

**STATE OF ALASKA**

**DEPARTMENT OF**  
**ENVIRONMENTAL CONSERVATION**

**PROPOSED**  
**"USER FEE" REGULATIONS**

**BACKGROUND, EXPLANATION, AND JUSTIFICATION**



Pursuant to 1991 Session Laws of Alaska, Chapter 73, the Alaska Department of Environmental Conservation was directed as follows: "It is the intent of the legislature that the Department of Environmental Conservation (DEC) identify opportunities to establish and collect fees for permits and services rendered." The proposed "user fee" regulations are DEC's attempt to "identify opportunities," as directed by the 1991 Legislature. Authority to charge fees is found at AS 44.46.025 for certain DEC programs. No fees are proposed for programs without fee authority under AS 44.46.025.

## 18 AAC 15 - ADMINISTRATIVE PROCEDURES

There are statutory and regulatory requirements for notice to be published for most of DEC's permits, and the procedures in this chapter apply to many of those permits. When the Legislature asked DEC to look at opportunities to recoup some costs of issuing these permits, this was one area that seemed appropriate. Since the public must be notified about a proposed activity in or near their community before DEC may issue a permit for that activity, it seemed appropriate that the person seeking the permit should pay for those notices. Cost would be actual cost billed by each newspaper.

## 18 AAC 30 - ENVIRONMENTAL SANITATION

### 18 AAC 31 - FOOD SERVICE

(Inspection fees)

TYPE OF ESTABLISHMENT	NO.	PROPOSED FEE*	ANTICIPATED REVENUE	
			FY92	FY93
Food Service				
0-25 seats	790	\$ 50.00	\$0.00	\$ 39,500.00
26-50	500	100.00	0.00	50,000.00
> 50	760	200.00	0.00	152,000.00
Mobile	80	50.00		0.00 4,000.00
Temporary	500	10.00		0.00 5,000.00
Bar	470	150.00	0.00	70,500.00
Change of Ownership	100	50.00		0.00 2,500.00
Food Processing	90	100.00	0.00	8,000.00
Food Warehouse	25	100.00	0.00	2,500.00
Food Store				
Convenience	135	50.00		0.00 6,750.00
Retail market	135	150.00	0.00	20,250.00
Plan Review	75	25.00		0.00 1,875.00
Reinspection	100	25.00		0.00 2,500.00
TOTAL			\$0.00	\$365,375.00*



**Basis for fee:**

Personal Services Costs	\$50.00
Administration (Permitting, Certification, Training)	<u>25.00</u>

**HOURLY TOTAL**                      **\$75.00**

**Average Time per Task (in hours)**

Food Service: Routine Inspection (2X/YR)	1.5 hrs
Food Service: Followup (As needed)	1.0
Food Service: Spot Check (As needed)	.5
Food Processing: Routine (1X/YR)	1.5
Food Processing: Followup (As needed)	1.0
Food Processing: Spot Check (As needed)	.5
Food Store: Routine (1X/Yr)	1.5
Food Store: Followup (As needed)	1.0
Food Store: Spot Check (As needed)	.5

**Examples of annual inspection costs for food service inspection**

2 Routine inspections at 1.5 hr each	\$225.00
1 Followup inspection at 1.0 hr	<u>50.00</u>

**TOTAL COST**                      **\$300.00**

**18 AAC 34 - SEAFOOD INSPECTION****(Permit fee)**

TYPE OF ESTABLISHMENT	NO.	PROPOSED FEE*	ANTICIPATED REVENUE	
			FY92	FY93
Shellfish				
Harvester	150	25.00	\$0.00	\$ 3,750.00
Shipper	70	25.00	0.00	1,750.00
Re-packer	0	50.00	0.00	0.00
Packer	4	100.00	0.00	400.00
Vessel < 65 feet	100	100.00	0.00	10,000.00
Vessel > 65 feet	200	325.00	0.00	65,000.00
Landbased - small	75	125.00	0.00	9,375.00
Landbased - large	75	325.00	0.00	24,375.00
Cannery < 5000 #/day	12	175.00	0.00	2,100.00
Cannery > 5000 #/day	32	325.00	0.00	10,400.00
Shellfish certification				
Initial (5 day)	10	750.00	0.00	7,500.00
Recertification (1 day)	20	325.00	0.00	6,500.00

TOTAL

\$0.00 \$140,650.00\*\*

**Basis for fee:** Initially fees were established at a rate that would permit the inspection program to be fully funded through assessment of user fees. Fees were based on volume, size and complexity of the processing operation. Shellfish certification fees were based on the actual cost of to the department. Fees were then adjusted to amounts which would not be prohibitively expensive.

Type of permit	Original fee	Adjusted Proposed Fee
Harvester	\$ 100.00	\$ 25.00
Shellfish shipper	200.00	25.00
Repacker	300.00	50.00
Shellfish packer	500.00	100.00
Vessel < 65'	500.00	100.00
Vessel > 65'	4500.00	325.00
Small landbased	1500.00	125.00
Large landbased	4500.00	325.00
Cannery < 5000#/day	2000.00	175.00
Cannery > 5000#/day	4500.00	325.00
Shellfish certification Initial (5 day)	\$2300.00	\$ 750.00

\* To be collected on/or after 7-1-92.

\*\* To be collected with annual permit on/or after 1-1-93.

### 18 AAC 36 - ANIMAL HEALTH

Equine Infectious Anemia (EIA) testing

Rate: Normal working hours	\$10.00/analysis
Outside normal working hours	\$50.00/hr

TOTAL \$0.00 \$ 20,000.00\*\*\*

**Basis for fee:** Fee represents actual personal services and commodities costs required to perform the analysis.

\*\*\*To be collected upon receipt of samples on/or after 7-1-92.

## 18 AAC 50 -- AIR QUALITY CONTROL

**PURPOSE OF PROPOSED FEES:** Provide service to the public as required by existing statutory law in recognition of the mandates of the Alaska Legislature (AS 44.46.025(2)) and the 1990 Clean Air Act to fund these services through fees obtained by those receiving the service.

### BACKGROUND

**Legislative change:** As a result of the enactment of Alaska Statute AS 44.46.025 in 1990, and the complementary restrictions on DEC's budget by the 1991 Legislature, DEC has been directed to propose regulations to collect fees for the program activities under AS 46.03.140 and AS 46.03.160. AS 44.46.025 states that DEC "...adopt regulations that prescribe reasonable fees, and establish procedures for the collection of fees, to cover the direct costs of the following services provided by the department:.....(2) air quality permits under AS 46.03.140 and 46.03.160...".

The Air Quality Management Section conducted a thorough investigation of the direct costs associated with review of permit applications, ambient air impact assessments, and applications under the Prevention of Significant Deterioration program; public notice and comment opportunities, conducting public hearings, administrative costs of permits; issuance, inspections, and review of reports to establish compliance with the permit. Permit costs are also a function of the amount of allowable emissions from a facility, and the potential toxicity of those emissions.

**Changes in Federal Law: 1990 Clean Air Act:** Another compelling reason for the assessment of fees is the mandate of the 1990 Clean Air Act (the Act). The Act mandates that each state establish a comprehensive operating permit program, or lose federal highway funds and federal air quality grants. In Alaska, the amount of annual highway grants exceeds \$200 million. If a state fails to implement the permit program, the Act directs EPA to take over the operating permit program for that state.

Regardless of whether DEC or EPA is the issuing authority, a fee must be imposed for all operating permits. There are many benefits for DEC to continue to administer the program. The first is to avoid the loss of federal highway funds, federal grants for air programs, and other supplemental federal funds available to Alaskans. The loss of these funds would have a significant impact on the Alaskan economy and the state's operating budget.

The second reason is to retain primacy for managing air quality in Alaska. As most owners or operators will attest, DEC has always been more flexible and more understanding of the specific problems encountered in Alaska than has EPA. In retaining primacy, DEC can develop regulations that meet the mandates of the Act but also respond to the specific needs of Alaskan industry. Although the Act leaves little room for altering the major scope of the permit program, there are many electable features that would enable DEC to streamline the permit to a large degree, thereby improving agency efficiency and reducing overall program cost.

The third reason for DEC to implement the program is to keep the fees in Alaska. All permits, whether issued by DEC or EPA, will require a fee. If EPA collects the fees, the funds will be deposited into the US Treasury, and appropriated by Congress, not necessarily to benefit Alaskans. If administered by DEC, the fees would be retained for use by the state, in the state -- and the fees would be lower than the "presumptive minimum" fee that EPA would charge, and should reflect a more equitable and flexible fee in recognition of the economic realities of doing business in Alaska.

There are cost effective measures that DEC can employ which would be unavailable to EPA, such as the concept of a general permit that could be issued to a number of similar facilities, rather than individual permits to each facility. This not only reduces the amount of time and money required by the facility to comply with the new program, it would also substantially reduce the costs to administer the permits.

Even though fees appear to be substantial in some cases, it should be noted that these fees will not offset the true direct and reasonable costs incurred by DEC in administering the current program, or in developing the new operating permit program. If all the direct costs were transferred to current permittees, the fees would be much higher. The fees proposed are only for the interim period between the current program, and the new program mandated by the Act. As each current permit is converted to a new operating permit, the interim fees will lapse, and the facility with a new permit will be assessed fees consistent with the Act. It is expected that the new program will initiate issuing operating permits in 1995, and that all permits will be converted by 1997.

**FEE DETERMINATION METHOD** The fees were developed by evaluating three major areas: facilities affected, reasonable direct costs associated with administering the permit program for these facilities, and the projected impact of the Clean Air Act requirements. Facilities were categorized by industrial source code, and by the quantity and toxicity of air emissions. The specific breakdown of facilities is:

<u>Category</u>	<u>Number of Facilities</u>	<u>Average Allowable tpy</u>
Incinerators	8	413
Asphalt Plants	27	397
Soil Remediation units	14	679
Electric Utilities:		
0-500 tpy	14	397
500-2000 tpy	5	1047
2000-4000 tpy	2	3098
4000+ tpy	1	6425
Fuel Burning Facilities		
0-500 tpy	24	445
500-2000 tpy	22	1157
2000-4000 tpy	12	3668
4000+ tpy	9	7809

Cost of issuing permits and amendments, annual inspections or semi-annual surveillances,

and review of facilities to assure compliance indicated a correlation to quantity and toxicity of emissions. EPA's "presumptive minimum" fee was examined to determine if it was a reasonable indicator of direct costs to execute the program in Alaska. The difference between the two methods was smaller than originally anticipated.

Based on projected costs of maintaining the permit program, it was determined that the interim fees need to offset one-third of the actual direct costs incurred during the next two to three years if DEC is to be capable of the development and restructuring required by the Clean Air Act. Failure to responsibly address the mandates of the Act would potentially jeopardize a much larger portion of the Alaska economy.

As one of the final considerations to evaluate equity for the proposed fee rates, the selected facility categories and proposed fees were examined to determine if a fee rate in dollars per ton of air emission would hold true across the spectrum of facilities and categories. In general, the rate of \$8 per ton per year was found to be evident on average for all source categories as indicated in the following table. The proposed rate realizes slightly less than one-third of the direct costs, and about one-third of the EPA "presumptive minimum" specified in the Act.

<u>Category</u>	<u>Number</u>	<u>Average Allowable tpy</u>	<u>Computed Fee @ \$8/tpy</u>	<u>Proposed Fee</u>
Incinerators	8	413	\$ 3,304	\$ 3,000
Asphalt Plants	27	397	\$ 3,176	\$ 3,000
Soil Remediation units	14	679	\$ 5,432*	\$
6,000				
Electric Utilities:				
0-500 tpy	14	397	\$ 3,176	\$ 3,000
500-2000 tpy	5	1047	\$ 8,376	\$ 8,000
2000-4000 tpy	2	3098	\$ 24,784	\$
25,000				
4000+ tpy	1	6425	\$ 51,400	\$ 50,000
Fuel Burning Facilities				
0-500 tpy	24	445	\$ 3,560	\$ 3,000
500-2000 tpy	22	1157	\$ 9,256	\$ 9,000
2000-4000 tpy	12	3668	\$ 29,344	\$
30,000				
4000+ tpy	9	7809	\$ 62,472	\$ 60,000

\* Note that the fee for soil remediation units was set slightly higher than the \$8 per ton per year. This difference is due to the increased permitting, inspection, and reporting requirements associated with evaluation of continuous emissions compliance.

#### SOME EXAMPLES OF CATEGORIES:

### **SOUTHEAST REGION:**

**Incinerators:** Channel Sanitation, City of Sitka

**Asphalt Plants:** Associated Sand & Gravel; Summit Paving, CMI

**Soil Remediation:** South Coast, Inc. (AEDCO)

**Electric utilities (0-500 tpy):** AEL&P, Auke Bay and Lemon Creek; Haines Light & Power; Tlingit & Haida Regional Elec. Authority

**Electric utilities (500-4000 tpy):** (none in Southeast)

**Fuel Burning Facilities (0-500 tpy):** Kennecott Greens Creek Mine; Klawock Timber Alaska

**Fuel Burning Facilities (500-4000 tpy):** (none in Southeast)

**Fuel Burning Facilities (above 4000):** Alaska Pulp Corp., Sitka; LPK Ketchikan Pulp

### **SOUTHCENTRAL REGION:**

**Incinerators:** Sureway Incinerator

**Asphalt Plants:** Alaska Roadbuilders; Quality Asphalt Paving

**Soil Remediation:** Anchorage Sand & Gravel

**Electric utilities (0-500 tpy):** Anchorage Light & Power, Ship Creek and Pt. Woronzof

**Electric utilities (500-2000 tpy):** Alaska Electric Generation & Transmission

**Electric utilities (2000-4000 tpy):** Anchorage Light & Power, Sullivan; Chugach Electric, Bernice Lake

**Electric utilities (4000 plus):** Chugach Electric, Beluga

**Fuel Burning Facilities (0-500 tpy):** USAF, Shemya

**Fuel Burning Facilities (500-2000 tpy):** Marathon Oil Steelhead P/F; Tesoro Petroleum Refinery

**Fuel Burning Facilities (2000-4000):** Unisea, Inc.

**Fuel Burning Facilities (4000 plus):** Phillips, Kenai LNG; UNOCAL NH<sub>3</sub>-Urea Plant

### **NORTHERN REGION:**

**Incinerators:** North Slope Deadhorse Incinerator

**Asphalt Plants:** Fairbanks Sand & Gravel; H & H Contractors

**Soil Remediation:** Cold Weather Contracting; Environmental Systems, Inc.

**Electric utilities (0-500 tpy):** Deep Sea Fisheries

**Electric utilities (500-2000 tpy):** Golden Valley Electric, Healy

**Electric utilities (2000-4000 tpy):** Fairbanks Municipal Utility System, Chena; Golden Valley Electric, North Pole

**Electric utilities (4000 plus):** None in Northern Region

**Fuel Burning Facilities (0-500 tpy):** Alaska Railroad; PetroStar, Inc.; USAF, Eieleeson

**Fuel Burning Facilities (500-2000 tpy):** MAPCO North Pole Refinery

**Fuel Burning Facilities (2000-4000):** Cominco Red Dog

**Fuel Burning Facilities (4000 plus):** US Army, Ft. Wainwright

### **Commonly asked questions about the interim permit fees, Air Quality**

**Q.** Who pays this fee?

**A.** Anyone who currently has an Air Quality Control Permit to Operate from DEC.

**Q.** What if I don't have a permit now, but need one for the new Operating Permit Program mandated by the Clean Air Act of 1990?

A. You won't be paying a fee now. When the new Operating Permit Program is effective, a permit fee must be assessed.

Q. If I have a permitted facility that has an incinerator with a diesel electric generator which supplies power only to the incinerator, will I have to pay two fees (one for the incinerator, one for the generator)?

A. No. Each facility pays only one fee. In the case of a facility which only consists of an incinerator and associated equipment, the fee would be that for an incinerator. In all cases where multiple equipment sources exist at a facility, the applicable fee is that which governs the equipment causing the greatest quantity or toxicity of air emissions.

Q. If I have a facility which is an asphalt plant, and also does soil remediation, do I pay two fees even if I have two permits from DEC?

A. No. In this case, the facility would still only pay one fee, the fee for a soil remediation unit.

Q. I have a facility which is an asphalt plant, but it may not even operate this year. Why should I pay a fee?

A. Even though the facility does not operate, the requirements for an annual inspection and the associated permitting and reporting requirements do not change. However, in order to assess a reasonable fee for these sources and others which only operate to complete small jobs, the department will amend the proposed regulations to provide a lower fee for plants which process less than 10,000 tons annually. This lower fee will not fully cover the costs associated with inspections, surveillances, and reporting, however, the proposed change to reflect actual operating conditions was determined to be appropriate for facilities which operate on a limited basis.

Q. If I have a permitted facility which consists of fuel burning equipment, how do I know what the allowable emissions are?

A. If you have a permit that was recently issued by DEC, the allowable emissions are noted in the permit. If you have an older permit, then the allowable emission estimates may not be explicitly noted in the permit, but the state's emissions database would probably have this information (contact your respective regional air engineer). If the information is still unknown, we will contact the facility operator to evaluate the current allowable emission rate.

Q. Is it possible to lower the allowable emissions estimate to move down to the next level of permit fees?

A. Yes. This can be done by requesting limitations to the number of hours of operation, the amount of fuel burned, or the process rate. These limitations will be incorporated into a permit amendment so that they are enforceable limitations. Exceeding these enforceable limitations carries the same consequences as any other permit violation.

Q. How were the interim fees determined for each source category?

A. Each permitted facility was categorized as to type and class. Then each class was evaluated for the average allowable emissions for the class. Then, a base fee for each category type was determined from the expected number of annual inspections and surveillances, permitting activity per class, and average facility review costs. In addition, fees also reflect the net amount of air pollution emitted from a subject facility. The categories and class breakdown, as well as some examples for this region, is set out above.

## **18 AAC 52 - AUTO EMISSIONS INSPECTION**

The municipalities of Anchorage and Fairbanks are now the implementing agencies for this program in their areas of the state (determined to be "nonattainment" areas by EPA for failure to meet the air quality requirements for carbon monoxide). The proposed

fees would partially reimburse DEC should it become necessary for DEC to act as implementing agency.

## **18 AAC 62 - HAZARDOUS WASTE**

**General Philosophy:** Hazardous waste user fees are structured to encourage waste minimization and pollution prevention. A large quantity generator who is able to make changes in their process or substitute nonhazardous products may be able to save \$900 a year or more in user fees. Fees are currently set at a level less than that needed to fully cover the costs of administering the program.

In our federal grant workplan, we budget 11 days per facility for inspections and paperwork required for hazardous waste treatment, storage, or disposal facilities (TSD). For hazardous waste generators, 5 to 7 days are budgeted per facility. Using a cost of \$300 per day for personnel and overhead, this equates to \$3300 per year for a TSD, and \$1500 to \$2100 per year for hazardous waste generators.

While our costs are significantly less for transporters and small quantity generators, a considerable amount of staff time is still required to track manifests and process generator reports. The nominal fees of \$10 proposed for generators with no activity or for burners and marketers of used oil, and \$15 for Conditionally Exempt Small Quantity Generators do not even cover the cost of mailing out generator report packages and answering questions from generators.

**1. WHO DO THESE FEES APPLY TO?** The hazardous waste user fees apply to anyone who has notified the U.S. Environmental Protection Agency (EPA) of their hazardous waste activity, and has an active EPA identification number. This includes: generators, transporters, used oil burners and marketers, and Treatment, Storage and Disposal facilities (TSDs). The fees also apply to facilities that have an active ID number but do not generate any waste in a given year. For the purposes of these regulations:

Generator means any person, by site, whose act or process produces hazardous waste identified or listed in 40 Code of Federal Regulations (CFR) Part 261.

There are three categories of generators;

Conditionally Exempt Small Quantity Generators (CESQG), generate less than 220 pounds of hazardous waste and no more than 2.2 pounds of acutely hazardous waste in any calendar month and accumulate less than 2,200 pounds of hazardous waste on site;

Small Quantity Generators (SQG), generate greater than 220 pounds but less than 2,200 pounds of hazardous waste and no more than 2.2 pounds of acutely hazardous waste in any calendar month and accumulate less than 13,200 pounds of hazardous waste on site.

Large Quantity Generators (LQG), generate greater than 2,200 pounds of hazardous waste or more than 2.2 pounds of acutely hazardous waste in any calendar month.

\* Note a facility's generator status can fluctuate from month to month. For the purposes of these fees the highest category of generator you achieve during the calendar year is what you must base your fee on.

Transporter means any person engaged in the offsite transportation of hazardous waste by air, rail, highway, or water.

Burner/Blenders refers to any person actively engaged in the marketing or burning of used oil for energy recovery requiring them to notify EPA of this activity pursuant to 40 CFR 266 Subpart E.

Treatment, Storage or Disposal facility (TSD), refers to any facility that treats, stores and/or disposes of a hazardous waste requiring a permit under the Resource Conservation and Recovery Act (RCRA). The definitions for each of these distinct RCRA activities is defined in 40 CFR 260.10.

**2. WHAT SERVICES WILL THESE FEES COVER?** The fees are structured to encourage waste minimization and pollution prevention. A large quantity generator who makes changes in the process or substitutes nonhazardous products may be able to save \$900 a year or more in fees. Fees are less than that needed to cover the costs of administering the program. The services the fees will cover include:

**Cost of inspections:** DEC inspects, pursuant to the EPA RCRA Implementation Plan (RIP), every TSD at least once a year. In our federal grant workplan, we budget 11 days per facility for inspections and paperwork required for TSD facilities. For generators, 5 to 7 days are budgeted per facility. Using a cost of \$300 per day for personnel and overhead, this equates to \$3300 per year for a TSD, and \$1500 to \$2100 per year for hazardous waste generators.

**Program Administration:** While our costs are significantly less for transporters and small quantity generators, a considerable amount of time is still required to track manifests and process generator reports. The nominal fees of \$10 proposed for generators with no activity or for burners and marketers of used oil, and \$15 for Conditionally Exempt Small Quantity Generators do not even cover the cost of mailing report packages and answering questions from generators.

**Technical Assistance:** Program staff spend hours each day assisting the regulated community in trying to better understand the complex hazardous waste regulations. Generators, transporters and TSD's can obtain immediate answers to their regulatory questions by calling our offices, thereby reducing their chances of being exposed to large fines for noncompliance.

**Annual Reporting Requirements:** DEC is required by AS 46.03.305 to collect information from all facilities that have an EPA identification number for their hazardous waste activity. To prepare the reports (typeset, print and bind) costs about \$1500 per year. The reports are then sent out via certified mail to over 700 notifiers of hazardous waste

activity throughout the state. This is why we charge \$10 even if no waste is generated.

**Training:** Each year the hazardous waste program has provided training to the regulated community to assist them in better understanding the regulations and keep them abreast of any changes. This training has been conducted by both DEC contractors and DEC program staff.

**Information Outreach:** The hazardous waste program conducts at least two major mailouts per year to the regulated community informing them of regulatory changes or requesting their comments on hazardous waste issues.

### 3. HOW DID YOU DEVELOP THE FEE STRUCTURE?

**\$10 for used oil marketers and burners and for other facilities who have notified EPA but have had no activity, including transporters and generators:** This nominal fee is for our administrative mailing costs, and recordkeeping costs. Just the postage to mail these facilities their annual report certified return receipt costs approximately half of this fee.

**\$15 for Conditionally Exempt Small Quantity Generators of hazardous waste who have notified EPA:** This nominal fee is for the cost of mailing out the annual report, maintaining records, and data entry. Further, the fee is for the inspections that may be conducted at these sites, the information provided these generators, and the manifest tracking required when they occasionally send waste off-site.

**\$50 for Hazardous Waste Transporters who have notified EPA:** This fee is to cover the legislative mandate (AS 46.03.308) to track manifested hazardous waste shipments, and the cost for data entry of the transporters annual reports. One-half of a fulltime position (\$30,000) is required to track manifests, and approximately 30 working days (\$9,000) is required to manage the transporter annual report.

**\$100 for Small Quantity Generators of hazardous waste who have notified EPA:** This fee covers inspection, recordkeeping, technical assistance, and reporting costs. The fee, while relatively small, creates the opportunity for these generators to save \$85 a year by reducing the volume of waste to achieve Conditionally Exempt Small Quantity Generator status.

**\$1000 for Large Quantity Generators (LQG) of hazardous waste who have notified EPA:** This fee covers part of the inspection costs for these generators. LQGs are inspected, when possible, at least once a year, and the cost to conduct these inspections is about \$2,000. Other costs include recordkeeping, management of the hazardous waste annual report, technical assistance, manifest tracking, and training.

**\$1000 for facilities that Treat, Store and Dispose (TSD) of hazardous waste and have notified EPA:** This fee covers part of the cost of inspections, as well as the extensive time required to review, write and evaluate Part A and B permit applications. The fee also covers extensive technical assistance, recordkeeping, annual report data entry,

manifest tracking and training. Inspection costs exceed \$3,000 per TSD facility.

**4. HOW MUCH MONEY WILL BE COLLECTED?** The estimated annual fees total approximately \$100,000, representing about 6% of the total program budget.

No Activity	\$10	
Transporters	\$100	- \$ 1,000
Generators	\$250	- \$ 2,500

Burner Blenders	\$10
Active	\$94 - \$ 940
Conditionally Exempt Generators	\$15
Active	\$300 - \$ 4,500
Small Quantity Generators	\$100
Active	\$155 - \$15,500
Large Quantity Generators	\$1,000
Active	\$57 - \$57,000
Transporters	\$50
Active	\$40 - \$ 2,000
TSD Facilities	\$1,000
Active	
Federal Storage	\$6 - \$ 6,000
Commercial Storage	\$3 - \$ 3,000
Land Disposal facility	\$2 - \$ 2,000
Commercial Storage/Treatment	\$2 - \$ 2,000

These fees will be collected as part of the annual reporting requirement. A facility may be subject to more than one fee. For example, a facility that is a storage facility, a burner blender and a large quantity generator (total fee \$2,010). Further, it should be known that the fees were established to promote pollution prevention and encourage facilities to reduce their volume of waste thereby reducing the fee amount.

#### **Questions that may be asked regarding the hazardous waste user fees:**

**Q:** If I generate small quantities of hazardous waste at my house, am I subject to these regulations?

**A:** No, household waste is exempt from RCRA [reference to 40 CFR 261.4(b)(1)], and therefore would not be subject to the user fees.

**Q:** I generate a lot of used oil. Is used oil a hazardous waste?

**A:** No, used oil, if it is to be reclaimed, or burned for energy recovery pursuant to 40 CFR 266 Subpart E, is not a hazardous waste [(reference 40 CFR 261.6(a)(2)(iii)]. However, if the use of the used oil constitutes disposal (applied to the ground, or burned without meeting the 40 CFR 266 Subpart E requirements for energy recovery), then used oil may be a hazardous waste.



Q: I generate lead acid batteries. Are they hazardous waste?

A: Lead-acid batteries would be considered hazardous waste, if they were to be disposed of in a landfill. However, if they are recycled pursuant to 40 CFR 261.6(a)(2)(v) they are exempt from the hazardous waste regulations.

Q: If I did not generate hazardous waste in a year do these fees apply to me?

A: If you have an active EPA number and receive an annual report, the fees apply to you, regardless of whether you generated hazardous waste during that year. The nominal fee of \$10 is all you will pay if you did not generate any waste in a calendar year. Fees are higher for active facilities. The same applies for transporters who notified EPA but did not transport hazardous waste during the calendar year.

Q: I understand that the oil industry's waste and mining wastes are exempt from RCRA. Will they have to pay user fees?

A: Yes, not all wastes are exempt from RCRA. The oil industry and the mining industry is subject to these fees if they generate wastes that are not exempt from RCRA.

Q: I run a small business that generates less than 220 pounds of hazardous waste per month, and I use transfer facilities for the collection of hazardous waste (Eagle River facility or DEC's hazardous waste collection program). Am I subject to the fees?

A: No, as long as you do not have an active EPA identification number, and have a legal way of disposing of your conditionally exempt small quantities of hazardous waste, you would not be subject to the user fee regulations.

Q: I generate medical waste, or asbestos, or PCBs, or anti-freeze. Am I subject to the hazardous waste user fees?

A: No, these wastes are not regulated under 18 AAC 62, and therefore would not be subject to the user fee requirements.

If you have other questions pertaining to the hazardous waste user fees please contact Jeff Ingalls at (907)465-5154.

## **18 AAC 72 - WASTEWATER DISPOSAL**

1. **To whom are fees applicable?** They apply to persons who apply for a wastewater disposal permit or a plan review under 18 AAC 72. They also apply to persons who

have a project that requires DEC to review and comment on Environmental Impact Statements or Environmental Assessments involving wastewater discharges, or to certify federal National Pollution Discharge Elimination System (NPDES) permits.

**2. What are the fees for?** The fees are to partially cover the costs of staff time on reviews, comments, certifications or issuances of permits.

**3. How did you arrive at the fee amounts?** The domestic wastewater and nondomestic (industrial) wastewater programs require varying amounts of time and effort for review, comment, certification and permit issuance purposes. The time can vary from a few hours to many months. Accordingly, a flexible fee structure, based on a point system, was developed, a far more equitable approach than a limited number of fixed fees.

The domestic wastewater fixed fees for classes or ranges of facilities or activities were derived from discussions with regional personnel. Staff cost was based upon a daily cost of \$200. The actual cost to the state may be more than this. The fees are based upon the amount of wastewater discharged from a facility and whether or not studies must be carried out on the effects of the discharge to receiving waters. The minimum fee is \$100 and the maximum fee is \$3200, however with a receiving water review this would increase to \$4200.

For the nondomestic wastewater program, the fees are based on a point system used in Texas. Louisiana has a similar system. The points system includes the following categories:

- Standard Industrial Code (SIC) Classification.
- Average daily flow, millions of gallons per day.
- Complexity, toxicity and concentration of pollutants.
- EPA Major/Minor designation.
- Sensitivity of the receiving environment.
- Magnitude of public involvement/public hearings.
- Monitoring requirements.

Minimum fees are \$100, and under the points system, a typical large discharger to a sensitive environment, with several public hearings and extensive monitoring, the fee may be \$30,000 or more.

**4. How much will the fees generate annually?** The amount of program receipts for wastewater permits and plan reviews in the FY 93 budget is based on flat fees applied to an estimated number of permits and plan reviews.

The flat fee results in too high a charge for simple plan reviews and too low a fee for more time consuming permits and plan reviews. Therefore, most of the fees proposed for plan review and wastewater permits vary with the size/complexity of the project.

DEC does not have comparable statistics on the size and complexity of past permitting

and plan reviews upon which to base an estimate of the revenue from a variable fee structure.

An approximate estimate of the amount to be collected by fees will be 20% of the domestic and industrial wastewater programs for costs of staff time on reviews, comments, certifications or issuances of permits.

The fees were derived based on the amount of time spent by staff on permits or reviews. Past experience on projects provided approximate times spent on these duties, and information was also incorporated from fee systems used in other states.

#### **Typical questions and answers:**

Q. Will the department be generating excess income from the fees to pay for training and other duties not directly related to the permit or review process?

A. No. In fact the department will be recouping only a small percentage of the overall program cost, and often will not cover direct costs for some of the larger review processes.

Q. Will the small operator have to pay large fees?

A. There will be some cost involved with all reviews or permitting. The graduated scale and point systems for the fees will keep fees to small users relatively minor.

Q. Will placer miners have to pay large or graduated fees?

A. No. Placer mine NPDES certifications are reviewed as a group and have been assigned a \$100 per permit fee. There will be no charge for placer mine APMA reviews.

Q. What will be the fee for some of the larger dischargers?

A. For domestic wastewater the maximum fee is \$3200, although with a mixing zone this would increase to \$4200. For nondomestic wastewater, under the points system, a typical large discharger to a sensitive environment, with several public hearings and extensive monitoring, the fee may be \$30,000 or more. For drinking water plan reviews the maximum is \$4000 or \$4500 with a surface water source.

Q. Will nonprofits, municipalities, and other government agencies be required to pay fees?

A. Projected fee income was based upon all permittees paying fees, however this requirement will be waived for nonprofits, and might be waived in the department's discretion, for government agencies, in which case fee income would be reduced accordingly resulting in funding a smaller percentage of the permit and review process.



## **18 AAC 75--OIL & HAZARDOUS SUBSTANCE POLLUTION (Financial Responsibility)**

1. **Who pays user fees?** Under the new rules, operators of oil terminal facilities, pipelines, exploration and production facilities, tankships and barges will pay fees when they submit annual Financial Responsibility applications. These operators are required, under AS 46.04.040, to annually demonstrate that they have the financial ability to respond to oil spills.
2. **What does the fee pay for?** The proposed application fee for Financial Responsibility will be used to pay for processing applications, maintaining a data base of approved operators, providing technical assistance to operators, reviewing applications, providing certificates, and evaluating methods of proving Financial Responsibility.
3. **How were the amounts of the proposed fees selected?** Fee amounts were chosen with the objective of paying for a significant portion of the cost of providing the service. At the proposed amounts, application fees will fund approximately 50% of the personnel cost associated with reviewing applications and issuing Certificates of Financial Responsibility.
4. **How much revenue will the fees generate?** Each year the Department reviews approximately 125 applications covering approximately 400 vessels and facilities. Each vessel or facility is required to have a Certificate of Financial Responsibility. Based on the proposed amounts (\$150 per application plus \$50 per certificate), the proposed fees are expected to generate approximately \$38,750 annually.

## **18 AAC 80 -- DRINKING WATER**

For the Drinking Water program, the fees are based upon the class of public water system, the number of people served, the type of source and such things as separation distances or length of main to be repaired. For plan reviews the minimum fee is \$200 and the maximum is \$4000, or \$4500 if there is a surface water source.

The fees were derived based on the amount of time spent by staff on permits or reviews. Past experience on projects provided approximate times spent on these duties, and information was also incorporated from fee systems used in other states. Following are approximate actual staff time for each type of review:

- |  |          |
|--|----------|
| (1) for a Class A public water system plan review: |          |
| (i) 25 to 50 people \$500                          | 2.5 days |
| (ii) 50 to 150 people \$1000                       | 5 days   |
| (iii) 150 to 2000 people \$1500                    | 7.5 days |

- |                                    |         |
|------------------------------------|---------|
| (iv) 2000 to 20,000 people \$2000  | 10 days |
| (v) more than 20,000 people \$4000 | 20 days |

(2) a Class B plan review: 50% of that specified for a Class A system.

(3) for a class Cplan approval:	1 day
---------------------------------	-------

(4) for a surface water source	2.5 days
--------------------------------	----------

(5) for a waiver to separation distance	1.5 days
---	----------

(6) for distribution main repair, replacement or extension:

- |                                  |          |
|----------------------------------|----------|
| (i) less than 200 feet \$200     | 1 day    |
| (ii) 200 to 1000 feet \$500      | 2.5 days |
| (iii) more than 1000 feet \$1000 | 5 days   |