

**DEPARTMENT OF
ENVIRONMENTAL CONSERVATION**



18 AAC 50

AIR QUALITY CONTROL

Public Comment Draft

February 26, 2010

**Comment Period Ends
April 2, 2010, 5:00 p.m.**

**Sean Parnell
Governor**

**Larry Hartig
Commissioner**

18 AAC 50.230(c)(1)(I) is amended to read:

(I) the administration fee in **18 AAC 50.400(h)(2)** [18 AAC 50.400(k)(2)]; and

...

18 AAC 50.230(d)(1)(E) is amended to read:

(E) the administration fee in **18 AAC 50.400(h)(3)** [18 AAC 50.400(k)(3)]; and

...

(Eff. 1/18/97, Register 141; am 6/21/98, Register 146; am 10/1/2004, Register 171; am 1/29/2005, Register 173; am __/__/2010, Register __)

Authority:	AS 44.46.025	AS 46.14.030	AS 46.14.170
	AS 46.03.020	AS 46.14.120	AS 46.14.180
	AS 46.14.010	AS 46.14.130	AS 46.14.240
	AS 46.14.020		

18 AAC 50.260(p) is amended to read:

(p) Department services under this section are designated regulatory services for preapplication assistance and will be billed to the operating permit covering the source subject to BART as set out in **18 AAC 50.400(j)** [18 AAC 50.400(m)].

...

(Eff. 12/30/2007, Register 184)

Authority:	AS 46.03.710	AS 46.14.010	Sec. 30, ch. 74, SLA 1993
	AS 46.14.020	AS 46.14.030	

18 AAC 50.400 is repealed and readopted to read: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 permit administration fees listed in this subsection. Permittees will be invoiced in July for each period from July 1 through the following June 30. Each annual permit fee is one-fifth of the total cost of permit renewal. An annual permit fee listed in this subsection for renewal of a permit is collected in subsequent years after the fee for an

original permit under 18 AAC 50.410(j) is paid in full or after a renewal permit is issued. If a Title V source has been issued a Title V permit before January 29, 2005, the permittee, owner, or operator shall pay the applicable annual fee for permit renewal. The following permit administration fees apply to Title V sources:

(1) for renewal of a permit for an oil-and-gas source with the potential to emit more than 250 tons per year of any one pollutant, the

(A) annual permit fee is \$2,675; and

(B) annual compliance review fee is \$1,895;

(2) for renewal of a permit for a large power plant with the potential to emit more than 250 tons per year of any one pollutant, the

(A) annual permit fee is \$3,080; and

(B) annual compliance review fee is \$1,735;

(3) for renewal of a permit for a small power plant with the potential to emit more than 250 tons per year of any one pollutant, the

(A) annual permit fee is \$1,390; and

(B) annual compliance review fee is \$1,485;

(4) for renewal of a permit for a Title V source, with the potential to emit more than 100 and less than 250 tons per year of any one pollutant, and that is an oil-and-gas source or thermal soil remediation unit, the

(A) annual permit fee is \$2,045; and

(B) annual compliance review fee is \$1,350;

(5) for renewal of a permit for a small power plant with the potential to emit more than 100 and less than 250 tons per year of any one pollutant, the

(A) annual permit fee is \$1,565; and

(B) annual compliance review fee is \$1,115;

(6) for a Title V source that is operating under the department's general operating permit for diesel engines, the annual compliance review fee is \$730;

(7) for renewal of a permit 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 permit fee is \$2,090; and

(B) annual compliance review fee is \$1,345;

(b) If the permittee, owner, or operator of a Title V source is subject to an annual permit 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, the department will refund any annual permit fees that had been paid for that renewal. Annual compliance review fees and annual permit fees for original permits are not refundable.

(c) Before the department takes action on any permit application received, and if the minor permit is to be issued using the fast-track procedures in 18 AAC 50.542(b) – (c), the permittee, owner, or operator of a stationary source described in 18 AAC 50.326 or 18 AAC 50.502 not subject to (k)(3)-(8) of this section who requests a minor permit must pay a nonrefundable one-time permit fee of \$2,665. However, if fast-track procedures are not available under 18 AAC 50.542(b)(1), the permittee, owner, or operator must pay, for a stationary source other than one described in 18 AAC 50.502(b), time and material costs under (j) of this section.

(d) If the department prepares a new general operating permit or a new general minor permit, the department will determine the cost of that permit 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. This cost will be divided by the number of permittees who receive or are expected to receive the permit to determine the permit administration fee.

(e) The permittee, owner, or operator of a stationary source shall pay an annual compliance review fee of \$325, to be paid for each period from July 1 through the following June 30, for a stationary source that is not classified as needing a Title V permit and that is:

(1) subject to a minor permit under 18 AAC 50.502; the compliance review fee must be paid in addition to the one-time permit fees in (c) of this section or a general minor permit fee in (d) of this section; or

(2) required to have a minor permit under 18 AAC 50.502(b), that is operating under an operating or general operating permit issued before October 1, 2004.

(f) Before the department takes action on any request or application received, the permittee, owner, or operator of a stationary source who requests a minor permit, review, action, or activity described in this subsection must pay a nonrefundable one-time permit fee as follows:

(1) to change a Title I permit or approval to operate by administrative

amendment under AS 46.14.285, a permit fee of \$465;

(2) to change a Title V permit or approval to operate by administrative amendment under 18 AAC 50.326, or to add a minor permit to a Title V permit by administrative amendment under 18 AAC 50.542(e), a permit fee of \$225, except as provided in (3) of this subsection;

(3) to change a Title V permit by administrative amendment to incorporate, in accordance with 40 C.F.R. 71.7(d)(1)(v), adopted by reference in 18 AAC 50.040, the requirements from a construction permit issued under 18 AAC 50.316, a permit fee of \$220;

(4) to change an approval to operate under 18 AAC 50.225 by administrative amendment under AS 46.14.285, a permit fee of \$465.

(g) After the department completes a review, action, or activity described in this subsection, and sought by the permittee, owner, or operator of a stationary source described in 18 AAC 50.326 or 18 AAC 50.502, the permittee, owner, or operator will be invoiced for and shall pay a nonrefundable one-time fee as follows:

(1) for department review under 18 AAC 50.345(m) of a source test plan, a fee of \$665;

(2) for department review under 18 AAC 50.345(o) of the results of a source test, a fee of \$660;

(3) for department intake and processing of an excess emission report or permit deviation report submitted in accordance with a stationary source's permit, a fee of \$15;

(4) for a fee review under 18 AAC 15.190, a fee of \$210; the department will waive the fee charged under this paragraph if the outcome of the fee review is a reduction of 50 percent or more in the amount of the disputed fee.

(h) The permittee, owner, or operator of a stationary source who requests an owner requested limit (ORL) under 18 AAC 50.225 or 18 AAC 50.508(5) or a preapproved emission limit under 18 AAC 50.230 must pay the following fees:

(1) for an ORL,

(A) a one-time administrative fee of \$2,290, to be paid before the department takes action on any request received; and

(B) an annual compliance review fee of \$235 unless the permittee, owner, or operator is required to pay an annual compliance review fee under (a) or (h) of this section;

(2) for a preapproved emission limit for diesel engines under 18 AAC 50.230(c),

(A) a one-time administrative fee of \$85, to be paid before the limit takes effect; and

(B) an annual compliance review fee of \$45;

(3) for 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 administrative fee of \$65, to be paid before the limit takes effect; and

(B) an annual compliance review fee of \$60.

(i) Except as provided in (j) of this section, the fee for department approval of open burning under 18 AAC 50.065 is \$200.

(j) Unless the designated regulatory service is subject to a fixed fee set out in (a) - (j) of this section, or to the terms of a negotiated service agreement under AS 37.10.052(b) and 18 AAC 50.405, the permittee, owner, or operator shall pay an hourly permit administration fee for a designated regulatory service. The department will calculate the total amount due under this subsection by multiplying the number of hours the department 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. Designated regulatory services subject to this subsection include regulatory services for:

(1) an original permit for a Title V source, with the potential to emit more than 100 and less than 250 tons per year of any one pollutant, and that is an oil-and-gas source or thermal soil remediation unit;

(2) an original permit for a small power plant with the potential to emit more than 100 and less than 250 tons per year of any one pollutant;

(3) an asphalt plant described in 18 AAC 50.502(b)(1);

(4) for a thermal soil remediation unit described in 18 AAC 50.502(b)(2);

(5) for a rock crusher described in 18 AAC 50.502(b)(3);

(6) for an incinerator described in 18 AAC 50.502(b)(4);

(7) for a Port of Anchorage stationary source;

- (8) for a coal preparation plant;
- (9) a minor permit under 18 AAC 50.502(c)(1), if a construction permit is not required under AS 46.14.130(a) for that stationary source;
- (10) a minor permit under 18 AAC 50.502(c)(3);
- (11) a minor permit establishing or revising a plantwide applicability limitation (PAL) without an ambient air quality analysis;
- (12) a minor permit establishing or revising a plantwide applicability limitation (PAL) with an ambient air quality analysis;
- (13) an adjudicatory hearing under 18 AAC 15.195 - 18 AAC 15.340, if requested under 18 AAC 50.260(m), 18 AAC 50.306(e), 18 AAC 50.326(k), or 18 AAC 50.542(d) by the permit applicant; at the request of the permittee, and if the permittee is current on all other billings in the department, the department will hold in abeyance a fee charged under this paragraph during the course of the adjudicatory hearing;
- (14) a minor modification to a Title V permit under 40 C.F.R. 71.7(e)(1), adopted by reference in 18 AAC 50.040;
- (15) a significant modification to a Title V permit under 40 C.F.R. 71.7(e)(3), adopted by reference in 18 AAC 50.040;
- (16) revision or rescission of terms or conditions of a Title I permit;
- (17) department observation of source test conducted;
- (18) pre-application assistance, including services under 18 AAC 50.260;
- (19) department approval of a modeling protocol;
- (20) department approval of open burning under 18 AAC 50.065, if the department determines that smoke incursion into a public place, into an airport, into a Class I area, into a nonattainment area for carbon monoxide or PM-10, or into a maintenance area for carbon monoxide or PM-10 is likely;
- (21) compliance and enforcement activities, including preparation of a notice of violation, compliance order by consent, settlement agreement, or consent decree; however, for purposes of this paragraph, compliance and enforcement activities do not include activities after the filing of a complaint in court;
- (22) completion of a permitting action that was requested before January 29, 2005, except as provided in 18 AAC 50.405;

(23) the reopening of permit terms or conditions at the request of the permittee, owner, or operator before issuance of a permit.

(k) In this section,

(1) "airport" has the meaning given in AS 02.25.100;

(2) "large power plant"

(A) means a Title V source

(i) that contains a coal-fired boiler;

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

(iii) 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 emission units used to provide power to a mine or military base; and

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

(3) "oil-and-gas source" means a Title V source not described in (2)(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; "oil-and-gas source" does not include a petroleum refinery or liquefied natural gas (LNG) plant;

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

(5) "small power plant"

(A) means a Title V source not described in (2)(A) or (3) 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 less than 500 tons

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

(B) does not include a Title V source that operates under the department's general permit for diesel engines. (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 __/__/2010, Register __)

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		

18 AAC 50.403 is amended to read:

18 AAC 50.403. Negotiated service agreements. If a fixed permit administration fee has not been set under **18 AAC 50.400(a) - (i)** [18 AAC 50.400(a)-(l)] for a designated regulatory service, the permittee, owner, or operator of a stationary source may request a negotiated service agreement under AS 37.10.052(b) for that designated regulatory service. If requesting a negotiated service agreement for one or more of the following designated regulatory services, the permittee, owner, or operator must submit a retainer payment of \$5,300 per designated regulatory service before the department begins negotiations:

(Eff. 1/29/2005, Register 173; am 12/3/2005, Register 176; am __/__/2010, Register __)

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		

18 AAC 50.410 is amended to read:

18 AAC 50.410. Emission fees. (a) On or after *adoption date of these regulations*[July 1, 2006], 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 emissions fee is assessed per ton for each air pollutant for which projected emissions are 10 tons per year or greater [, EXCEPT AS LIMITED UNDER AS 46.14.250(E)].

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

(1) [FOR JULY 1, 2006 THROUGH JUNE 30, 2007, THE EMISSIONS FEE RATE IS \$12.52 PER TON, AND AN ADDITIONAL ASSESSMENT FOR JANUARY 1, 2007 THROUGH JUNE 30, 2007, AS FOLLOWS:

(A)] for stationary sources required to obtain an operating permit under AS 46.14.130(b), an emission fee rate of ~~\$28.57~~[\$13.06] per ton; of that per ton amount, ~~\$19.32~~[\$8.04] will be allocated to the clean air protection fund under AS 46.14.260, and ~~\$9.25~~[\$5.02] will be allocated to the emission control permit receipts account under AS 46.14.265;

~~(2)~~[(B)] for stationary sources not subject to ~~(1)~~ [(A)] of this paragraph but otherwise required to obtain a permit under AS 46.14.130, the emission fee rate of ~~\$9.25~~[\$5.02] per ton, which will be allocated to the emissions control permit receipts account under AS 46.14.265.

(2) FOR JULY 1, 2007 THROUGH JUNE 30, 2008,

(A) THE EMISSIONS FEE RATE IS \$31.80 PER TON FOR STATIONARY SOURCES REQUIRED TO OBTAIN AN OPERATING PERMIT UNDER AS 46.14.130(B); OF THAT PER-TON AMOUNT, \$26.28 WILL BE ALLOCATED TO THE CLEAN AIR PROTECTION FUND UNDER AS 46.14.260, AND \$5.52 WILL BE ALLOCATED TO THE EMISSION CONTROL PERMIT RECEIPTS ACCOUNT UNDER AS 46.14.265; AND

(B) FOR STATIONARY SOURCES NOT SUBJECT TO (A) OF THIS PARAGRAPH, BUT OTHERWISE REQUIRED TO OBTAIN A PERMIT UNDER AS 46.14.130, THE EMISSION FEE RATE IS \$5.52 PER TON, WHICH WILL BE ALLOCATED TO THE EMISSION CONTROL PERMIT RECEIPTS ACCOUNT UNDER AS 46.14.265;

(3) FOR JULY 1, 2008 THROUGH JUNE 30, 2009,

(A) THE EMISSION FEE RATE IS \$33.37 PER TON FOR STATIONARY SOURCE REQUIRED TO OBTAIN AN OPERATING PERMIT UNDER AS 46.14.130(B); OF THAT PER TON AMOUNT, \$27.24 WILL BE ALLOCATED TO THE CLEAN AIR PROTECTION FUND UNDER AS 46.14.260, AND \$6.13 WILL BE ALLOCATED TO THE EMISSION CONTROL PERMIT RECEIPTS ACCOUNT UNDER AS 46.14.265; AND

(B) FOR STATIONARY SOURCES NOT SUBJECT TO (A) OF THIS PARAGRAPH BUT OTHERWISE REQUIRED TO OBTAIN A PERMIT UNDER AS 46.14.130, THE EMISSION FEE RATE IS \$6.13 PER TON, WHICH WILL BE ALLOCATED TO THE EMISSION CONTROL PERMIT RECEIPTS ACCOUNT UNDER AS 46.14.265.]

(c) The quantity of emissions for which fees will be assessed is the lesser of the stationary source's

(1) potential to emit; or

(2) projected annual rate of emissions, as that term is used in AS 46.14.250, if demonstrated by

(A) an enforceable test method described in 18 AAC 50.220;

(B) material balance calculations;

(C) emission factors from EPA's *Compilation of Air Pollutant Emission Factors, Volume I: Stationary Point and Area Sources*, adopted by reference in 18 AAC 50.035; or

(D) other methods and calculations approved by the department.

(d) For a stationary source that needs an operating permit only because that source contains an emission unit that is subject to a federal emission standard under 42 U.S.C. 7411 or 7412, only emissions from the emission unit subject to that standard are subject to emission fees under (b)(1) [(A), (2)(A), AND (3)(A)] of this section.

(e) In emissions projections prepared under AS 46.14.250(h)(1)(B) and (c)(2) of this section, the permittee, owner, or operator shall account for emissions from equipment classified under 18 AAC 50.100 that temporarily replaces or substitutes for permanently installed equipment at a stationary source.

(f) For stationary sources required to obtain a minor permit in accordance with 18 AAC 50.502(c) or 18 AAC 50.508(6) but not required to obtain an operating permit under AS 46.14.130(b), the permittee shall pay a one-time emission fee assessed for the state fiscal year following the state fiscal year in which the permit was issued. The emission fee is based on assessable emissions for the state fiscal year being assessed and is billed in July of that year. The entire fee is allocated to the emission control permit receipts account under AS 46.14.265. The emission fee rate is [(1) \$5.52 PER TON FOR THE STATE FISCAL YEAR BEGINNING JULY 1, 2007; AND

(2)]**\$9.25**[\$6.13] per ton.

(g) Notwithstanding (a) - (d) of this section, for the projected annual rate of emissions for a portable oil and gas operation under a general minor permit under 18 AAC 50.560, the emission fee is allocated to the emission control permit receipts account under AS 46.14.265, and the permittee shall pay the emission fee

(1) at the time of application or notification for operation that will occur

in the same state fiscal year;

(2) for operation that will occur during more than one state fiscal year under a single application or notification, after billing under 18 AAC 50.420 by the department for any subsequent state fiscal year; and

(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 the general minor permit on or after December 3, 2005:

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

(i) ~~\$1,336~~[\$1,808 FOR JULY 1, 2006 THROUGH DECEMBER 14, 2006; \$725 FOR DECEMBER 14, 2006 THROUGH JUNE 30, 2007; \$797 FOR JULY 1, 2007 THROUGH JUNE 30, 2008; AND \$885 FOR JULY 1, 2008 THROUGH JUNE 30, 2009,] for operation at one or more ice pads during a winter drilling season;

(ii) ~~\$4,008~~[\$5,424 FOR JULY 1, 2006 THROUGH DECEMBER 14, 2006; \$2,175 FOR DECEMBER 14, 2006 THROUGH JUNE 30, 2007; \$2,391 FOR JULY 1, 2007 THROUGH JUNE 30, 2008 AND \$2,656 FOR JULY 1, 2008 THROUGH JUNE 30, 2009] 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) ~~\$1,245~~[\$1,685 FOR JULY 1, 2006 THROUGH DECEMBER 14, 2006; \$676 FOR DECEMBER 14, 2006 THROUGH JUNE 30, 2007; \$743 FOR JULY 1, 2007 THROUGH JUNE 30, 2008; AND \$825 FOR JULY 1, 2008 THROUGH JUNE 30, 2009,] for drilling five or fewer wells under the same application or notification during a state fiscal year;

(ii) ~~\$2,490~~[\$3,370 FOR JULY 1, 2006 THROUGH DECEMBER 14, 2006; \$1,351 FOR DECEMBER 14, 2006 THROUGH JUNE 30, 2007; \$1,486 FOR JULY 1, 2007 THROUGH JUNE 30, 2008; AND \$1,650 FOR JULY 1, 2008 THROUGH JUNE 30, 2009,] for drilling no fewer than six and no more than 10 wells under the same application or notification during a state fiscal year;

(iii) ~~\$3,735~~[\$5,055 FOR JULY 1, 2006 THROUGH DECEMBER 14, 2006; \$2,027 FOR DECEMBER 14, 2006 THROUGH JUNE 30, 2007; \$2,229 FOR JULY 1, 2007 THROUGH JUNE 30, 2008;

AND \$2,475 FOR JULY 1, 2008 THROUGH JUNE 30, 2009] for drilling 11 or more wells under the same application or notification during a state fiscal year.

(h) For purposes of this section, “state fiscal year” means a year beginning on July 1 of one calendar year and ending on June 30 of the following calendar 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 __/__/2010, Register ____)

Authority: AS 44.46.025 AS 46.14.140 AS 46.14.250
AS 46.03.020

18 AAC 50.420 is amended to read:

18 AAC 50.420. Billing procedures. (a) 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 fixed permit administration fees under AS 46.14.240 and **18 AAC 50.400(a) - (j)**[18 AAC 50.400(a)-(l)].

(1) on or before the 15th of July; [HOWEVER, FOR THE PERIOD FROM JANUARY 29, 2005 THROUGH JUNE 30, 2005, THE PERMIT ADMINISTRATION FEES WILL BE BILLED ON OR AFTER JANUARY 29, 2005 AND PRORATED FOR THAT TIME PERIOD;] or

(2) quarterly on or before January 15, April 15, July 15, and October 15 if requested in writing by the person required to pay the fee.

(b) On or before the 15th of each month, the department will bill permit administration fees for designated regulatory services rendered during the preceding month under **18 AAC 50.400(j)**[18 AAC 50.400(m)]. However, for reviews of excess emission reports, the department will bill on a semiannual basis if requested in writing by the person required to pay the fee.

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(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 __/__/2010, Register ____)

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