

**DEPARTMENT OF
ENVIRONMENTAL CONSERVATION**



18 AAC 50

Air Quality Control

Public Comment Draft

May 21, 2015

**Comment Period Ends
June 30, 2015, 5:00 p.m.**

**Bill Walker
Governor**

**Larry Hartig
Commissioner**

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

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

and

...

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

(E) the administration fee in **18 AAC 50.400(f)(2)** [18 AAC

50.400(h)(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 7/1/2010, Register 194; am __/__/____, 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

The lead in language of 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(h)** [18 AAC 50.400(j)].

(Eff. 12/30/2007, Register 184; am 7/1/2010, Register 194; am 10/6/2013, Register 208; am __/__/____, Register ____)

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18 AAC 50.400 is repealed and readopted to read: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 original permit cost or total cost of permit renewal. For an initial Title V permit, the annual permit fee is collected starting the first July after the permit is issued. 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 \$4,261; and

(B) annual compliance review fee is \$4,436;

(2) for renewal of a permit for a large power plant, other than one described in (3) of this section, with the potential to emit more than 250 tons per year of any one pollutant, the

(A) annual permit fee is \$2,527; and

(B) annual compliance review fee is \$3,372;

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

(A) annual permit fee is \$10,567; and

(B) annual compliance review fee is \$6,737;

(4) 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 \$1,720; and

(B) annual compliance review fee is \$2,491;

(5) 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 \$1,303; and

(B) annual compliance review fee is \$3,341;

(6) 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 \$2,067; and

(B) annual compliance review fee is \$2,989;

(7) for a Title V source that is operating under the department's general operating permit for diesel engines, the annual compliance review fee is \$1,554;

(8) for a Title V source that is operating under the department's general operating permit for asphalt plants, the annual compliance review fee is \$2,091;

(9) for renewal of a permit for a Title V source, other than one described in (1) – (6) 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 \$844; and

(B) annual compliance review fee is \$3,159.

(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, they may request a refund in writing, and the department will

refund any annual permit fees that had been paid for that renewal. Annual compliance review fees are not refundable.

(c) 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.

(d) The permittee, owner, or operator of a stationary source shall pay an annual compliance fee of \$750 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 annual compliance review fee must be paid in addition to the general minor permit fee in (c) of this section;

(2) subject to an owner requested limit under 18 AAC 50.508(5); the annual compliance review fee must be paid in addition to the fees paid under (h) of this section; or

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

(e) 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 subject to 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 intake and processing of an excess emission report or permit deviation report submitted in accordance with a stationary source's permit, a fee of \$20;

(2) for a fee review under 18 AAC 15.190, a fee of \$110; 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.

(f) The permittee, owner, or operator of a stationary source who requests an owner requested limit (ORL) under 18 AAC 50.225 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 \$2,168, to be paid before the department takes action on any request received; and

(B) an annual compliance review fee of \$319, unless the permittee, owner, or operator is required to pay an annual compliance review fee under (a) or (d) of this section.

(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 administrative fee of \$88, to be paid before the limit takes effect; and

(B) an annual compliance review fee of \$95.

(g) The fee for department review of and routine compliance services for a request for open burning under 18 AAC 50.065 is \$230. 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 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 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 02.25.100;

(2) "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 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.

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

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

(8) "coal-fired plant" means a Title V source that contains a coal-fired boiler and has a potential to emit a total greater than or equal to 500 tons per year of regulated air pollutants in the aggregate.

(9) "routine compliance services" means all direct services and costs necessary to accomplish the regularly scheduled onsite or offsite review of a stationary source's emission units, records, and self-monitoring reports including annual compliance certifications (ACCs), facility operating reports (FORs), source test plans, source test results, notices and reports,

federal emission standard periodic reports and notices to determine the source's compliance with applicable requirements. "Routine compliance services" does not include the unscheduled review of evidence in support of a complaint investigation or a compliance action.

(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 __/__/__, 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

The lead in language of 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) – (g)** [18 AAC 50.400(a) - (i)] 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.

Unless a completed negotiated service agreement specifies otherwise, all work done by the department to develop the negotiated service agreement is a designated regulatory service billed in accordance with 18 AAC 50.400(h). [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

(1) A MINOR PERMIT UNDER 18 AAC 50.502(c)(2)(B);

(2) A PSD PERMIT UNDER 18 AAC 50.306 FOR A NEW MAJOR

STATIONARY SOURCE;

(3) A MAJOR MODIFICATION OF A MAJOR STATIONARY SOURCE;

(4) A CONSTRUCTION PERMIT UNDER 18 AAC 50.302 FOR A NEW STATIONARY SOURCE OR MODIFICATION SUBJECT TO THE CONSTRUCTION PERMITTING REQUIREMENTS OF 42 U.S.C. 7412(i) (CLEAN AIR ACT SEC. 112(i));

(5) A PERMIT FOR THE CONSTRUCTION OF A NEW STATIONARY SOURCE OR ADDITION OF AN EMISSION UNIT AT A STATIONARY SOURCE, IF THE STATIONARY SOURCE IS

(A) IN A SULFUR DIOXIDE SPECIAL PROTECTION AREA ESTABLISHED UNDER 18 AAC 50.025(c);

(B) IN THE NIKISKI INDUSTRIAL AREA; OR

(C) ON AN OFFSHORE PLATFORM;

(6) A MAJOR MODIFICATION OF A MAJOR STATIONARY SOURCE, FOR WHICH A LIMIT IS REQUESTED SPECIFICALLY TO AVOID REVIEW UNDER 18 AAC 50.306;

(7) A MINOR PERMIT UNDER 18 AAC 50.508(4);

(8) THE RENEWAL OF A TITLE V PERMIT FOR A TITLE V SOURCE FOR WHICH FEES ARE NOT ESTABLISHED UNDER 18 AAC 50.400(a);

(9) A NOTICE OF MACT APPROVAL UNDER 18 AAC 50.321.] (Eff. 1/29/2005, Register 173; am 12/3/2005, Register 176; am 7/1/2010, Register 194; am __/__/____, 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 50.405 is repealed:

18 AAC 50.405. Repealed __/__/__ [TRANSITION PROCESS FOR PERMIT FEES. FOR A PERMIT ISSUED UNDER THIS CHAPTER, IF THE APPLICANT HAS SUBMITTED AN APPLICATION BEFORE JANUARY 29, 2005 AND THE DEPARTMENT HAS NOT YET WORKED ON THAT PERMIT APPLICATION, AT THE REQUEST OF THE APPLICANT, THE DEPARTMENT WILL PROCESS THE PERMIT UNDER THE PROVISIONS OF 18 AAC 50.400 - 18 AAC 50.499 IN EFFECT ON JANUARY 29, 2005. ANY RETAINER SUBMITTED BEFORE JANUARY 29, 2005 WILL BE APPLIED TO ANY FEES EFFECTIVE AFTER JANUARY 29, 2005.] (Eff. 1/29/2005, Register 173; am __/__/____, Register __)

18 AAC 50.410(b) is amended to read:

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

(1) for stationary sources required to obtain an operating permit under AS 46.14.130(b), an emission fee rate of \$42.95 [\$28.57] per ton; of that per ton amount, \$33.16

[\$19.32] will be allocated to the clean air protection fund under AS 46.14.260, and **\$9.79** [\$9.25] will be allocated to the emission control permit receipts account under AS 46.14.265;

(2) for stationary sources not subject to (1)(A) of this subsection but otherwise required to obtain a permit under AS 46.14.130, the emission fee rate of **\$9.79** [\$9.25] per ton, which will be allocated to the emissions control permit receipts account under AS 46.14.265.

...

18 AAC 50.410(f) is repealed:

(f) Repealed / / / [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 ANNUAL EMISSION FEE RATE IS \$9.25 PER TON.]

...

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 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) **\$1,414** [\$1,336] for operation at one or more ice pads during a winter drilling season;

(ii) **\$4,241** [\$4,008] 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) **\$1,318** [\$1,245] for drilling five or fewer wells under the same application or notification during a state fiscal year;

(ii) **\$2,635** [\$2,490] for drilling no fewer than six and no more than 10 wells under the same application or notification during a state fiscal year;

(iii) **\$3,953** [\$3,735] 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; am __/__/____, Register ____)

Authority: AS 44.46.025 AS 46.14.140 AS 46.14.250
AS 46.03.020

The lead in 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 *{effective date of regulations}* to bill or credit for the prorated difference between bills sent for FY16 prior to *{effective date of these regulations}* and the rates in effect as of *{effective date of regulations}*.**

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) – (g)** [18 AAC 50.400(a) - (i)]

...

The lead in language of 18 AAC 50.420(b) is amended to read:

(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(h)** [18 AAC 50.400(j). 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.]

...

18 AAC 50.420(f)(2) is amended to read:

(2) decreases the stationary source's assessable emissions through a permit revision may request **in writing** a prorated refund or credit to the stationary source's fee account toward future fees.

...

The lead in language of 18 AAC 50.420(g) is amended to read:

(g) The owner, operator, or permittee who terminates operations or whose permit has lapsed or is terminated by the department may request **in writing** a refund calculated by the department for fees collected in excess of the amount due for the stationary sources' actual emissions **for the current fiscal year.**

...

The lead in language of 18 AAC 50.420(h) is amended to read:

(h) Unless the owner, operator, or permittee requests otherwise, an invoice for emission fees or permit administration fees will be sent to the last known address of the stationary source that is subject to the fee. In an invoice, the department will include an itemized list of charges and credits for the billing period and a calculation of total credit balance or amount due on the account. For permit administration fees for designated regulatory services under **18 AAC 50.400(h)** [18 AAC 50.400(j)], the department will also include as part of the itemized list the

...

18 AAC 50.420(h)(3) is amended to read:

(3) time spent on the task on that date and the charge for the task, determined under **18 AAC 50.400(h)** [18 AAC 50.400(j)]. (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 __/__/____, Register ____)

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|-------------------|--------------|--------------|--------------|
| 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 |