposal, the amount of such wastes, the general chemical and mineral composition of such waste listed by approximate maximum and minimum percentages, and the origin of any such waste. Such list, when appropriate, shall include information on antidotes, first aid, or safety measures

ardous waste being disposed.

(2) The department shall adopt and enforce all rules and regulations including the form and content of the list, necessary and appropriate to accomplish the purposes of subsection (1) of this section. [Enacted Laws 2nd Ex Sess 1975-76 ch 101 § 3.]

Key Number Digests: Health and Environment ⇨25.5.

70.105.040 Disposal site or facility—Acquisition—Disposal fee schedule

(1) The department through the department of general administration, is authorized to acquire interests in real property from the federal government on the Hanford Reservation by gift, purchase, lease, or other means, to be used for the purpose of developing, operating, and maintaining an extremely hazardous waste disposal site or facility by the department, either directly or by agreement with public or private persons or entities. *Provided*, That lands acquired under this section shall not be inconsistent with a local comprehensive plan approved prior to January 1, 1976: *And provided further*, That no lands acquired under this section shall be subject to land use regulation by a local government.

(2) The department may establish an appropriate fee schedule for use of such disposal facilities to offset the cost of administration of this chapter and the cost of development, operation, maintenance, and perpetual management of the disposal site. If operated by a private entity, the disposal fee may be such as to provide a reasonable profit. [Enacted Laws 2nd Ex Sess 1975-76 ch 101 § 4.]

Key Number Digests: Health and Environment ⇨25.5.

70.105.050 Disposal at other than approved site prohibited—Exception

No person shall dispose of designated extremely hazardous wastes at any disposal site in the state other than the disposal site established and approved for such purpose under provisions of this chapter, except when such wastes are going to a processing facility which will result in the waste being reclaimed, treated, detoxified, neutralized, or otherwise processed to remove its harmful properties or characteristics. [Enacted Laws 2nd Ex Sess 1975-76 ch 101 § 5.]

Key Number Digests: Health and Environment ⇨25.5.

70.105.060 Review of rules, regulations, criteria and fee schedules

All rules, regulations, criteria, and fee schedules adopted by the department to implement the provisions of this chapter shall be reviewed by the solid waste advisory committee for the purpose of recommending revisions, additions, or modifications thereto as provided for the review of solid waste regulations and standards pursuant to chapter 70.05 ROW [Enacted Laws 2nd Ex Sess 1975-76 ch 101 § 6.]

Key Number Digests: Health and Environment ⇨25.5.

70.105.070 Criteria for receiving waste at disposal site

The department may elect to receive dangerous waste at the site provided under this chapter, provided

(1) It is upon request of the owner, producer, or person having custody of the waste, and

(3) It can be reasonably demonstrated that there is no other disposal sites in the state that will handle such dangerous waste, and

(4) the site is designed to handle such a request or can be modified to the extent necessary to adequately dispose of the waste, or

(5) If a demonstrable emergency and potential threat to the public health and safety exists. [Enacted Laws 2nd Ex Sess 1976-70 ch 101 § 7.]

Key Number Digests: Health and Environment ⇨25.5.

70.105.080 Violations—Civil penalties—Enforcement—Procedure

(1) Every person who fails to comply with any provision of ROW 70.105.010 through 70.105.090 or of the rules adopted thereunder shall be subjected to a penalty in an amount of not more than one thousand dollars per day for every such violation. Each and every such violation shall be a separate and distinct offense. In case of continuing violation, every day's continuance shall be a separate and distinct violation. Every person who, through an act of commission or omission, procures, aids, or abets in the violation shall be considered to have violated the provisions of this section and shall be subject to the penalty herein provided.

(2) The penalty provided for in this section shall be imposed by a notice in writing, either by certified mail with return receipt requested or by personal service, to the person incurring the same from the department, describing the violation with reasonable particularity. Within fifteen days after the notice is received, the person incurring the penalty may apply in writing to the department for the remission or mitigation of such penalty. Upon receipt of the application, the department may remit or mitigate the penalty upon whatever terms the department in its discretion deems proper, provided the department deems such remission or mitigation to be in the best interests of carrying out the purposes of this chapter. The department of ecology shall have authority to ascertain the facts regarding all such applications in such reasonable manner and under such rules as it may deem proper. Any penalty imposed by the provisions of this section shall be subject to review by the pollution control hearings board in accordance with chapter 43.21B RCW.

(3) Any penalty imposed by this section shall become due and payable thirty days after receipt of a notice imposing the same unless application for remission or mitigation is made or petition for review by the hearings board is filed. When such an application for remission or mitigation is made, any penalty incurred pursuant to this section shall become due and payable thirty days after receipt of notice setting forth the disposition of such application. Any penalty resulting from a decision of the hearings board shall become due and payable thirty days after receipt of the notice setting forth the decision.

(4) If the amount of any penalty is not paid to the department of ecology within thirty days after it becomes due and payable, the attorney general, upon the request of the director, shall bring an action in the name of the state of Washington in the superior court of Thurston county, or of any county in which such violator may do business, to recover such penalty. In all such actions, the procedure and rules of evidence shall be the same as an ordinary civil action except as otherwise in this chapter provided. [Enacted Laws 2nd Ex Sess 1976-70 ch 101 § 8.]

CJS Health and Environment § 80.

Key Number Digests: Health and Environment ⇨88.

70.105.090 Violations—Gross misdemeanor

In addition to the penalties imposed pursuant to ROW 70.105.080, any person who violates any provisions of ROW 70.105.010 through 70.105.090, or of the rules implementing ROW 70.105.010 through 70.105.090, and any person who knowingly aids or abets another in conducting any violation of any provisions of ROW 70.105.010 through 70.105.090, or of the rules implementing ROW 70.105.010 through 70.105.090, shall be guilty of a gross misdemeanor and upon conviction thereof shall be punished by a fine of not less than one hundred dollars nor more than one thousand dollars, or by imprisonment in the county jail for not more than one year, for each separate violation. [Enacted Laws 2nd Ex Sess 1976-70 ch 101 § 9.]

CJS Health and Environment §§ 29 et seq.

Key Number Digests: Health and Environment ⇨37.

70.105.100 Powers and duties of department

The department in performing its duties under this chapter may:

(1) Conduct studies and coordinate research programs pertaining to extremely hazardous waste management;

(2) Render technical assistance to generators of dangerous and extremely hazardous wastes and to state and local agencies in the planning and operation of hazardous waste programs;

(3) Encourage and provide technical assistance to waste generators to form and operate a "waste exchange" for the purpose of finding users for dangerous and extremely hazardous wastes that would otherwise be disposed of: *Provided*, That such technical assistance shall not violate the confidentiality of manufacturing processes; and

(4) Provide for appropriate surveillance and monitoring of extremely hazardous waste disposal practices in the state. [Enacted Laws 2nd Ex Sess 1976-70 ch 101 § 10.]

70.105.110 Exceptions—Other acts not affected

(1) Nothing in this chapter shall apply to any radioactive waste or radioactive material.

(2) Nothing in this chapter shall alter, amend, or supersede the provisions of chapter 80.60 RCW, as now existing or hereafter amended, or grant to the department or to the solid waste advisory committee any authority regarding the regulation, certification, construction, or siting of thermal power plants, as defined in such acts. [Enacted Laws 2nd Ex Sess 1976-70 ch 101 § 11.]

Key Number Digests: Health and Environment ⇨25.5.

70.105.120 Authority of attorney general

At the request of the department, the attorney general is authorized to bring such injunctive, declaratory, or other actions to enforce any requirement of this chapter.

[Added by Laws 1980 ch 144 § 2.]

70.105.130 Department's powers as designated agency under federal act

(1) The department is designated as the state agency for implementing the federal resource conservation and recovery act (42 U.S.C. Sec. 6901 et seq.).

(2) The power granted to the department by this section is the authority to:

(a) Establish a permit system for owners or operators of facilities which treat, store, or dispose of dangerous wastes: *Provided*, That spent containers

of pesticides or herbicides which have been used in normal farm operation and which are not extremely hazardous wastes, shall not be subject to the permit system;

(b) Establish standards for the safe transport, treatment, storage, and disposal of dangerous wastes as may be necessary to protect human health and the environment;

(c) Establish, to implement this section:

(i) A manifest system to track dangerous wastes;

(ii) Reporting, monitoring, recordkeeping, labeling, sampling requirements and

(iii) Owner, operator, and transporter responsibility;

(d) Enter at reasonable times establishments regulated under this section for the purposes of inspection, monitoring, and sampling; and

(e) Adopt rules necessary to implement this section.

[Added by Laws 1980 ch 144 § 1.]

CJS Health and Environment § 18.

Key Number Digests: Health and Environment ☞8.

70.105.140 Rules implemented under RCW 70.105.130—Review

Rules implementing RCW 70.105.130 shall be submitted to the house and senate committees on ecology for review prior to being adopted in accordance with chapter 34.04 RCW.

[Added by Laws 1980 ch 144 § 3.]

CHAPTER 70.106—HAZARDOUS SUBSTANCES AND ARTICLES (WASHINGTON POISON PREVENTION ACT OF 1974)

70.106.130 Technical advisory committee

For the purpose of carrying out the provisions of this chapter the director shall, within one hundred eighty days of July 24, 1974, appoint a technical advisory committee and appoint a chairman thereof, said committee to consist of one representative from each of the following:

(1) The secretary of the department of social and health services;

(2) The pharmacy board;

(3) A hospital specializing in child welfare and poison care;

(4) The packaging closures industry;

(5) University of Washington medical school;

(6) University of Washington school of pharmacy;

(7) A specialist in pesticide and chemical handling and control from Washington State University;

(8) The public;

(9) The dairy and food division of the department of agriculture; and

(10) A member of the Washington state society of pediatrics or its designee.

Members of the technical advisory committee who are not regular full time employees of a public agency or institution shall receive twenty-five dollars for each day or major portion thereof plus reimbursement for travel expenses incurred in the performance of their duties in accordance with RCW 43.03.060 and 43.03.060 as now existing or hereafter amended. [Amended by Laws 2nd Ex Sess 1975-76 ch 34 § 103, effective July 1, 1976.]

Effective date—Severability—1975-76 2nd ex.s. c 34: See notes following RCW 2.08.115.

CHAPTER 70.107—NOISE CONTROL

50 Wn LR 143 (environmental class action).

70.107.040 Technical advisory committee

The director shall name a technical advisory committee to assist the department in the implementation of this chapter. Committee members shall be entitled to reimbursement for travel expenses as provided in RCW 43.03.050 and 43.03.060, as now existing or hereafter amended. [Amended by Laws 2nd Ex Sess 1975-76 ch 34 § 104, effective July 1, 1976.]

Effective dates—Severability—1975-76 2nd ex.s. c 34: See notes following RCW 2.08.115.

CHAPTER 70.108—OUTDOOR MUSIC FESTIVALS

70.108.130 Penalty

Any person who shall willfully fail to comply with the rules, regulations, and conditions set forth in this chapter or who shall aid or abet such a violation or failure to comply, shall be deemed guilty of a gross misdemeanor: *Provided*, That violation of a rule, regulation, or condition relating to traffic including parking, standing, stopping, and pedestrian offenses is a traffic infraction, except that violation of a rule, regulation, or condition equivalent to those provisions of Title 46 RCW set forth in RCW 46.63.020 is a misdemeanor.

[Amended by Laws 1st Ex Sess 1979 ch 130 § 104, effective January 1, 1981.]

Effective date—Severability—1979 1st ex.s. c 130: See notes following RCWA 46.63.010.

CHAPTER 70.112—FAMILY MEDICINE—EDUCATION AND RESIDENCY PROGRAMS

Sections

70.112.010 Definitions.

70.112.020 Education in family medical practice — Department in school of medicine — Residency programs — Financial support.

70.112.030 Family practice education advisory board — Chairman — Membership.

Sections

70.112.040 Advisory board — Terms of members — Filling vacancies.

70.112.060 Advisory board — Duties — Annual report.

70.112.080 Funding of residency program.

70.112.010 Definitions

CJS Colleges and Universities § 24 et seq.

Key Number Digests: Colleges and Universities ☞9.

(1) "School of medicine" means the University of Washington school of medicine located in Seattle, Washington;

(2) "Residency programs" mean community based family practice residency educational programs either in existence or established under this chapter;

(3) "Affiliated" means established or developed in cooperation with the school of medicine;

Compiler's Notes. Section 3 of Acts 1979, No. 246 and section 3 of Acts 1979, No. 679 were identical and have been compiled together.

82-4104. Duties. — It shall be the duty and responsibility of the Council created herein to improve and strengthen the system of home health care within the State through coordination of comprehensive planning, development and implementation of home health care programs. [Acts 1979, No. 246, § 4, p. —; 1979, No. 679, § 4, p. —.]

Compiler's Notes. Section 4 of Acts 1979, No. 246 and section 4 of Acts 1979, No. 679 were identical and have been compiled together.

82-4105. Staff and resources. — Within the appropriate laws and regulations, each Agency or Department shall commit such existing staff and resources as are available to carry out the provisions of this Act [§§ 82-4101 — 82-4106]. [Acts 1979, No. 246, § 5, p. —; 1979, No. 679, § 5, p. —.]

Compiler's Notes. Section 5 of Acts 1979, No. 246 and section 5 of Acts 1979, No. 679 were identical and have been compiled together.

82-4106. Reports — Advisory authority. — The Council shall report its findings and recommendations to the Governor. The Council's authority with respect to the above matters shall be advisory only. [Acts 1979, No. 246, § 6, p. —; 1979, No. 679, § 6, p. —.]

Compiler's Notes. Section 6 of Acts 1979, No. 246 and section 6 of Acts 1979, No. 679 were identical and have been compiled together.

Repealing Clause. Section 7 of Acts 1979, No. 246 and § 7 of Acts 1979, No. 679 repealed all laws and parts of laws in conflict therewith.

Separability. Section 8 of Acts 1979, No. 246 and § 8 of Acts 1979, No. 679, read: "The provisions of this Act shall be severable, and, if any phrase, clause, sentence, paragraph or section of this Act be declared unconstitutional, the same shall not affect the remaining portions of this Act."

Emergency. Section 9 of Acts 1979, No. 246 and § 9 of Acts 1979, No. 679, read: "Whereas,

the State of Arkansas ranks second in the nation in its elderly population and it is imperative to the health and well-being of the citizens of Arkansas that immediate steps be taken to prevent premature commitments to institutions, and this Act is necessary to establish the Council and provide immediate recommendations for initial improvements in home health care, an emergency is hereby declared to exist and this Act shall be in full force and effect from and after its passage."

Acts 1979, No. 246 was approved March 1, 1979, and Acts 1979, No. 679 was approved April 2, 1979.

CHAPTER 42

HAZARDOUS WASTE MANAGEMENT

SECTION.
82-4201. Short title.
82-4202. Purpose.
82-4203. Definitions.

SECTION.
82-4204. Powers and duties.
82-4205. Permits.
82-4206. Consideration of varying conditions, coordinated

SECTION.
82-4216. Existing rules, regulations, orders, permits, legal proceedings.
82-4216. Venue for legal proceedings.
Resource Reclamation
82-4217. Short title.
82-4218. Legislative findings.
82-4219. Declaration of policy.
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82-4221. Powers and duties.
82-4222. Unlawful acts.
82-4223. Penalties.
82-4224. Industrial waste treatment facilities.
82-4207. Transportation of hazardous waste.
82-4208. Imminent hazard.
82-4209. Procedure.
82-4210. Department designated state agency for participation in federal program interstate cooperation.
82-4211. Maintaining records, furnishing information, and permitting examinations and surveys.
82-4212. Unlawful acts.
82-4213. Penalties.
82-4214. Variances.
82-4216. Existing rules, regulations, orders, permits, legal proceedings.

82-4201. Short title. — This Act [§§ 82-4201 — 82-4216] may be cited as the Arkansas Hazardous Waste Management Act of 1979. [Acts 1979, No. 406, § 1, p. —.]

82-4202. Purpose. — It is the purpose of this Act [§§ 82-4201 — 82-4216] and it is hereby declared to be the policy of this State (a) to protect the public health and safety, the health of living organisms and the environment, from the effects of the improper, inadequate, or unsound management of hazardous wastes; (b) to establish a program of regulation over the generation, storage, transportation, treatment, and disposal of hazardous wastes; (c) to assure the safe and adequate management of hazardous wastes within this State; (d) to qualify the Department of Pollution Control and Ecology to adopt, administer, and enforce a hazardous waste program pursuant to the Federal Resource Conservation and Recovery Act of 1976 (Public Law 94-580 approved October 21, 1976) [42 U.S.C. §§ 6901 — 6987], (e) and to afford the people of the State of Arkansas a voice in the permitting of hazardous waste facilities within their respective counties. [Acts 1979, No. 406, § 2, p. —.]

Compiler's Notes. The words in parentheses so appeared in the law as enacted.

82-4203. Definitions. — For purposes of this Act [§§ 82-4201 — 82-4216], (a) "Department" means the Arkansas Department of Pollution Control and Ecology.

(b) "Director" means the Director of the Department.

(c) "Commission" means the Arkansas Commission on Pollution Control and Ecology within the Department.

(d) "Disposal" means the discharge, deposit, injection, dumping, spilling, leaking or placing of any hazardous waste into or on any land or water in whatever manner so that such hazardous waste or any constituent thereof might or might not enter the environment or be emitted into the air, or discharged into any waters, including groundwaters.

(e) "Generation" means the act or process of producing waste materials.

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(f) "Hazardous Waste" means any waste or combination of wastes of a solid, liquid, contained gaseous, or semisolid form which, because of its quantity, concentration, or physical, chemical, or infectious characteristics, may in the judgment of the Department (1) cause or significantly contribute to an increase in mortality or an increase in serious irreversible or incapacitating reversible illness; or (2) pose a substantial present or potential hazard to human health or the environment when improperly treated, stored, transported, or disposed of or otherwise improperly managed. Such wastes include, but are not limited to, those which are radioactive, toxic, corrosive, flammable, irritants, strong sensitizers, or which generate pressure through decomposition, heat, or other means.

(g) "Hazardous Waste Management" means the systematic control of the generation, collection, source separation, storage, transportation, processing, recovery, disposal and treatment of hazardous waste.

(h) "Manifest" means the form used for identifying the quantity, composition, and the origin, routing, and destination of hazardous waste during its transport.

(i) "Person" means any individual, corporation, company, firm, partnership, association, trust, joint stock company, state agency, government instrumentality or agency, institution, county, city, town, or municipal authority or trust, venture, or any other legal entity, however organized.

(j) "Storage" means the containment of hazardous wastes, either on a temporary basis or for a period of years, in such a manner as not to constitute disposal of such hazardous wastes, provided, however, that storage by means of burial shall be deemed to constitute disposal within the meaning of this Act.

(k) "Transport" means the movement of wastes from the point of generation to any intermediate points, and finally to the point of ultimate storage or disposal.

(l) "Treatment" means any method, technique, or process, including neutralization, designed to change the physical, chemical, or biological character or composition of any hazardous waste, so as to neutralize such waste or so as to render such waste less hazardous, safer for transport, amenable to recovery, amenable to storage, amenable to disposal, or reduced in volume.

(m) "Facility" means any land and appurtenances, thereon and thereto, used for the treatment, storage, and/or disposal of hazardous waste.

(n) "Treatment Facility" means a location at which waste is subjected to treatment and may include a facility where waste has been generated.

(o) "Site" means any real property located within the boundary of the State of Arkansas contemplated and/or later acquired for the purpose of but not limited to landfills or other facilities to be used for treatment, storage, disposal, or generation of hazardous wastes. [Acts 1979, No. 406, § 3, p. —.]

(a) To administer and enforce all laws, rules and regulations relating to the generation, storage, treatment, transportation, recovery, and disposal of hazardous wastes;

(b) To conduct and publish such studies of hazardous waste management in this State as shall be deemed appropriate, including, but not limited to, a description of the sources of hazardous waste generated within the State, the types and quantities of such waste, a description of current hazardous waste management practices and costs, including treatment, recovery, and disposal;

(c) To develop, publish and implement plans in accordance with the provisions of this Act [§§ 82-4201 — 82-4216] for the safe and effective management of hazardous wastes within this State, including, but not limited to, the establishment of criteria for the identification of those locations within the State which are suitable for establishment of hazardous waste treatment or disposal facilities or sites and those locations which are not suitable for such purposes;

(d) To establish criteria for the determination of whether any waste or combination of wastes is hazardous for purposes of this Act and to identify and specify wastes or combination of wastes as being hazardous;

(e) To adopt, after notice and public hearing, promulgate, modify, repeal, and enforce rules and regulations for the collection, generation, storage, transportation, disposal, recovery, and treatment of hazardous wastes as may be necessary or appropriate to implement or effectuate the purposes and intent of this Act and the powers and duties of the Department hereunder, including, but not limited to, rules and regulations for:

(1) the containerization and labeling of hazardous wastes, which rules, to the extent practicable, shall be consistent with those issued by the United States Department of Transportation, the United States Environmental Protection Agency, and the Arkansas Transportation Commission;

(2) establishing standards and procedures for the safe operation and maintenance of facilities;

(3) identifying those wastes or combination of wastes which are incompatible and which may not be stored or disposed of together and procedures for preventing the storage, disposal, recovery or treatment of incompatible wastes together;

(4) the reporting of the generation, storage, transportation, recovery, treatment, or disposal of hazardous wastes;

(5) establishing standards and procedures for the certification of supervisory personnel at hazardous waste treatment or disposal facilities or sites as required under Section 5(g)(3) [§ 82-4205(g)(3)] hereof;

(6) establishing a manifest system for the transport of hazardous wastes and prohibiting the receipt of hazardous wastes at storage, processing, recovery, disposal, or transport facilities or sites without a properly completed manifest.

(f) To issue, continue in effect, revoke, modify, or deny under such conditions as it may prescribe, permits for the establishment, construction, operation, and/or maintenance of hazardous waste treatment or disposal facilities or sites, as more particularly prescribed by Section 516 82-42051, f

(g) To make such investigations and inspections and to hold such hearings, after notice, as it may deem necessary or advisable for the discharge of its duties hereunder and to insure compliance with this Act, and any orders, rules, and regulations issued pursuant thereto.[:]

(h) To make, issue, modify, revoke, and enforce orders, after notice and hearing, prohibiting violation of any of the provisions of this Act or of any rules and regulations issued pursuant thereto or any permit issued thereunder, and requiring the taking of such remedial measures as may be necessary or appropriate to implement or effectuate the provisions and purposes of this Act;

(i) To institute proceedings in the name of the Department in any court of competent jurisdiction to compel compliance with, and to restrain any violation of the provisions of this Act and/or any rules, regulations and orders issued pursuant thereto or any permit issued thereunder, and to require the taking of such remedial measures as may be necessary or appropriate to implement or effectuate the provisions and purposes of this Act. In any civil action in which a temporary restraining order, preliminary injunction, or permanent injunction is sought, it shall not be necessary to allege or prove at any stage of the proceeding that irreparable damage will occur should the requested relief not be granted, nor that the remedy at law is inadequate.[:]

(j) To initiate, conduct and support research, demonstration projects and investigations and coordinate all state agency research programs pertaining to hazardous waste management, and to establish technical advisory committees to assist in the development of procedures, standards, criteria, and rules and regulations, the members of which may be reimbursed for travel expenses;

(k) To establish policies and standards for effective hazardous waste management;

(l) To establish standards and procedures for the certification of personnel to operate hazardous waste treatment or disposal facilities;

(m) In addition to the foregoing, the Department shall have and may use in the administration and enforcement of this Act all of the powers which it has under other acts administered by it, including the Arkansas Water and Air Pollution Control Act (Section 82-1901 et seq., Ark. Stats. Ann.) and the Arkansas Solid Waste Management Act (Section 82-2701 et seq., Ark. States. [Stats.] Ann.). [Acts 1979, No. 406, § 4, p. —.]

Compiler's Notes. The words in "Stats." in subdivision (m) were inserted by parentheses so appeared in the law as the compiler.

The bracketed semicolons in subdivisions (g) and (l) and the bracketed abbreviation

82-4206. Permits. — (a) No person shall construct, substantially alter, or operate any hazardous waste treatment or disposal facility or site, nor shall any person store, transport, treat, or dispose of any hazardous waste without first obtaining a permit from the Department for such facility, site, or activity. Persons who construct, substantially alter or operate a facility

which generates hazardous wastes shall be subject to the reporting requirements of the Act (§§ 82-4201 — 82-4216), but shall not be required to obtain a permit under this Act unless such person also stores, transports, treats or disposes of hazardous wastes.

(b) Permits shall be issued under such terms and conditions as the Department may prescribe under the provisions of this Act, and under such terms and conditions as the Arkansas Transportation Commission may prescribe for the transportation of hazardous wastes.

(c) Facilities required to have a permit under this Act or, which are operating under terms of permits issued under the Arkansas Water and Air Pollution Control Act (Act 472 of 1949, as amended) (§§ 82-1901 — 82-1907, 82-1931 — 82-1943) or the Arkansas Solid Waste Management Act (Act 237 of 1971) (§§ 82-2701 — 82-2712) as of the date of enactment of this Act, may continue in operation until such time as a permit is issued under the provisions of this Act by the Department, provided that the owner or operator of such facility has made application on forms provided by the Department for such permit within six [6] months of the date of enactment of this Act [March 14, 1979].

(d) Permits shall be issued for a period not to exceed five [5] years, and shall be subject to renewal by the Department upon a showing that the facility has been operated in accordance with the terms of the permit, the rules and regulations applicable to such facility, and compliance with all other provisions of this Act.

(e) Any permit issued hereunder shall be subject to revocation for failure of the permittee to comply with the terms and conditions of the permit, the rules and regulations of the Department applicable thereto, or the provisions of this Act. Any person who is denied a permit by the Director or who has such permit revoked or modified shall be afforded an opportunity for a hearing by the Commission in connection therewith upon written application made within thirty (30) days after service of notice of such denial, revocation, or modification.

(f) No permit shall be issued by the Department for any facility unless the Department, after opportunity for public comment, has determined that the facility has been designed and will be operated in such manner that any emissions from the facility will comply with the provisions of this Act, the standards and regulations issued pursuant to this Act, and all applicable State and Federal standards and regulations concerning air and water quality and that the transfer, handling, and storage of materials within the facility will not cause conditions which would violate State and Federal standards concerning worker safety or create unreasonable hazards to the environment or to the health and welfare of the people living and working in or near such facility. No permit shall be issued by the Department for any commercial disposal or storage facility off the site where the hazardous waste is generated until the Department has adopted rules, regulations, standards and procedures pursuant to Section 4 [§ 82-4204]. The rules, regulations, standards, procedures or other requirements adopted and imposed by the Department shall not be less stringent than the regulations promulgated or revised by the Environmental Protection Agency pursuant

to the Federal Resource Conservation and Recovery Act of 1976 [42 U.S.C. §§ 6901-6987]. Pending the effective date of federal regulations promulgated by the Environmental Protection Agency, the Department shall use the proposed regulations published by the Environmental Protection Agency as minimum guidelines in adopting any interim rules, regulations, standards and procedures.

(g) No permit shall be issued for any commercial hazardous waste treatment, storage or disposal facility unless that facility meets such terms and conditions as the Department may direct, including, but not limited to,

(1) Evidence of liability insurance in such amount as the Department may determine to be necessary for the protection of the public health and safety and of the environment;

(2) Evidence of financial responsibility in such form and amount as the Department may determine to be necessary to insure that, upon abandonment, cessation, or interruption of the operation of the facility, all appropriate measures are taken to prevent present and future damage to the public health and safety and to the environment;

(3) Evidence that the personnel employed at the hazardous waste treatment or disposal facility meet such qualifications as to education and training as the Department may determine to be necessary to assure the safe and adequate operation of the facility. Persons charged with the direct supervision of the operation of any facility must be certified by the Department as having such qualifications after a review of the types, properties, and volume of hazardous waste to be treated or disposed of at the facility. The Department may require the recertification of supervisory personnel where there is any significant change in the types or properties of hazardous waste being treated or disposed of in any facility;

(4) Evidence of an appropriate preventive maintenance program, spill prevention plan, safety procedures and contingency plans which contingency plans have been developed in consultation with the fire department having jurisdiction and by the Mayor or City Manager of the municipality or by the County Judge of the county in which the facility is to be located.

(5) Evidence that the location of the facility is consistent with the siting criteria established by the Department as provided in Section 4(c) of this Act [§ 82-4204(c)]. The provisions of this subsection (5) shall not apply to treatment facilities which began operation prior to the date of enactment of this Act [March 14, 1979] and which have an existing operating permit from the Department, or to any subsequent modifications to such facilities, provided that the owner of such facility can demonstrate that such modifications do not materially increase the degree of hazards associated with such facility.

(6) Evidence of such forms of assurance, including full fee ownership of lands, and all mineral rights thereto, to ensure that the owner of any hazardous waste landfill has the legal authority to commit such landfill to perpetual security.

(h) No hazardous waste landfill disposal facility off the site of generation shall be located within one-half (½) mile of any occupied dwelling, unless the

applicant shall affirmatively demonstrate and the Department shall specifically find that, because of the nature and amounts of the materials to be placed in such facility, a lesser distance will provide adequate margins of safety even under abnormal operating conditions.

(i) The Department shall have authority to establish a schedule of fees to recover the costs of processing permit applications and permit renewal proceedings, on-site monitoring, the certification of personnel to operate hazardous waste treatment and disposal facilities, and such other activities of Department personnel which are reasonably necessary to assure that permitted facilities are being operated in accordance with the provisions of this Act and which reasonably should be borne by the permittee.

(j) No permit shall be issued by the Department or Commission for any commercial hazardous waste treatment, storage, or disposal facility unless 30-day advance notice of a hearing has been placed in the largest newspaper published in the county in which a facility or facilities is located or proposed to be located, as well as published in the largest newspaper published in the adjoining counties. Provided, if there is no newspaper published in any of the counties so affected the notice shall be published in the newspaper(s) having the largest circulation in such county or counties.

(k) No permit shall be issued for non-commercial hazardous waste treatment, storage, or disposal facilities except under the terms of regulations of the Department which conform to the provisions of Section 3005 of the Federal Resource Conservation and Recovery Act (PL 94-580) [42 U.S.C. § 6925]. [Acts 1979, No. 406, § 5, p. —.]

82-4206. Consideration of varying conditions, coordinated procedures and integrated administration. — (a) In administering the provisions of this Act [§§ 82-4201 — 82-4216], the Department may adopt and give appropriate effect to variations within this State in climate, geology, population density, and such other factors as may be relevant to the management of hazardous wastes, the establishment of standards and permit conditions, and to the siting of permitted facilities.

(b) To the extent practicable, the rules and regulations and procedures adopted by the Department pursuant to this Act shall be consistent with other environmentally related rules, regulations, and procedures of the Department. In administering the provisions of this Act and of all other acts under the administration of the Department, the Department and Commission shall coordinate and expedite the issuance of permits required by an applicant under one [1] or more acts, to the end of eliminating insofar as practicable any duplication of unnecessary time and expense to the applicant and the Department.

(c) The Department shall integrate all provisions of this Act with the appropriate provisions of all other acts which grant regulatory authority to the Department for purposes of administration and enforcement, and shall avoid duplication to the maximum extent practicable. [Acts 1979, No. 406, § 6, p. —.]