A BILL

FOR AN ACT ENTITLED

"An Act relating to regulation of the discharge of pollutants under the National Pollutant Discharge Elimination System."

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

* Section 1. AS 44.46.025(a) is amended to read:

(a) Except as otherwise provided in AS 37.10.050 - 37.10.056, the Department of Environmental Conservation may adopt regulations that prescribe reasonable fees, and establish procedures for the collection of those fees, to cover the applicable direct costs, not including travel except in the case of a designated regulatory service, as that term is defined in AS 37.10.058, of inspections, permit preparation and administration, plan review and approval, and other services provided by the department relating to

(1) agriculture and animals under AS 03.05; food, drugs, and cosmetics under AS 17.20; and public accommodations and facilities under AS 18.35;

(2) certificates of inspection for motor vehicles under AS 46.14.400 or 46.14.510;
(3) drinking water systems under AS 46.03.720;
(4) water and wastewater operator training under AS 46.30;
(5) waste management and disposal authorizations under AS 46.03.100;
(6) certification of laboratories conducting environmental analyses of public drinking water systems or of oil or hazardous substances, or conducting other analyses required by the department;
(7) certification of federal permits or authorizations under 33 U.S.C. 1341 (sec. 401, Clean Water Act);
(8) regulation of point source discharges of pollutants [ASSOCIATED WITH TIMBER-RELATED ACTIVITIES] under the program authorized by AS 46.03.020(12).

* Sec. 2. AS 46.03.020 is amended to read:

Sec. 46.03.020. Powers of the department. The department may
(1) enter into contracts and compliance agreements necessary or convenient to carry out the functions, powers, and duties of the department;
(2) review and appraise programs and activities of state departments and agencies in light of the policy set out in AS 46.03.010 for the purpose of determining the extent to which the programs and activities are contributing to the achievement of that policy and to make recommendations to the departments and agencies, including [BUT NOT LIMITED TO,] environmental guidelines;
(3) consult with and cooperate with
(A) officials and representatives of any nonprofit corporation or organization in the state;
(B) persons, organizations, and groups, public and private, using, served by, interested in, or concerned with the environment of the state;
(4) appear and participate in proceedings before any state or federal regulatory agency involving or affecting the purposes of the department;
(5) undertake studies, inquiries, surveys, or analyses it may consider essential to the accomplishment of the purposes of the department; these activities may be carried out by the personnel of the department or in cooperation with public or
private agencies, including educational, civic, and research organizations, colleges, universities, institutes, and foundations;

(6) at reasonable times, enter and inspect with the consent of the owner or occupier any property or premises to investigate either actual or suspected sources of pollution or contamination or to ascertain compliance or noncompliance with a regulation that may be adopted under AS 46.03.020 - 46.03.040; information relating to secret processes or methods of manufacture discovered during investigation is confidential;

(7) conduct investigations and hold hearings and compel the attendance of witnesses and the production of accounts, books, and documents by the issuance of a subpoena;

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

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

(10) adopt regulations necessary to carry out [EFFECTUATE] the purposes of this chapter, including, by way of example and not limitation, regulations providing for

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

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

(C) protection of public water supplies by establishing minimum drinking water standards, and standards for the construction, improvement, and maintenance of public water supply systems;

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

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

(F) control of pesticides;

(G) other purposes as may be required for the implementation
of the policy declared in AS 46.03.010;

   (H) handling, transportation, treatment, storage, and disposal of
hazardous wastes;

   (11) inspect the premises of sellers and suppliers of paint, vessels, and
marine and boating supplies, and take other actions necessary to enforce
AS 46.03.715;

   (12) notwithstanding any other provision of law, take all actions
necessary to receive authorization from the administrator of the United States
Environmental Protection Agency to administer and enforce a [PARTIAL] National
Pollutant Discharge Elimination System program in accordance with 33 U.S.C. 1342
C.F.R. Part 123, and 40 C.F.R. Part 403, as amended [COVERING DISCHARGES
ASSOCIATED WITH TIMBER-RELATED ACTIVITIES].

* Sec. 3. AS 46.03.100 is amended by adding new subsections to read:

   (h) The program developed to issue permits by the department to authorize
discharge of pollutants into surface waters and submitted to the United States
Environmental Protection Agency for approval under 33 U.S.C. 1342 (sec. 402, Clean
Water Act) shall include the monitoring and reporting requirements included in the
permits, limited to those requirements mandated by law, including any legal
settlements, and those necessary to ascertain compliance with the effluent limitations
contained in the permit and with state water quality standards.

   (i) A person who applies for a permit under the program may review and
provide comments and amendments to a draft permit, and discuss the draft permit with
the staff of the department before that draft permit undergoes public notice and
comment under AS 46.03.110.

   (j) A person who applies for a permit under the program has the opportunity to
review a proposed final permit and discuss it with the staff of the department before
the department issues the permit.

   (k) A permit issued under the program is not automatically stayed by the filing
of a request for an adjudicatory hearing on the permit; a request to stay a permit issued
under the program shall be decided by the commissioner or the commissioner's
designee.

(l) Permits issued under this section shall be issued as expeditiously as possible.

* Sec. 4. AS 46.03.120(b) is amended to read:

(b) The department may modify a permit or other authorization issued under AS 46.03.100, or may rescind a person's authority to dispose of waste in accordance with regulations adopted under AS 46.03.100(b)(3),

(1) for any of the causes for termination listed in (a) of this section;

(2) if the department finds that a material change in the quality or classification of the waters of the state has occurred; or

(3) in the case of a permit issued under a federally approved program under 33 U.S.C. 1342 (sec. 402, Clean Water Act), as provided in regulations adopted under AS 46.03.020(12) [FOR TIMBER-RELATED ACTIVITIES].

* Sec. 5. The uncodified law of the State of Alaska is amended by adding a new section to read:

DUTIES OF THE DEPARTMENT OF ENVIRONMENTAL CONSERVATION. (a) The Department of Environmental Conservation shall seek primacy under the National Pollutant Discharge Elimination System by filing a complete application to the United States Environmental Protection Agency before July 1, 2006.

(b) The Department of Environmental Conservation shall establish a workgroup that includes representatives of permittees affected under the National Pollutant Discharge Elimination System and the United States Environmental Protection Agency to meet and confer as needed during the period that the Department of Environmental Conservation is designing its permitting program and seeking approval of the program by the United States Environmental Protection Agency. The workgroup will provide public notification of its meetings and will make available to the public minutes of its meetings.

* Sec. 6. The uncodified law of the State of Alaska is amended by adding a new section to read:

REPORT TO THE LEGISLATURE. Until full authority for administering the National Pollutant Discharge Elimination System has been transferred to the Department of Environmental Conservation, the Department of Environmental Conservation shall submit,
within 10 days after the date the legislature convenes in regular session, a report to both
houses of the legislature and the governor that includes the following information:

(1) the department's progress in preparing and submitting its application to the
United States Environmental Protection Agency by June 30, 2006;

(2) a description of the progress by the United States Environmental
Protection Agency in reviewing the state's application and the expected or actual date and
contents of the agency's approval; and

(3) the progress made by the Department of Environmental Conservation and
the United States Environmental Protection Agency during the five-year National Pollutant
Discharge Elimination System program transition period, the identification of the program
responsibilities that have been transferred to the Department of Environmental Conservation
and the program responsibilities retained by the United States Environmental Protection
Agency, whether the transition is proceeding on schedule, and identification of relevant
statutory, regulatory, or financial impediments to obtaining National Pollutant Discharge
Elimination System primacy as intended by the legislature.