



# Fees for Service and Receipt Authority

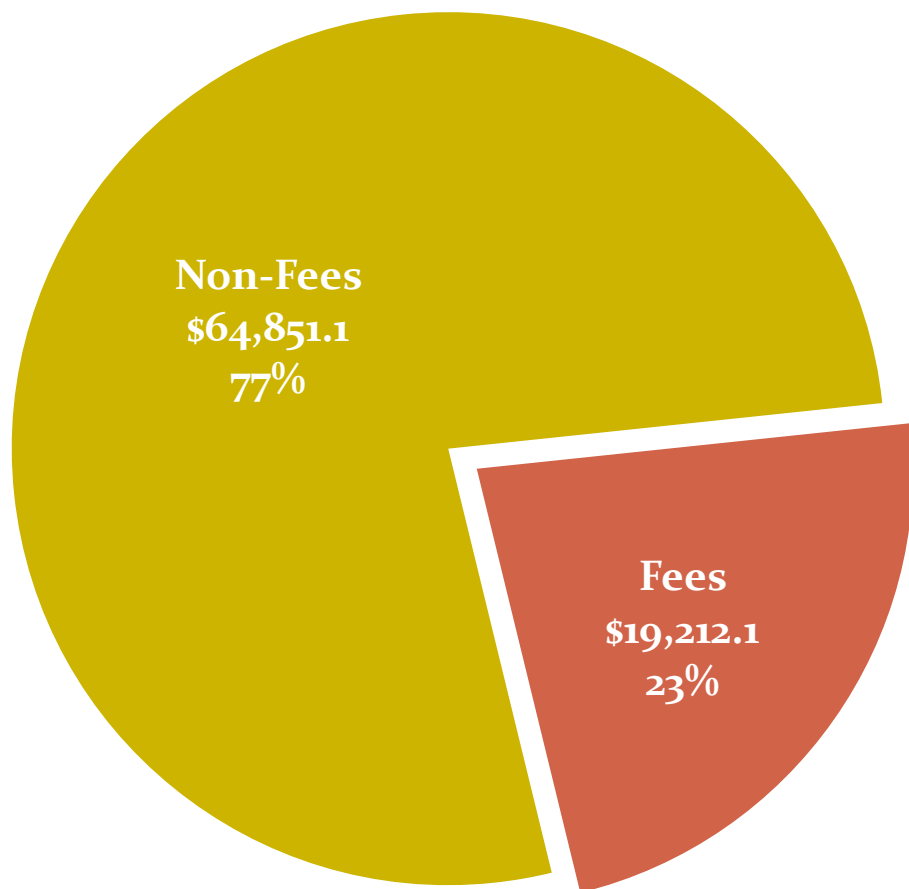
House & Senate  
Finance Subcommittee

Tom Cherian,  
Administrative Services Director

February 18, 2016



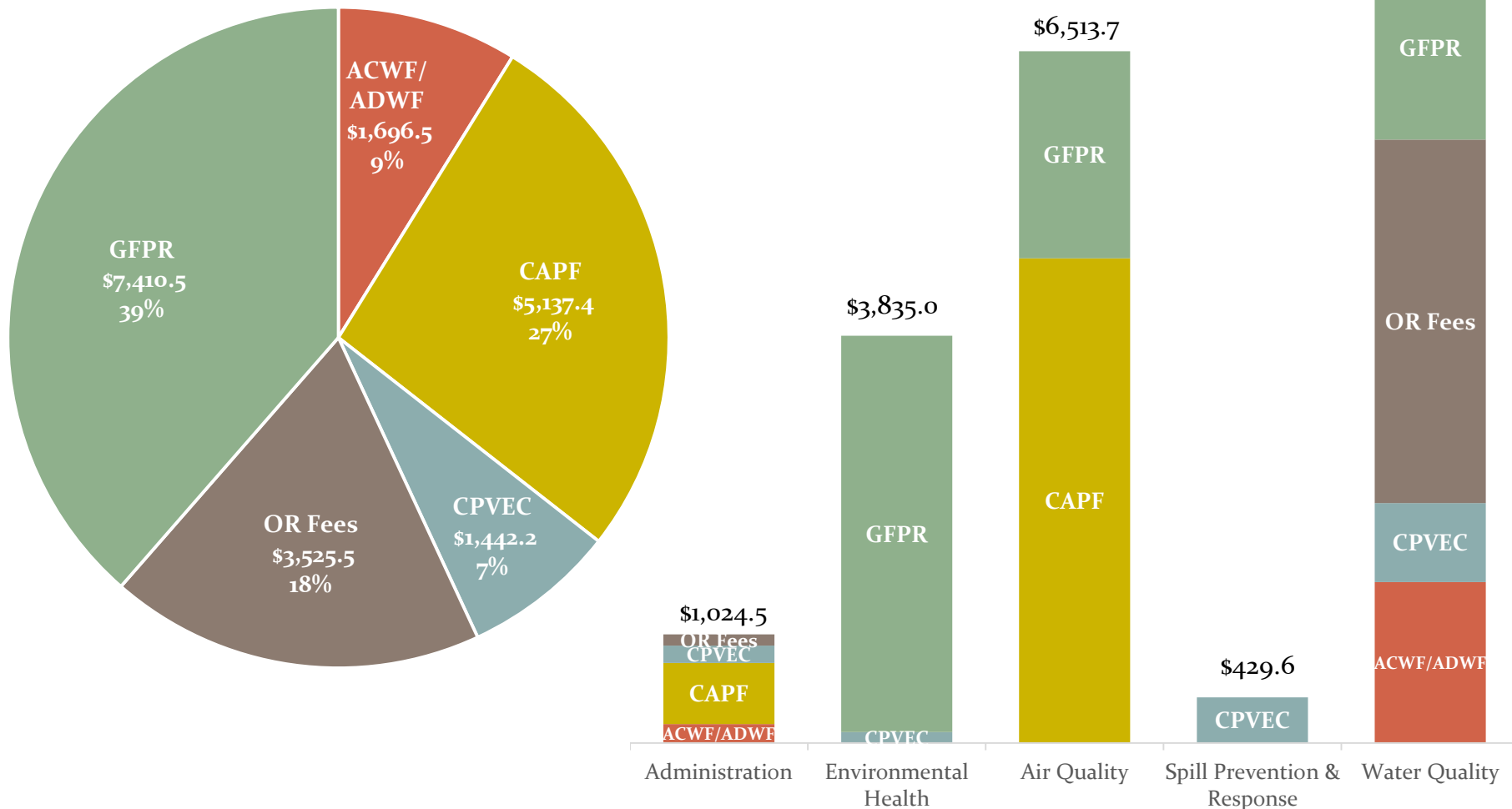
# How Much of DEC is Fee-Supported?



*DEC's FY2016 Annual Fee Report per AS 37.10.050(c) is 170 pages long and details roughly 400 separate fees*



# What is the Breakdown of Fees?





# Fees and Budgeted Receipt Authority

- Receipt authority for fees (GFPR, CAPF, CPVF, OR Fees, etc.) allows a Department to *spend* fee receipts
- Receipt authority for fees cannot be expended unless the receipts are collected, for example:
  - GFPR authority is \$10 & Department collects \$8
  - Department can only expend \$8
- Collected fee receipts are deposited to the General Fund regardless of budgeted receipt authority, for example:
  - GFPR authority is \$10 & Department collects \$15
  - Department can expend \$10
  - \$5 is retained by the General Fund
- In accordance with law, certain programs retain authority to expended collected receipts from one year to the next



# Primary Authorities for Establishing Fees

- **AS 37.10.052** – Fees for “designated regulatory services” require adjustment based on regular fee studies
  - Air Permits
  - Wastewater Discharges & Plan Reviews
  - Solid Waste Management
- **AS 44.46.025** – Fees that are adjusted based on applicable direct costs, but do not *require* regular fee studies
  - Food Safety Permits
  - Drinking Water Permits
  - Laboratory Tests
  - Other Fee programs



# Fees under AS 37.10.052

- Fees for “designated regulatory services” including:
  - Air Permits
  - Wastewater Discharges & Plan Reviews
  - Solid Waste Management
- Fixed Fees may not exceed the average reasonable direct cost incurred – AS 37.10.052(a)
  - Direct Cost includes – AS 37.10.058(3)
    - Hourly salary and benefits of employees directly involved in providing service
      - Benefits fixed at 49% of salary – AS 37.10.058(6)
    - Expenditures for goods or services made in providing service
  - Direct Cost does not include – AS 37.10.058(3)
    - Personnel not directly engaged in providing service
    - Overhead expenses (rent, utilities, etc.)
    - Public consultation costs if not required by permit regulations
    - Costs for appeal if brought by a party other than the applicant
    - Travel expenses for inspections for businesses with 20 employees or fewer
- Agency must review fixed fees at least once every four years – AS 37.10.052(a)



# Fee Study Process under AS 37.10.052

- Required evaluation of fees required every four years
- Actual program expenses from prior years are reviewed to calculate updated fees
  - Due to the 49% statutory cap on benefit rates, updated fees do not capture all real costs (actual benefit rate exceeds 61%)
  - Looking backward to set fees going forward does not take into account increased costs due to inflation
- Regulation revisions are proposed as needed based on findings from the fee evaluation
  - Subject to public notice, review, and comment
- Divisions of Water and Environmental Health are each currently working on fee studies and will propose new fee regulations in the coming months



# Fees under AS 44.46.025

- Fees for Department of Environmental Conservation services including:
  - Food Safety Permits
  - Drinking Water Permits
  - Laboratory Tests
- Most fees were initially set in accordance with the “applicable direct cost” principle, but not subject to mandatory adjustment based on regular fee study
- Most fees have subsequently been adjusted in response to Legislative or Executive direction to recoup a greater or lesser portion of the State’s cost
  - Fees can be reduced by increasing the general funds available for providing services
  - Fees must be increased or services reduced when less general funds are available for providing services
- In all cases, applicable direct costs have risen faster than the fees and require a greater general fund subsidy to provide the services





# An Example of General Fund Subsidy

Direct personnel costs	\$100.00
Travel/Supplies/Services costs	\$50.00
<u>Indirect costs</u>	<u>\$25.00</u>
Total real cost to the State	\$175.00
Fee	\$75.00 (43%)
Subsidy from General Funds	\$100.00 (67%)

*If the fee were increased to \$175.00,  
there would be no subsidy from general funds*

*If the fee were decreased to \$50.00,  
it would require an additional \$25.00 subsidy from general funds*



# Spill Prevention and Response





# Spill Prevention and Response

- Registration fees for primary response action contractors (AS 46.04.035)
- Underground Storage Tank (UST) Registration Fee (AS 46.03.385)
  - Statutory authority for the UST Revolving Loan Fund was repealed in 2006 (Sec. 2, Ch. 102, SLA 2006)
- SPAR has no GFPR authority to spend fee revenue
- Fee revenue in SPAR, approx. \$35,000 annually, is deposited into the general fund
- No fees are charged for contingency plan reviews, inspections, or other activities related to the prevention of spills and spill preparedness required under law
  - Most companies with C-Plans are part of the oil industry and already paying the surcharge
  - DEC only reviews roughly 170 C-Plans and they are on a five year renewal



# Air Quality





# Air Quality Permits

- Major and minor permits are required before construction resulting in new and increased air pollution sources
- Operating permits are required for existing sources of air pollution
- All individual permits go through a process of:
  - Application
  - Public Comment
  - Final Issuance
- General permits are available for certain categories to streamline the process
- The timeline for issuing a permit varies greatly depending on the complexity of the permit
- Very few air permittees are sole proprietors or small businesses



# Air Quality Fees

- All fees under AS 37.10.052
- Title V Fees – Operating permits for industrial facilities
  - Renewed every 5 years, paid annually
  - Federal Clean Air Act requires this to be financially self-supporting
  - Fees are deposited to the Clean Air Protection Fund, and those receipts may only be appropriated to the Title V permit program
- Title I Fees – Construction permits for industrial facilities
  - Issued prior to construction or modification of a facility
  - Alaska Statute provides for fees to cover this program
  - Fees are General Fund Program Receipts



# Permit Administration & Emission Fees

- Permit Administration fees (AS 46.14.240)
  - Direct costs of providing services to a facility
  - Work includes: pre-application assistance, application completeness review, permit preparation, compliance reviews and inspections, etc.
- Emission fees (AS 46.14.250)
  - Permit program implementation costs that are generally not associated with service provided to a specific facility
  - Established to equitably distribute the total annual incurred cost for permitted sources
  - Work includes program management, administrative and accounting services, rent/utilities, small business assistance





# Water







# Wastewater Discharge Permits

- Alaska Pollutant Discharge Elimination System (APDES) program is a federally delegated program and primarily impacts industry
  - Pre-application meeting
  - Application
  - Review and permit writing
  - Public notice
  - Issuance
  - Permit writing typically takes 6 to 18 months
  - Complex projects can take two years or more of data collection by the applicant before they even apply
- Some small businesses may require an APDES permit
  - The process takes much less time
  - Likely qualify for a general permit which only take a week to two months to issue
- Engineering plan review and approval of onsite sewage and septic systems for homes and businesses not served by community systems
  - Plan approval in lieu of permits
  - Typically take several days to months, but can take much longer for non-standard systems



# Water Quality Fees

- Fees under AS 37.10.052
  - Wastewater plan review
  - Oil & gas exploration discharge
  - Sewage treatment plant discharge
  - Seafood processors waste discharge
  - Construction projects
- Large Projects, such as mines, are funded by applicants through Reimbursable Services Agreements with DNR
- Hourly or Negotiated fees as set under AS 37.10.252(b)
  - Example: Aquariums



# Other Fees in Water

- Commercial Passenger Vessel Environmental Compliance Fees (AS 46.03.480(b))
  - Flat fees set directly by statute based on vessel size
- Ocean Ranger Fees (AS 46.03.480(d))
  - \$4 per berth set by 2006 ballot initiative
- Alaska Clean Water Fund & Alaska Drinking Water Fund
  - 1.5% finance charge on loans to municipalities
    - 1% deposited to loan pool; available for making additional loans
    - 0.5% administrative fee; available for program administration costs
  - Utilization of administrative fees begins in FY2015
- Water & Wastewater Operator Certification Fees (AS 44.46.025)
  - Nominal fees for training courses, examination, and certification



# Environmental Health





# Drinking Water Approvals

- Approvals to construct new, or modify existing public water systems, and then approvals to operate the public water systems
  - Plan review prior to construction of new infrastructure
  - Interim operating approval
  - Final operating approval
  - Turnaround time varies, but goal is to review plans within 30 days
- Do not regulate private water systems serving a single family home or duplex
- Most small businesses serve a population that classifies them as a Class C system, which the Department does not currently conduct plan review on



# Solid Waste & Pesticides Permits

- Monofill and general permit waste disposal facilities including:
  - Drilling waste
  - Woodwaste
  - Mining waste and tailings (integrated permit with Water Quality)
  - Inert waste
  - Asbestos waste
  - Sewage solids
  - Industrial waste (high risk wastes)
- Biosolid land application (using treated septage for fertilizer)
- Sewage sludge treatment (for treatment facilities separate from wastewater treatment facilities)
- Municipal Landfills
- Pesticide application
  - To water
  - By aerial application
- Generally not applicable to small businesses
- Turnaround times vary depending on the complexity of the permit and how controversial it might be
  - General permit: 15 days
  - Drilling waste temporary storage: 30 days
  - Individual solid waste permit or treatment permit: 60 days minimum
  - Pesticide permit: minimum 100 days, including required waiting time after issuance



# Office of the State Veterinarian Permits

- Grade A Dairy Manufacturing Facilities
- Cheese Manufacturing Facilities
- Reindeer Slaughter Facilities
- Process for initial permit
  - Pre-construction plan review
  - Final on-site inspection
  - Product samples submitted for testing
  - Timeline can vary depending on complexity; a final site visit can generally be scheduled within a month of facility completion



# Food Safety & Sanitation Permits

- Permit and One-Time Plan Review
  - Retail Food Establishments
    - Food Service
    - Market
  - Manufactured Food Establishments
    - General Food Processors
    - Seafood Processors
  - Shellfish Operators
    - Harvester/Vessel
    - Dealer
- Shellfish Growing/Harvesting Areas
  - Initial classification
  - Annual re-approval
- Body Art (tattoo, piercing, permanent cosmetic coloring)
  - Application
  - One-time plan review
  - Certificate of sanitary standards
- Pools and Spas
  - Application
  - One-time plan review





# Turnaround Times

- Turnaround times can vary widely depending on
  - Completeness of application
  - Applicant's responsiveness to questions
  - Outstanding compliance issues
  - New application or renewal
  - Application includes new construction or operator change
  - Staff workload due to seasonality of permit cycle
- Per regulations, applicants and operators should submit applications at least:
  - Food – 30 days before construction or commencing operation
  - Seafood – 60 days before construction or commencing operation
  - Temporary Food Service – 7 to 15 days prior to event
  - Body Art – 30 days before construction or commencing operation
- Pools and spas may take several months, but the Department is phasing out this program
- Shellfish growing/harvesting area initial certification may take several years
- The Department works hard to prevent operation closure or delayed openings through the use of conditional or provisional permits, and extensions or grace periods after a permit has expired if it is in the best interest of public health and consumer protection



# Environmental Health Fees

- Fees under AS 37.10.052
  - Solid Waste Management
- Fees under AS 44.46.025
  - Drinking Water
  - Food Safety and Sanitation
  - Environmental Health Laboratory
  - Pesticide Registration



# Sample Calculation under AS 37.10.052: Class I Active Landfill Permit

Direct personnel costs	\$6,245.00
Travel/Supplies/Contractual	\$192.00
<u>Indirect</u>	<u>\$1,518.78</u>
TOTAL*	\$7,955.78

Permit Fee	\$6,437.00 (81%)
General Fund Subsidy	\$1,518.78 (19%)

*This permit fee has been adjusted as a result of regular fee studies and the permit fee covers the direct costs defined under AS 37.10.058 and the general fund subsidy covers the indirect costs to the State*



# Sample Calculation under AS 44.46.025: Direct Market Fishing Vessel < 65 feet

## Annual Permit Application Review

Direct personnel costs	\$708.19
Travel/Supplies/Contractual	\$267.73
<u>Indirect</u>	<u>\$172.23</u>
TOTAL	\$1,148.15

## Vessel Inspections\*

Direct personnel costs	\$989.60
Travel/Supplies/Contractual	\$250.05
<u>Indirect</u>	<u>\$240.67</u>
TOTAL	\$1,480.32

Permit Fee	\$325.00	(12%)
Federal Subsidy	\$1,160.57	(44%)
General Fund Subsidy	\$1,142.90	(43%)

*\*ADEC inspects approximately 62% of all permitted Direct Market Vessels on an annual basis, so Vessel Inspection Costs and Federal Fund subsidy amounts are shown at 62% of actuals to more accurately reflect the average rate of inspection, as negotiated with the US Food & Drug Administration.*



# Current Fee Studies

- Water
  - Alaska Pollution Discharge Elimination System
  - Engineering Support and Plan Review
  - Operator Assistance
- Environmental Health
  - Food Safety
  - Laboratory Services
- The Department anticipates regulations for revised fees will go out for public comment in the next several months



# Summary and Conclusions

- Fees set under AS 37.10.052 recoup close to 100% of applicable direct cost
  - Require general fund subsidy for remaining direct costs and all indirect costs
- Fees set under AS 44.46.025 generally recoup a smaller percentage of applicable direct costs
  - Prior legislative action caused many fees to be highly subsidized by general funds in an effort to reduce the impact on commerce in the State
  - Additionally, indirect costs cannot be recouped under AS 44.46.025 and must be supported by general funds
- Indirect costs not covered by fees include Administrative Services
  - DEC's Division of Administration is funded in direct proportion to how the Department's personal services are funded
  - The exception is in General Fund Program Receipts from fees
  - General funds subsidize the GFPR portion of Department admin costs



# Questions?

