

AIR QUALITY FEES: NOTICE OF PROPOSED CHANGES IN THE REGULATIONS OF THE DEPARTMENT OF ENVIRONMENTAL CONSERVATION

BRIEF DESCRIPTION

The Alaska Department of Environmental Conservation (ADEC) is proposing changes to its air quality regulations to revise the air quality permit administration and compliance fees, air quality emission fees, add definitions, and update cross references.

Title: 18 AAC 50 Air Permits Administration and Emission Fees

The Department of Environmental Conservation (DEC) proposes to adopt regulation changes in Title 18, Chapter 50 of the Alaska Administrative Code, dealing with air quality permitting and emission fees. In accordance with AS 46.14.240(b) and AS 37.10.052(a), DEC is required to evaluate fixed permit administration fees every four years and provide the results of the study in a report under AS 37.10.050(c). In accordance with AS 46.14.250(g), DEC is required to evaluate emission fee rates every four years and provide the results of the study in a report. The proposed regulation changes in this notice are based on the results of the study on permit administration fees and emission fee rates conducted for the 2014 Fee Study Report.

The regulation changes are as follows:

- Amend **18 AAC 50.230** to correct cross references to provisions of 18 AAC 50.400.
- Amend **18 AAC 50.260** to correct cross references to provisions of 18 AAC 50.400.
- Repeal and readopt **18 AAC 50.400** to revise permit administration and compliance fees in accordance with the fee study results and add definitions. The analysis of the fee study resulted in a proposed reduction of the number of fee categories from 66 to 24, which will reduce administrative costs and fee complexity.
- Amend **18 AAC 50.403** to clarify negotiated settlement agreement fees.
- Repeal **18 AAC 50.405** which addressed a transition process for permit fees before 2005.
- Amend **18 AAC 50.410** to revise emission fees in accordance with the fee study results.
- Amend **18 AAC 50.420** to revise language addressing billing procedures.

Posting

The above list of proposed changes to the regulations only provides a summary of their subject matter. For a copy of the proposed regulation changes and the 2014 Fee Study Report, please contact Rebecca Smith at 907-465-5121 between 8:00 a.m. and 4:30 p.m., Monday through Friday, or refer to this DEC webpage:

<http://dec.alaska.gov/Applications/Air/airtoolsweb/AirPermitsApprovalsAndPublicNotices/> or

<http://dec.alaska.gov/air/ap/regulati.htm>. The proposed regulations are intended to meet the requirements of Section 110 (Title 42 U.S.C. Chapter 85 §7410) of the Clean Air Act and, once adopted, will be submitted to the U.S. Environmental Protection Agency for approval and eventual inclusion in Alaska's State Air Quality Control Plan.

Questions

You may submit written questions relevant to the proposed action to DEC using the electronic question form at <http://decjnuwebt/Air/ap/feesFY14QuestionsAndAnswers.htm> or by electronic mail to dec.aq.airdocket@alaska.gov or by sending the questions to Rebecca Smith, Division of Air Quality, DEC, 410 Willoughby Avenue, Suite 303, P.O. Box 111800, Juneau, Alaska 99811-1800. The written questions must be received at least 10 days before the end of the public comment period; question deadline is June 19, 2015, and comment deadline is June 30, 2015. The department will aggregate its response to substantially similar questions and make the questions and response available on <http://decjnuwebt/Air/ap/feesFY14QuestionsAndAnswers.htm>. The department may, but is not required to, answer written questions received after the June 19, 2015, deadline for submitting questions.

Comments

You may comment on the proposed regulation changes, including the potential costs to private persons of complying and alternative practical methods of complying with the proposed changes, by submitting written comments to: Rebecca Smith, Division of Air Quality, Department of Environmental Conservation, 410 Willoughby Avenue, Suite 303, P.O. Box 111800, Juneau, Alaska 99811-1800; by e-mail to rebecca.smith@alaska.gov; through the Air Quality Division's electronic comment submission web page at <https://dec.alaska.gov/Applications/Air/airtoolsweb/FormalComments>; by e-mail to the Air Quality Comments Docket at dec.aq.airdocket@alaska.gov, or by facsimile at (907) 465-5129. Comments must be received by 5:00 p.m. on June 30, 2015. Comments received after this date and time will not be considered in final action on these rules and the air quality plan.

Hearings

DEC has tentatively scheduled a public hearing for these proposed regulations, on June 24, 2015, from 12:00 p.m. to 1:30 p.m. at the Department of Environmental Conservation Building, 619 E. Ship Creek Ave., Ste. 249, Conference Room A, Anchorage, AK 99501. The public hearing will be held only if a request to hold a public hearing is received by DEC by 5:00 p.m. on Friday, June 19, 2015. You may request a public hearing by calling Rebecca Smith at 907-465-5121 between 9:00 a.m. and 5:00 p.m., Monday through Friday or by e-mailing a request to rebecca.smith@alaska.gov. If no request for a public hearing is received, the public hearing will be cancelled. DEC will announce the cancellation of the public hearing by publishing a public notice, by 5:00 p.m. on June 22, 2015, on these websites: <http://dec.alaska.gov/air/ap/regulati.htm> and http://dec.alaska.gov/commish/public_notices.htm. Oral or written comments may be submitted at the hearing, if a public hearing is conducted. If the public hearing occurs, there will be a call-in number if you are not able to attend the meeting in person. The call-in number will be 1-800-315-6338, and the Meet Me Code will be 8123#. If held, the hearing may be extended if necessary to accommodate those present before 1:00 p.m. who did not have an opportunity to comment.

If you are a person with a disability who may need a special accommodation in order to participate in this public process, please contact Natalie Wolfe at (907) 269-0291 or TDD Relay Service 1-800-770-8973/TTY or dial 711 seven days prior to any open house or a public hearing to ensure that any necessary accommodations can be provided.

After the public comment period ends on June 30, 2015, DEC will either adopt these or other provisions dealing with the same subject, without further notice, or decide to take no action on them. The language of the final regulations may be different from that of the proposed regulations. **YOU SHOULD COMMENT DURING THE TIME ALLOWED IF YOUR INTERESTS COULD BE AFFECTED.** Written comments received are public records and are subject to public inspection.

Statutory Authority: AS 37.10.050, AS 37.10.052, AS 37.10.058, AS 44.46.025, AS 46.03.020, AS 46.14.140, AS 46.14.240, AS 46.14.250, AS 46.14.255

Statutes Being Implemented, Interpreted, or Made Specific: AS 46.14.010, AS 46.14.020, AS 46.14.030, AS 46.14.120, AS 46.14.140, AS 46.14.240, AS 46.14.250, AS 46.14.255

Fiscal Information: The proposed regulation changes are not expected to require an increased appropriation.



Larry Hartig, DEC Commissioner

Dated: May 21, 2015

ADDITIONAL REGULATIONS NOTICE INFORMATION
(AS 44.62.190(d))

1. Adopting agency: Alaska Department of Environmental Conservation
2. General subject of regulation: 18 AAC 50 is being amended to: 1) update permit administration and compliance fees and emission fees in accordance with the results of a fee study for cost recovery; 2) add new definitions; 3) revise language addressing billing procedures; 4) correct cross references to fees; 5) clarify negotiated settlement agreement fees; 6) repeal a section that is no longer needed; and 7) reduce the number of fee categories to decrease administrative burden and cost.
3. Citation of regulation (may be grouped): 18 AAC 50.230; 18 AAC 50.260; 18 AAC 50.400; 18 AAC 50.403; 18 AAC 50.405; 18 AAC 50.410; and 18 AAC 50.420.
4. Department of Law file number, if any JU2015200033
5. Reason for the proposed action:
 compliance with federal law: Section 502 (Title 42 U.S.C. Chapter 85 §7661) of the Clean Air Act and 40 C.F.R. Part 70.
 compliance with new or changed state statute
 compliance with federal or state court decision (identify) _____
 development of program standards
 other: compliance with Alaska Statutory requirements in AS 46.14.240, AS 37.10.052, and AS 46.14.250.

6. Appropriation/Allocation: The proposed regulation amendments are not expected to require an increased appropriation.

7. The Department of Environmental Conservation, Division of Air Quality (the Department) has had an existing fee structure since 2006 for cost recovery to pay for permitting services. The current permit administration fees and emission fees became effective July 1, 2010. The Department is required under AS 46.14.240(b) (for permit administration fees) and AS 46.14.250(g) (for emission fees) to evaluate fees for services every four years. The current fee evaluation report is for the four year period of July 1, 2009, through June 30, 2013, and combines the evaluations for both permit administration fees and emission fees. The Department evaluated the permit administration fee rates established by AS 46.14.240 and 18 AAC 50.400 and the emission fee rates established by AS 46.14.250 and 18 AAC 50.410. The Department's Fee Evaluation Report was prepared in accordance with AS 37.10.052. The report can be located at <http://dec.alaska.gov/air/ap/fees.htm>.

The Department recommends adjusting the permit administration fixed fee rates and emission fees as described in the Report. The proposed fee changes are incremental and were calculated using the existing fee structure. The Department continues the direction established in the 2010 Fee Report to reduce administration costs and fee complexity by reducing the number of permit administration fees from 66 to 24.

Estimated costs in the aggregate to comply with the proposed action to:

- a. Private Persons: There are no direct costs associated with the proposed regulations for private citizens; however, there is the potential for an indirect cost to citizens, in the areas identified, if air permit facilities shift the cost to their customers by increasing their rates. These changes are difficult to predict, and recording an estimate in aggregate for all the various types of permit holders would not provide relevant information to individual permit holders. Instead, it is recommended that permit holders and individuals consult the Department's fee rate evaluation report, which provides the specific fee rate change information for each type of permit.

- b. Other State Agencies: Limited. No effect is expected to state agencies, as they do not hold air permits. Some state agencies submit approval notifications for Open Burns with a processing fee. The other exception is the University of Alaska, Fairbanks (UAF) which has an air permit for the existing power plant. UAF will continue to pay permit administration and emission fees; the calculation of their fees is based on the existing fee structure.
- c. Municipalities: Limited. The proposed regulations only affect those municipalities that own service utilities, such as electrical generation, landfills, and water treatment plants that have air permits. They will continue to pay fees; the fee structure used to calculate fees has not undergone changes. Small rural communities that have sources that release less than 10 tons of air emissions do not pay emissions fees.

8. Cost of implementation to the state agency and available funding (in thousands of dollars):

	Initial Year FY16 _____	Subsequent Years
Operating Cost	\$ <u>0</u>	\$ <u>0</u>
Capital Cost	\$ <u>0</u>	\$ <u>0</u>
1002 Federal receipts	\$ <u>0</u>	\$ <u>0</u>
1003 General fund match	\$ <u>0</u>	\$ <u>0</u>
1004 General fund	\$ <u>0</u>	\$ <u>0</u>
1005 General fund/ program	\$ <u>0</u>	\$ <u>0</u>
1037 General fund/ mental health	\$ <u>0</u>	\$ <u>0</u>
Other	\$ <u>0</u>	\$ <u>0</u>

9. The name of the contact person for the regulations:

Name: Thomas Turner
 Title: Section Manager
 Address: 619 Ship Creek Ave, STE 249
 Anchorage, AK 99501
 Telephone: 907-269-8123
 E-mail address: thomas.turner@alaska.gov

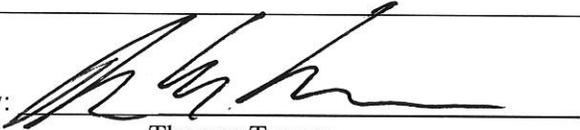
10. The origin of the proposed action:

- staff of state agency
- federal government
- general public
- petition for regulation change
- other (please list) _____

11. Date:

5/21/15

Prepared by:

Name: 
 Title: Thomas Turner
 Section Manager
 Telephone: 269-8123