

CS FOR SENATE BILL NO. 144(RES)

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-FOURTH LEGISLATURE - FIRST SESSION

BY THE SENATE RESOURCES COMMITTEE

Offered: 3/22/05

Referred: Finance

Sponsor(s): SENATE RESOURCES COMMITTEE

A BILL

FOR AN ACT ENTITLED

1 "An Act relating to regulations, definitions, and permits under the emission control
2 permit program; and providing for an effective date."

3 **BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:**

4 * **Section 1.** AS 46.14.130(b) is amended to read:

5 (b) Except for the owner and operator of a stationary source exempted under
6 AS 46.14.120(e) or (f), the owner and operator of a stationary source shall obtain an
7 operating permit from the department **for** [IF THE STATIONARY SOURCE]

8 (1) **a major source** [EMITS OR HAS THE POTENTIAL TO EMIT
9 100 TPY OR MORE OF A REGULATED AIR POLLUTANT];

10 (2) **a stationary source that** [EMITS OR HAS THE POTENTIAL TO
11 EMIT 10 TPY OR MORE OF A HAZARDOUS AIR POLLUTANT OR 25 TPY OR
12 MORE, IN THE AGGREGATE, OF TWO OR MORE HAZARDOUS AIR
13 POLLUTANTS;

14 (3)] contains an emission unit subject to federal new source

1 performance standards under 42 U.S.C. 7411 (Clean Air Act, sec. 111) or national
 2 emission standards for hazardous air pollutants issued under 42 U.S.C. 7412 (Clean
 3 Air Act, sec. 112); or

4 **(3)** [(4) CONTAINS] another stationary source designated by the
 5 federal administrator by regulation.

6 * **Sec. 2.** AS 46.14.130 is amended by adding a new subsection to read:

7 (d) In this section, "major source" has the meaning given in 42 U.S.C.
 8 7661(2).

9 * **Sec. 3.** AS 46.14.140(a) is amended to read:

10 (a) The department shall adopt regulations to address substantive and
 11 procedural elements of the emission control permit program established under this
 12 chapter that are not addressed in statute, except elements that relate only to the internal
 13 management of the department and do not affect the public or govern the way the
 14 department deals with the public. The regulations must be reasonable and adequate,
 15 and provide flexibility in the operation of a stationary source consistent with 42 U.S.C.
 16 7401 - 7671q (Clean Air Act), as amended, and applicable federal regulations. Except
 17 for regulations concerning minor permits required under AS 46.14.130(c), the
 18 regulations must include

19 (1) a standard permit application form that meets the requirements of
 20 federal regulations adopted under 42 U.S.C. 7661a(b) (Clean Air Act, sec. 502(b));

21 (2) monitoring, **record keeping** [RECORDKEEPING], and reporting
 22 requirements for facilities that are subject to AS 46.14.130(b), which must comply
 23 with the requirements established for state operating permit programs in 40 C.F.R.
 24 70.6, but which may be modified to take into account this state's unique conditions;

25 (3) procedures for preparation and submission of a monitoring,
 26 reporting, and quality assurance plan and, if required, a compliance schedule
 27 describing how a permitted stationary source will comply with the applicable
 28 requirements of this chapter;

29 (4) procedures for

30 (A) specifying when permit applications and renewal requests
 31 are to be submitted;

- 1 (B) specifying the time duration for department review of
 2 permit applications;
- 3 (C) processing and reviewing an application;
- 4 (D) providing public notice, including opportunity for public
 5 comment and hearing; and
- 6 (E) issuing permits, including procedures for issuing permits
 7 for temporary operations or open burn activities;
- 8 (5) reasonable standard permit conditions, including conditions for
- 9 (A) emission standards and limitations;
- 10 (B) monitoring, record keeping, and reporting for facilities
 11 subject to AS 46.14.130;
- 12 (C) inspection and entry;
- 13 (D) certification of corporate or other business organization
 14 reports;
- 15 (E) annual certification of compliance;
- 16 (F) excess emission or process deviation reporting; and
- 17 (G) equipment malfunctions and emergencies;
- 18 (6) fees and procedures for collecting fees;
- 19 (7) provisions addressing late payment or nonpayment of fees, which
 20 may include assessment of penalties and interest or refusal to issue, amend, modify, or
 21 renew an air quality control permit;
- 22 (8) the duration of permits;
- 23 (9) procedures for modifying or amending a permit that provide
 24 flexibility in the operation of the stationary source, including procedures to allow
 25 changes to a permitted stationary source without requiring a permit modification,
 26 consistent with the purposes of this chapter and with 42 U.S.C. 7401 - 7671q (Clean
 27 Air Act);
- 28 (10) reasonable provisions for renewing, reopening, revoking and
 29 reissuing, and terminating a permit consistent with the purposes of this chapter and 42
 30 U.S.C. 7401 - 7671q (Clean Air Act);
- 31 (11) provisions allowing for physical or operational limitations that

1 will reduce a stationary source's emissions to levels below those that would make the
2 stationary source subject to part or all of AS 46.14.120 and 46.14.130;

3 (12) provisions authorizing stationary source operation while a permit
4 application is pending, consistent with 42 U.S.C. 7661b(d) (Clean Air Act, sec.
5 503(d));

6 (13) provisions for ensuring that compliance with an operating permit
7 issued under this chapter will be considered to be compliance with 42 U.S.C. 7661a
8 (Clean Air Act, sec. 502) and other provisions of state or federal law specifically
9 provided for by the department consistent with 42 U.S.C. 7401 - 7671q (Clean Air
10 Act) and regulations adopted under state and federal law; [AND]

11 (14) provisions allowing for certification of inspectors who evaluate
12 compliance with the terms and conditions of a permit, order, regulation, or other
13 provision of law authorized under this chapter; **and**

14 **(15) definitions of terms incorporating applicable definitions in 42**
15 **U.S.C. 7401 - 7671q (Clean Air Act), as amended, and applicable federal**
16 **regulations, to the extent that those definitions are not inconsistent with this**
17 **chapter.**

18 * **Sec. 4.** AS 46.14.255(b) is amended to read:

19 (b) If a permittee has failed to pay a fee imposed under AS 46.14.240 -
20 46.14.250, a penalty, assessment, or damage award imposed under AS 46.03.760(e) or
21 46.03.790 for a violation of this chapter, or interest imposed under (a) of this section,
22 the department may, after 30 days' written notice to the permittee, **revoke a minor**
23 **permit,** refuse to issue or renew permits requested by the permittee, or refuse to
24 amend or modify a permit when the amendment or modification is requested by the
25 permittee.

26 * **Sec. 5.** AS 46.14.280(a) is amended to read:

27 (a) After 30 days' written notice to the permittee, the department
28 (1) may terminate, modify, or revoke and reissue a construction, [OR]
29 operating, or minor permit if the department finds that
30 (A) the permit was obtained by misrepresentation of material
31 fact or by failure of the owner and operator to disclose fully the facts relating

1 to issuance of the permit;

2 (B) the permittee has violated this chapter, a regulation, a
3 judicial or administrative order, or a material term or condition of a permit,
4 approval, or acceptance issued under this chapter; or

5 (C) the permittee has failed to construct or modify a stationary
6 source within the time period specified in a construction permit, if any,
7 required under AS 46.14.130(a);

8 (2) may modify, or revoke and reissue a construction, operating, or
9 minor permit if the department finds that

10 (A) the permit contains a material mistake; or

11 (B) there has been a material change in the quantity or type of
12 air pollutant emitted from the stationary source; or

13 (3) shall reopen a permit issued under this chapter

14 (A) based on a determination of the federal administrator or the
15 department that the permit must be revised to comply with 42 U.S.C. 7401 -
16 7671q (Clean Air Act) and regulations adopted **under 42 U.S.C. 7401 - 7671q**
17 [THEREUNDER]; or

18 (B) to incorporate changes in law, or to impose equivalent
19 emission limitations, that become applicable after the permit is issued if the
20 permit is issued to a major [STATIONARY] source and has a remaining
21 duration of three or more years; the department shall make revisions allowed
22 under this subparagraph as soon as practicable, but, regarding a change in law,
23 **not** [NO] later than 18 months after the change in law takes effect; the
24 department may not reopen the permit of a major [STATIONARY] source
25 under this subparagraph if the change in law is not effective until after the date
26 that the permit expires.

27 * **Sec. 6.** AS 46.14.990(11) is amended to read:

28 (11) "emission unit" has the meaning given in **40 C.F.R. 51.166(b)(7)**
29 **or 40 C.F.R. 70.2, depending on the context in which the term is used** [40 C.F.R.
30 51.166(b)];

31 * **Sec. 7.** AS 46.14.990(27) is amended to read:

- 1 (27) "stationary source" has the meaning given in 40 C.F.R. 51.166(b)
2 **or 40 C.F.R. 70.2, depending on the context in which the term is used;**
3 * **Sec. 8.** AS 46.14.990(18) is repealed.
4 * **Sec. 9.** This Act takes effect July 1, 2005.