

Kevin Meyer
Lieutenant Governor
State Capitol
Juneau, Alaska 99811
907.465.3520
WWW.LTGOV.ALASKA.GOV




530 West 7th Ave, Suite 1700
Anchorage, Alaska 99501
907.269.7460
LT.GOVERNOR@ALASKA.GOV

**OFFICE OF THE LIEUTENANT GOVERNOR
ALASKA**

MEMORANDUM

TO: Gary Mendivil, Department of Environmental Conservation

FROM: April Simpson, Office of the Lieutenant Governor 
465.4081

DATE: August 8, 2022

RE: Filed Permanent Regulations: Department of Environmental Conservation

Department of Environmental Conservation regulations re: air quality permit administration fees and emission fees (18 AAC 50.030(a); 18 AAC 50.400 - 18 AAC 50.420)

Attorney General File:	2021200331
Regulation Filed:	8/8/2022
Effective Date:	9/7/2022
Print:	243, October 2022

cc with enclosures: Colleen Bailey, Department of Law
Judy Herndon, LexisNexis

ORDER ADOPTING CHANGES TO
REGULATIONS OF THE DEPARTMENT OF ENVIRONMENTAL CONSERVATION

The attached 13 pages of regulations, dealing with Air Quality fees are hereby adopted and certified to be a correct copy of the regulation changes that the Department of Environmental Conservation adopts under the authority of AS 46.03 and AS 46.14 and after compliance with the Administrative Procedure Act (AS 44.62), specifically including notice under AS 44.62.190 and 44.62.200 and opportunity for public comment under AS 44.62.210.

This action is not expected to require an increased appropriation.

In considering public comments, the Department of Environmental Conservation paid special attention to the cost to private persons of the regulatory action being taken. The Department of Environmental Conservation also gave special attention to alternate practical methods in this regulatory action, as required by AS 46.03.024.

The regulation changes adopted under this order take effect on the 30th day after they have been filed by the lieutenant governor as provided in AS 44.62.180.

DATE: July 29, 2022
Anchorage, Alaska

Jason W. Brune Digitally signed by
Jason W. Brune
Date: 2022.07.29
15:09:40 -08'00'

Jason W. Brune, Commissioner
Department of Environmental Conservation

April Symon for
↑

FILING CERTIFICATION

I, Kevin Meyer, Lieutenant Governor for the State of Alaska, certify that on August 8,
2022, at 4:28 p.m. I filed the attached regulations according to the provisions of AS 44.62.040 –
44.62.120.

Kevin Meyer for

Kevin Meyer, Lieutenant Governor

Effective: September 7, 2022

Register: 243, October 2022

FOR DELEGATION OF THE LIEUTENANT GOVERNOR'S AUTHORITY

**I, KEVIN MEYER, LIEUTENANT GOVERNOR OF THE STATE OF ALASKA,
designate the following state employees to perform the Administrative Procedures Act
filing functions of the Office of the Lieutenant Governor:**

**Josh Applebee, Chief of Staff
Kady Levale, Notary Administrator
April Simpson, Regulations and Initiatives Specialist**

**IN TESTIMONY WHEREOF, I have
signed and affixed the Seal of the State of
Alaska, in Juneau, on December 11th,
2018.**



Kevin Meyer
.....

**KEVIN MEYER
LIEUTENANT GOVERNOR**

The introductory language of 18 AAC 50.030(a) is amended to read:

(a) Volumes II and III of the *State Air Quality Control Plan* for implementing and enforcing the provisions of AS 46.14 and this chapter, revised as of **July 29, 2022** [JULY 5, 2022], are adopted by reference. The plan includes the following documents that are also adopted by reference:

• • •

(Eff. 1/18/97, Register 141; am 6/21/98, Register 146; am 9/4/98, Register 147; am 1/1/2000, Register 152; am 12/30/2000, Register 156; am 9/21/2001, Register 159; am 1/27/2002, Register 161; am 3/27/2002, Register 161; am 5/3/2002, Register 162; am 2/20/2004, Register 169; am 6/24/2004, Register 170; am 10/1/2004, Register 171; am 12/14/2006, Register 180; am 12/30/2007, Register 184; am 5/17/2008, Register 186; am 7/25/2008, Register 187; am 11/9/2008, Register 188; am 5/6/2009, Register 190; am 11/4/2009, Register 192; am 4/1/2010, Register 193; am 10/29/2010, Register 196; am 4/13/2011, Register 198; am 9/17/2011, Register 199; am 8/1/2012, Register 203; am 5/8/2013, Register 206; am 2/5/2015, Register 213; am 4/17/2015, Register 214; am 3/2/2016, Register 217; am 11/26/2016, Register 220; am 12/29/2016, Register 220; am 1/12/2018, Register 225; am 9/15/2018, Register 227; am 1/8/2020, Register 233; am 11/7/2020, Register 236; add'l am 11/7/2020, **Register 236**; am 12/25/2020, Register 236; am 4/16/2022, Register 242; am 8/21/2022, Register 243; am 9 / 7 / 2022, Register 243; add'l am 9 / 7 / 2022, Register 243)

Authority: AS 46.03.020 AS 46.14.030 Sec. 30, ch. 74, SLA 1993
AS 46.14.020 AS 46.14.140

18 AAC 50.400 is repealed and readopted to read:

18 AAC 50.400. Permit administration fees. (a) The permittee, owner, or operator of a Title V source described under 18 AAC 50.326 shall pay to the department the annual or one-time fees listed in this subsection. Permittees will be invoiced on or before July 15 for each annual period from July 1 through the following June 30 for annual fees. For an initial Title V permitted source, the annual fees are collected starting the first July after the permit is issued, and the administration fee for development of an initial Title V permit or a minor source specific permit associated with a Title V source will be calculated in accordance with (h) of this section and billed in accordance with 18 AAC 50.420(b). The following fees apply to Title V sources:

(1) for an oil-and-gas source with the potential to emit equal to or greater than 250 tons per year of any one pollutant, the

(A) annual administration fee is \$3,660; and

(B) annual compliance fee is \$4,679;

(2) for a large power plant, other than one described in (3) of this subsection, with the potential to emit equal to or greater than 250 tons per year of any one pollutant, the

(A) annual administration fee is \$2,436; and

(B) annual compliance fee is \$5,304;

(3) for a standard coal-fired plant with the potential to emit equal to or greater than 250 tons per year of any one pollutant, the

(A) annual administration fee is \$7,433; and

(B) annual compliance fee is \$8,219;

(4) for a small power plant with the potential to emit equal to or greater than 250

tons per year of any one pollutant, the

(A) annual administration fee is \$2,049; and

(B) annual compliance fee is \$2,983;

(5) for an oil-and-gas source or thermal soil remediation unit source with the potential to emit equal to or greater than 100 and less than 250 tons per year of any one pollutant, the

(A) annual administration fee is \$2,415; and

(B) annual compliance fee is \$4,399;

(6) a small power plant, with the potential to emit equal to or greater than 100 and less than 250 tons per year of any one pollutant, the

(A) annual administration fee is \$2,367; and

(B) annual compliance fee is \$3,460;

(7) for a Title V source that is operating under the department's general operating permit for diesel engines, permit type GPA, the

(A) general permit application fee is established in accordance with (c) of this section upon the permit effective date; and

(B) annual compliance fee is \$2,148;

(8) for a Title V source that is operating under the department's general operating permit for asphalt plants, permit type GP3, the

(A) general permit application fee is established in accordance with (c) of this section upon the permit effective date; and

(B) annual compliance fee is \$2,975;

(9) for a Title V source, other than one described in (1) - (8) of this subsection, and that has the potential to emit less than 250 tons per year of any one pollutant, the

(A) annual administration fee is \$2,065; and

(B) annual compliance fee is \$5,398.

(b) If the permittee, owner, or operator of a Title V source is subject to an annual administration fee listed in (a) of this section for renewal of a Title V permit, and does not apply to renew the Title V permit for that source, that person may request a refund in writing, and the department will refund any annual administration fees that had been paid for that renewal.

Annual compliance fees are not refundable.

(c) If the department prepares a new or renewed general operating permit under 18 AAC 50.326 or a new or revised general minor permit under 18 AAC 50.560, the department will determine the fees for the permits as follows:

(1) the general permit application fee for that permit will be calculated by multiplying the number of hours the department spent to develop the permit by the hourly rate of salary and benefits of the department employees who developed the permit, and by adding to the resulting amount any other direct costs; this cost will be divided by the number of permittees who receive or are expected to receive the permit to determine the general permit application fee; and

(2) until the time when an individualized routine compliance fee is established, the routine compliance fee

(A) for a new general operating permit is \$2,148;

(B) for a new general minor permit is \$737, except that a new general

minor permit for a portable oil and gas operation is calculated in accordance with

(d)(3)(C) of this section; and

(C) for a renewed general operating permit or revised general minor permit is the same as the existing routine compliance fee for each permit type.

(d) The permittee, owner, or operator of a stationary source shall pay fees for a stationary source that is not classified as needing a Title V permit as follows:

(1) for a minor stationary source not associated with a Title V source, the

(A) fee for development of the permit is calculated in accordance with (h) of this section;

(B) annual compliance fee is \$1,826;

(2) for a general minor permit, as follows:

(A) for construction, operation, or relocation of an asphalt plant described in 18 AAC 50.502(b)(1), permit type MG3, the

(i) general permit application fee is established in accordance with (c) of this section upon the permit effective date;

(ii) annual compliance fee is \$1,386;

(B) for construction, operation, or relocation of a rock crusher described in 18 AAC 50.502(b)(3), permit type MG9, the

(i) general permit application fee is established in accordance with (c) of this section upon the permit effective date;

(ii) annual compliance fee is \$737;

(3) a portable oil and gas operation, as follows:

(A) for a source operating under permit type MG1, the

(i) general permit application fee is established in accordance with (c) of this section upon the permit effective date;

(ii) annual compliance fee is calculated in accordance with (h) of this section;

(B) for a source operating under permit type MG2, the

(i) general permit application fee is established in accordance with (c) of this section upon the permit effective date;

(ii) annual compliance fee is calculated in accordance with (h) of this section;

(C) if the department prepares a new general minor permit for a portable oil and gas operation, the department will determine the permit application fee cost of that permit in accordance with (c) of this section; until the time when an individualized routine compliance fee is established, the routine compliance fee for the permit is calculated in accordance with (h) of this section.

(e) After the department completes intake and processing of an excess emission report or permit deviation report submitted by the permittee, owner, or operator of a stationary source subject to this chapter, the permittee, owner, or operator who submitted that report will be invoiced for and shall pay a nonrefundable one-time fee of \$45.

(f) The permittee, owner, or operator of a stationary source who requests an owner-requested limit under 18 AAC 50.225 or a preapproved emission limit under 18 AAC 50.230 must pay the following fees:

(1) for an owner-requested limit,

(A) a one-time administration fee of \$2,444, to be paid before the department takes action on any request received; and

(B) an annual compliance fee of \$409;

(2) for a preapproved emission limit for diesel engines under 18 AAC 50.230(c) or a preapproved emission limit for a gasoline distribution facility considered under 18 AAC 50.230(d) to be a bulk gasoline plant,

(A) a one-time administration fee of \$219, to be paid before the limit takes effect; and

(B) an annual compliance fee of \$117.

(g) The fee for department review of and routine compliance services for a request for open burning under 18 AAC 50.065 is \$387. If the department determines that smoke incursion into a public place, into an airport, into a Class I area, into any nonattainment area, or into any maintenance area is likely, all additional costs will be charged in accordance with (h) of this section.

(h) Unless the designated regulatory service is subject to a fixed fee set out in (a) - (g) of this section, or to the terms of a negotiated service agreement under AS 37.10.052(b) and 18 AAC 50.403, the permittee, owner, or operator shall pay an hourly administration or compliance fee for a designated regulatory service. The department will calculate the total amount due under this subsection by multiplying the number of hours spent to provide the designated regulatory service by the hourly rate of salary and benefits of the department employees who provided the designated regulatory service, and by adding to the resulting

amount any other direct costs.

(i) In this section,

(1) "airport" has the meaning given in AS 02.25.110;

(2) "annual administration fee" means the fee charged for services related to the renewal of a Title V permit and any administrative amendments;

(3) "annual compliance fee" means the fee charged for routine compliance services, review of source test plans, and review of source test results;

(4) "general permit application fee" means the one-time fee that must be submitted with an application for general permits under this section;

(5) "large power plant"

(A) means a Title V source

(i) the purpose of which is to generate electricity, and that contains a combustion turbine electric generator or natural gas-fired steam plant; or

(ii) that has a potential to emit a total greater than or equal to 500 tons per year of regulated air pollutants in the aggregate, and that contains emissions units used to provide power to a mine or military base;

(B) does not include a Title V source that operates under the department's general permit for diesel engines;

(6) "oil-and-gas source"

(A) means a Title V source not described in (5)(A) of this subsection, the purpose of which is the exploration for, extraction of, processing of, transportation of, or storage of crude oil, natural gas, or other petroleum products, or related activities;

(B) does not include a petroleum refinery or liquefied natural gas (LNG) plant;

(7) "one-time administration fee" means the one-time fee that must be submitted under (f) of this section;

(8) "public place" has the meaning given in AS 46.06.150;

(9) "routine compliance services"

(A) means all direct services and costs necessary to accomplish the regularly scheduled onsite or offsite review of a stationary source's emissions units, records, and self-monitoring reports;

(B) includes annual compliance certifications, facility operating reports, source test plans, source test results, notices and reports, federal emission standard periodic reports, and notices to determine the stationary source's compliance with applicable requirements;

(C) does not include the unscheduled review of evidence in support of a complaint investigation or a compliance action;

(10) "small power plant"

(A) means a Title V source not described in (5)(A) or (6) of this subsection

(i) the purpose of which is to generate electricity, and that contains one or more diesel-fired internal combustion engines to generate power;

(ii) the purpose of which is seafood processing; or

(iii) that has a potential to emit a total of less than 500 tons per

year of regulated air pollutants in the aggregate, and that contains emissions units used to provide power to a mine or military base;

(B) does not include a Title V source that operates under the department's general permit for diesel engines;

(11) "standard coal-fired plant" means a Title V source that is not within 10 miles of Denali National Park, that contains a coal-fired boiler used for purposes of generating electrical power, to include cogeneration, and that has a potential to emit a total equal to or greater than 500 tons per year of regulated air pollutants in the aggregate. (Eff. 1/18/97, Register 141; am 6/21/98, Register 146; am 10/1/2004, Register 171; am 12/1/2004, Register 172; am 1/29/2005, Register 173; am 12/30/2007, Register 184; am 7/25/2008, Register 187; am 7/1/2010, Register 194; am 9/14/2012, Register 203; am 9/26/2015, Register 215; am 9/15/2018, Register 227; am 9 / 7 / 2022, Register 243)

Authority:	AS 37.10.050	AS 44.46.025	AS 46.14.140
	AS 37.10.052	AS 46.03.020	AS 46.14.240
	AS 37.10.058		

Editor's note: General permit application fees calculated in accordance with 18 AAC 50.400(c) can be found on the department's Air Permit Program's permit specific application webpages found at <https://dec.alaska.gov/air/air-permit/>.

18 AAC 50.410(a) is amended to read:

18 AAC 50.410. Emission fees. (a) For each period from July 1 through the following

June 30, the permittee, owner, or operator shall pay to the department an annual emission fee based on the stationary source's assessable emissions for that year for each stationary source that is subject to a permit under this chapter. The **emission** [EMISSIONS] fee is assessed per ton **for total tonnage projected, as reported on a per pollutant basis. All total projected tonnage will be billed emission fees** [FOR EACH AIR POLLUTANT FOR WHICH PROJECTED EMISSIONS ARE 10 TONS PER YEAR OR GREATER].

18 AAC 50.410(b) is amended to read:

(b) Except as provided in (c) and (g) of this section, emission fees will be assessed as follows:

(1) for **a stationary source** [SOURCES] required to obtain an operating permit under AS 46.14.130(b), an emission fee rate of **\$84.29** [\$42.95] per ton, **that** [; OF THAT PER-TON AMOUNT, \$33.16] will be allocated to the clean air protection fund under AS 46.14.260 [, AND \$9.79 WILL BE ALLOCATED TO THE EMISSION CONTROL PERMIT RECEIPTS ACCOUNT UNDER AS 46.14.265];

(2) for **a stationary source** [SOURCES] not subject to (1) of this subsection but otherwise required to obtain a permit under AS 46.14.130, the emission fee rate of **\$17.70** [\$9.79] per ton; the amount will be allocated to the **emission** [EMISSIONS] control permit receipts account under AS 46.14.265.

18 AAC 50.410(g)(3) is amended to read:

(3) at the following rates for a single portable oil and gas operation for which the

owner or operator submits a new application or notification for operation under a [THE] general minor permit [PERMITS] on or after December 3, 2005:

(A) for a portable oil and gas operation north of 69 degrees, 30 minutes

North latitude,

(i) \$2,556, [\$1,414] for operation at one or more ice pads during a winter drilling season;

(ii) \$7,668, [\$4,241] for operation during a state fiscal year at one or more sites not including a seasonal ice pad;

(B) for a portable oil and gas operation outside the area described in (A) of this paragraph,

(i) \$2,382, [\$1,318] for drilling five or fewer wells under the same application or notification during a state fiscal year;

(ii) \$4,764, [\$2,635] for drilling no fewer than six and no more than 10 wells under the same application or notification during a state fiscal year;

(iii) \$7,146, [\$3,953] for drilling 11 or more wells under the same application or notification during a state fiscal year.

(Eff. 1/18/97, Register 141; am 5/3/2002, Register 162; am 10/16/2003, Register 168; am 10/1/2004, Register 171; am 1/29/2005, Register 173; am 12/3/2005, Register 176; am 12/14/2006, Register 180; am 6/18/2009, Register 190; am 7/1/2010, Register 194; add'l am 7/1/2010, Register 194; am 9/26/2015, Register 215; am 8/20/2016, Register 219; am 9/15/2018, Register 227(Eff. 1/18/97, Register 141; am 5/3/2002, Register 162; am 10/16/2003, Register 168; am 10/1/2004, Register 171; am 1/29/2005, Register 173; am 12/3/2005, Register 176; am

Register 243, October 2022

ENVIRONMENTAL CONSERVATION

12/14/2006, Register 180; am 6/18/2009, Register 190; am 7/1/2010, Register 194; add'l am 7/1/2010, Register 194; am 9/26/2015, Register 215; am 8/20/2016, Register 219; am 9/15/2018, Register 227; am 9 / 7 / 2022, Register 243)

Authority: AS 44.46.025 AS 46.14.140 AS 46.14.250
AS 46.03.020

The introductory language of 18 AAC 50.420(a) is amended to read:

18 AAC 50.420. Billing procedures. (a) The department will send supplemental bills for emission fees and fixed permit administration fees after September 7, 2022 ~~{effective date of the regulations}~~ [SEPTEMBER 26, 2015] to bill or credit for the prorated difference between bills sent for state fiscal year 2023 [2016] before September 7, 2022 ~~{effective date of the regulations}~~ [SEPTEMBER 26, 2015] and the rates in effect as of September 7, 2022 ~~{effective date of the regulations}~~ [SEPTEMBER 26, 2015]. The department will bill emission fees assessed under 18 AAC 50.410(a) on or before July 1 of each year in a manner consistent with AS 46.14.250. The department will bill **annual** [FIXED PERMIT] administration fees under AS 46.14.240 and 18 AAC 50.400(a) - (g) **and annual compliance fees under AS 46.14.240 and 18 AAC 50.400(a), (d), and (f)** [.]

...

(Eff. 1/18/97, Register 141; am 10/16/2003, Register 168; am 10/1/2004, Register 171; am 1/29/2005, Register 173; am 7/1/2010, Register 194; am 9/26/2015, Register 215; am 9 / 7 / 2022, Register 243)

Authority: AS 44.46.025 AS 46.14.140 AS 46.14.250
AS 46.03.020 AS 46.14.240 AS 46.14.255