

Draft Response to Public Comments
Portable Oil & Gas Drilling Operations Emission Fees
Adoption by Reference of Federal Standards
Regulation Adoption Package

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Written comments were received from:

Marathon Oil Company - John A. Barnes
ConocoPhillips Alaska Inc. – Ken Donajkowski
UNOCAL – Janet Bounds
BP Exploration (Alaska) Inc. – Stan Gates

Oral comments were received at a public hearing from:

Conoco – Phillips – Randy Poteet

Note: Comments received on the proposed changes were on the following issues:

- Regulations related to permitting for oil and gas drilling and testing;
- MG1, the minor general permit for drill rigs; and
- updates to the adoptions by reference of federal regulations.

The most important comments regarding the regulations pertained to the emission fees for non North Slope (south of 69 degrees 30 minutes north latitude) operations and to the possible need to change the locations specified in the notification.

We also received comments on permitting operations within an established oil field or aggregated source. In this situation the minor general permit is not available, and industry concerns centered on the ability of the department to issue these minor source specific permits in a timely manner. A secondary issue arose as to whether the department intended to require a minor source-specific permit for such an operation no matter that the drilling might involve a very short a time period and result in a very small amount of emissions.

The comments and responses below have been identified by whether the comment pertains to the minor general permit MG1 or whether it involves minor source specific concerns.

Comment 1 (18 AAC 50.410): DEC’s proposed emission fee for drilling operations below 69 degrees 30 minutes north latitude is excessive as it is based on 125,000 gallons of diesel to be used during each drilling operation. Actual fuel usage for drilling wells of this type varies from between 24,000 to 36,000 gallons of diesel burned per well.

Response: Both the Marathon Oil Company and UNOCAL commented that the \$5031.00 annual emission fee for the minor general permit for drilling in areas south of 69 degrees 30 minutes north latitude was excessive. The companies advised that in their experience, DEC had incorrectly over estimated the amount of fuel that would be consumed in typical drilling operations in this area. The companies provided the following information:

Company	Year	Number of wells	Fuel consumed gallons / year	Fuel consumed gallons / well
Marathon	2003	7	252,860	36,123
Marathon	2004	10	342,765	34,276
UNOCAL	FY 03	7	199,075	28,439
UNOCAL	FY 04	5	118,095	23,619
		29	912,795	31,475 avg

The emission fees for non North Slope operations were changed in response to the comments. Using the new information concerning the typical amount of fuel consumed for drilling each well averaged with the previously provided information from the PBR Work Group, DEC has rewritten the regulations to adopt a new sliding payment scale for emission fees. The new emission fees are based on an average of the previously provided per well fuel consumption rate of 116,691 gallons (from the PBR Work Group) and the lowest per well fuel consumption rate provided during the 2004 comment period, which was 23,619 gallons. The emission fees are, therefore, based on a per well fuel consumption rate of 70,155 gallons instead of the 125,000 gallon figure estimated in the earlier version of the support document.

The proposed regulation and the fee for the proposed minor general permit will be modified to require payment in advance of the emission fee for a stepped number of proposed wells. The payment schedule will consist of a sliding scale depending on the number of wells to be drilled in a fiscal year as follows:

Number of Wells	1 – 5	6 – 10	11 - 15
Fee	\$1685.00	\$3370.00	\$5055.00

If the industry were to put together a comprehensive report of fuel consumption during well drilling, we could revisit this in the future.

Comment 2 (MG1 concern): DEC’s proposed fee appears to be out of line with fees charged for other more complex facilities. 18 AAC 50.400(a)(1) lists an annual

permit fee totaling \$4548 for an oil and gas facility with a PTE exceeding 250 tons per year (PSD sized facility).

Response: The commentator is confusing emission fees for the portable oil and gas drilling operations with permit administration fees for renewal and recurring compliance activity for the PSD sized facilities. There are 22 north slope PSD sized oil and gas facilities which pay an average of over \$25,000 per year in annual emission fees in addition to their annual permit administration fee costs (\$4548.00) for renewal and routine recurring compliance. The initial proposal for emission fees for the non North Slope operations was \$5,031 for each operation. Based on information provided in comments, the fees have been revised and are now \$1685 for 1-5 wells, \$3370 for 6-10 wells, and \$5055 for 11-15 wells at any given operation in a fiscal year.

Comment 3: DEC is proposing to make the requirement for obtaining a minor general permit for an oil and gas drilling operation retroactive to October 1, 2004. Please amend the requirement to obtain a minor permit for a portable oil and gas operation to become effective on the date that the revised regulation becomes effective.

Response: The department agrees with the comment and has made the recommended change. Portable oil and gas operations will be required to obtain a permit as of the effective date of the regulations, which is 30 days after they are filed by the lieutenant governor.

Comment 4: DEC is proposing to require a minor permit for every portable oil and gas operation regardless of the amount of time the operation will be at any one location in 18 AAC 50.502(c)(2)(A). The commentator requests a de minimus emission rate below which a permit for a portable oil and gas operation would not be required.

Response: Among the standards for which DEC is required to protect are the short term ambient air quality standards. Portable oil and gas drilling operations have the potential to create violations of the short term standards regardless of the amount of time they are in operation. Therefore, establishing a de minimus emissions rate below which a permit would not be required would not be protective of such standards. Consequently each portable oil and gas drilling operation will require a permit. Those operating in conformance with the minor general permit MG1 are not expected to violate an ambient standard.

However, the department is clarifying that the regulation does not apply to well servicing activities. See Comment 11 for a discussion of well servicing activities.

Comment 5 (MG1 concern): Regarding Minor Permit MG1, the permit should be issued in a manner that is consistent with 18 AAC 50.542(e) so that its provisions can be quickly adopted into a Title V permit by Administrative Amendment.

Response: The conditions of a minor permit can be incorporated into a Title V permit if the minor permit is issued using Title V procedures. This includes EPA review before issuance. The minor permit must also contain monitoring, record keeping, and reporting (MRR) sufficient to satisfy Title V.

MG1 is not amenable to the administrative amendment as written. MG1 does not contain MRR that would satisfy Title V. Most of the operations that would use MG1 would be at locations other than Title V stationary sources. The department does not wish to complicate the permit for most of its users.

Therefore, department will not submit MG1 to EPA for their 45 day review.

Comment 6 (MG1 concern): Points out that the new proposed regulations require a fee payment every time an owner or operator submits a new notification under the proposed general permit. States that The list of operating locations typically changes over the course of a year and so will need to be updated from time to time and requests a determination that an updating of the list of locations in a notification will not require the payment of additional fees.

Response: The department recognizes that industry plans can change at the last minute due to the availability of drill rigs or new geologic information or other unforeseen circumstances. For operations outside of the North Slope we are allowing the flexibility to update the number of wells that will be drilled (with payment of associated additional emission fees based on that number of wells). However, to make tracking of the numerous authorization requests we receive for operation under MG1 more manageable, instead of providing for possibly frequent revisions to notifications, we are still requiring a new initial notification for new locations. However, the department does encourage operators to list in the initial notification, all locations that the rig in question COULD operate at under a notification, even if it is still not certain.

Comment 7 (MG1): Requested clarification in the use of the term “location” as to whether it has the meaning in 40 C.F.R. 89.2 in all instances or whether it might have some other meaning in some other circumstances.

Response: There are two meanings of the word “location” in the draft permit and notification form. We have kept the term unchanged where it has the meaning in 40 C.F.R. 89.2. To avoid confusion, for all other uses, where it pertains to identifying where oil and gas drilling operations will take place, we have replace it with the term “site.”

Comment 8 (MG1 concern): The commentator pointed out that under the proposed rule, a double emission fee payment would be required if the drilling period extended between two fiscal years. The commentator stated that this could not have been DEC’s intent.

Response: AS 46.14.250 requires payment of emission fees for each fiscal year of operation.

Comment 9 (MG1 and site specific concern): The commentator states that DEC’s entire premise for requiring a minor general permit for oil and gas drilling operations is invalid because it is based on the emissions from the nonroad engines. Since 18 AAC 50.100 exempts the actual and potential emissions from nonroad engines in determining the classification of a facility for permitting purposes, DEC has no basis for requiring any type of permit for these types of operations.

Response: The commentator is not correct in his interpretation of DEC’s basis for requiring a permit. In 18 AAC 50.100 it is the quantity of the actual or potential emissions from nonroad engines that may not be used to determine the classification of a facility for permitting purposes. Drill rigs are classified as stationary sources because they contain fuel burning equipment other than the nonroad engines. Nonroad engines that are part of a stationary source are not exempted from in-use limits to protect ambient air quality standards. A drill rig is a source that has been classified as having the potential to violate the ambient air quality standards under AS 46.14.020 and, therefore, is required to obtain a permit under AS 46.14.130(a)(3)(A).

Comment 10 (MG1 concern): The commentator expressed some confusion as to whether or not a single notification could be used to obtain authorization to operate at multiple locations. The commentator referred to some conflicting information he believed he had heard at a workshop for the proposed regulations. The commentator requested clarification that a single notification could be used to request authorization to operate at multiple locations.

Response: To reiterate, the purpose of the minor general permit, and the old permit by rule before it, was to facilitate and provide as much flexibility as possible to accommodate exploratory drilling operations in all areas of the state. A single notification may be used for a single rig for multiple locations as long as the locations are clearly identified in the notification form at the time the notification is made.

Comment 11 (MG1 and site specific concern): The commentator stated that the definition of an oil and gas operation is unclear and could be interpreted to include well servicing activity even though 18 AAC 50.326(f)(85) lists this type of activity as insignificant. The commentator suggested that a clearer definition of an oil and gas operation be provided that clarifies that well servicing does not require a permit under these rules. The commentator stated that the regulatory definition should identify the well servicing tasks listed in DEC Policy and Procedure 04.02.105, and should exempt each of these kinds of well servicing.

Response: DEC has revised the definitions as follows:

() “portable oil and gas operation” means an operation that includes fuel burning equipment, that moves from site to site to drill or test one or more oil or gas

wells, and that uses drill rigs, equipment associated with drill rigs and drill operations, well test flares, equipment associated with well test flares, camps, or equipment associated with camps; for purposes of this paragraph,

(A) “test” means a test that involves the use of a flare; and

(B) the term “portable oil and gas operation” does not include well servicing activities;

We have also added a definition of well servicing activities that includes coiled tubing units, frac units, slickline units, hot oil units, and wireline units.

We have included frac units and coiled tubing units in the exempted well servicing activities because they were not in the original scope envisaged in this project. However, we recognize that these two categories may have substantial emissions and may warrant further regulation.

Comment 12 (Site specific concern): One commentator focused on the requirements of 18 AAC 50.502(c)(2)(A) and 18 AAC 50.540(c)(2)(B) which require a minor source specific permit for a portable oil and gas operation and require modeling for sulfur dioxide, PM10 and nitrogen oxide. These minor permits would be required where the minor general permit MG1 could not be used such as at an aggregated source. The commentator stated that he did not believe that DEC would be able to issue these types of permits in time frames that would adequately address the needs of the oil industry. The commentator suggested two solutions for this problem. The first would be to develop a “notice and go” permit along the lines of MG1 which could be used at aggregated sources. The other solution would be to delay the implementation of the regulations until such time as industry would be able to make application for an “area-wide” permit for existing oil or gas fields.

Response: With respect to an “area-wide” operating permit for specific oil fields, similar to the permit that BP currently has for its drilling rigs, the department sees this as a viable alternative and would encourage other companies engaged in North Slope drilling to take a similar approach. The department recognizes the need to provide sufficient time for applicants to submit applications under the new regulations and is willing to delay the effective date of the regulations if reasonable to provide the needed time. The department also understands that it has been 6 months since the department proposed regulations to require these permits. This may not be necessary, since the commenter has submitted the operating permit application. We have added language that allows relocating and operating a drill rig without a minor permit if the operator has an application shield for an operating permit. This means that the commenter will be able to operate if/when the department finds the application complete, rather than having to wait until the permit is issued.

With regard to notice and go permits, the department has not developed such permits for operation at PSD stationary sources because of the difficulty of satisfying PSD requirements that may apply. We see allowing time for other permits as a more viable alternative.

The department is aware of three possible permit applications for source specific minor permits for drilling operations. If we find there will consistently be enough such permits to warrant devoting the resources, the department could develop a preapproved modeling protocol to streamline issuance of the source specific permits.

Comment 13 (MG1 and site specific concern): One commentator asserted that the majority of drilling operations did not last more than 24 months and therefore is a temporary construction activity that does not consume increment. If they do last for more than 24 months, then a separate air permit would be obtained. The comment did not request any specific change to the regulations.

Response: The department agrees that oil and gas drilling operations that remain in an area less than 24 months do not consume increment. Drilling operations that last more than 24 months at a single site could consume increment. The department recognizes that we have received source specific permit applications that include drilling and that include increment evaluation.

The proposed regulation and minor general permit did not include any substantive changes based on increment, and the department is not making any changes based on this comment.

Comment 14 (Updating adoptions by reference): One commentator requested that 40 C.F.R. 60 be adopted by reference as of July 8, 2004, in order to include the final rule published by the U.S. EPA on July 8, 2004, of the Standards of Performance for Stationary Gas Turbines.

Response: As a part of this revision, the department will adopt 40 C.F.R. 60 as revised as of July 8, 2004.

Comment 15 (Site specific concern): One commentator requested a change to and provided suggested language for 18 AAC 50.502(c)(2)(A) to allow themselves, or anyone else who had a similar operating permit, to operate under the authority of an existing operating permit developed for portable oil and gas operations for their aggregated or disaggregated sources in order to allow for consistency between operations.

Response: Language was added to 18 AAC 50.502(c)(2)(A) to address this concern.

Comment 16 (Site specific concern): An oral comment was received which encouraged DEC to allow time for those entities who wish to drill wells sufficient time to obtain permits. The request was to allow time before the regulations became final to obtain the necessary permits.

Response: See response to Comment 12.