

**HB**

**167**

CS FOR HOUSE BILL NO. 167(FIN)  
IN THE LEGISLATURE OF THE STATE OF ALASKA  
EIGHTEENTH LEGISLATURE - FIRST SESSION

BY THE HOUSE FINANCE COMMITTEE

Offered:  
Referred:

Sponsor(s): REPRESENTATIVE HANLEY

A BILL

FOR AN ACT ENTITLED

1 "An Act relating to air quality control and the prevention, abatement, and  
2 control of air pollution; relating to inspection and enforcement powers of the  
3 Department of Environmental Conservation; and providing for an effective date."

4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:

5 \* Section 1. POLICY AND PURPOSES. (a) It is the policy of the state to have a  
6 program to prevent, abate, control, and identify air pollution that complies with 42 U.S.C.  
7 7401 - 7671q (Clean Air Act), as amended, and federal regulations adopted under those laws.

8 (b) Changes in state law are necessary to allow the state to continue to have primary  
9 management of air quality in the state and to retain federal approval of the state's air quality  
10 control program in order to ensure the continued receipt of federal highway and air pollution  
11 control money. The federal Environmental Protection Agency must prohibit the approval of  
12 highway projects and highway grants, and may withhold air pollution control grants, if the  
13 state does not comply with 42 U.S.C. 7401 - 7671q (Clean Air Act).

14 (c) It is the intent of the legislature to comply with 42 U.S.C. 7401 - 7671q (Clean

1 Air Act) in a manner that meets the federal requirements, allows efficient and cost effective  
2 processing of permits, requires accountability from the Department of Environmental  
3 Conservation on matters relating to recovery of program costs, and ensures the productivity  
4 of the state's businesses while protecting the health and welfare of the state's residents.

5 (d) It is the intent of the legislature that the Department of Environmental  
6 Conservation implement this Act in a manner that contains costs, minimizes the number of  
7 staff performing air quality permit duties, fosters accountability, improves efficiency of  
8 government, and uses its contracting authority as appropriate to undertake alternative methods  
9 of accomplishing the duties under this Act. To accomplish this objective, the legislature  
10 encourages the department to use services from the private sector to accomplish portions of  
11 the permit program.

12 \* Sec. 2. AS 46 is amended by adding a new chapter to read:

13 CHAPTER 14. AIR QUALITY CONTROL.

14 ARTICLE 1. GENERAL REGULATIONS AND CLASSIFICATIONS.

15 Sec. 46.14.010. EMISSION CONTROL REGULATIONS. (a) After public  
16 hearing, the department may adopt regulations under this chapter establishing ambient  
17 air quality standards, emission standards, or exemptions to implement a state air quality  
18 control program required under 42 U.S.C. 7401 - 7671q (Clean Air Act), as amended,  
19 and regulations adopted under those sections. The standards established under this  
20 section may be for the state as a whole or may vary in recognition of local conditions.

21 (b) Unless the governor has determined that an emergency exists that requires  
22 emergency regulations under AS 44.62.250, the department may adopt the following  
23 types of regulations only after the procedures established in (a), (c), and (d) of this  
24 section and compliance with AS 46.14.015:

25 (1) a regulation that establishes an ambient air quality standard for an  
26 air contaminant for which there is no corresponding federal standard;

27 (2) a regulation that establishes an ambient air quality standard or  
28 emission standard that is more stringent than a corresponding federal standard;

29 (3) a regulation that establishes an equivalent emission limitation for  
30 a hazardous air contaminant for which the federal administrator has not adopted a  
31 corresponding maximum achievable control technology standard; or

1 (4) a regulation that regulates emissions from a source or facility under  
2 the authority of AS 46.14.120(e), 46.14.130(a)(3)(B), or 46.14.130(b)(4)(B).

3 (c) In preparation for peer review under AS 46.14.015 and before adopting a  
4 regulation described under (b) of this section, the department shall

5 (1) find in writing that exposure profiles and either meteorological  
6 conditions or source characteristics in the state or in an area of the state reasonably  
7 require the ambient air quality standard, or emission standard to protect human health  
8 and welfare or the environment; this paragraph does not apply to a regulation under  
9 (b)(3) of this section;

10 (2) find in writing that the proposed standard or emission limitation is  
11 technologically feasible; and

12 (3) prepare a written analysis of the economic feasibility of the  
13 proposal.

14 (d) Before adopting a regulation described in (b)(2) of this section, the  
15 department shall find in writing that exposure profiles and either meteorological  
16 conditions or source characteristics are significantly different in the state or in an area  
17 of the state from those upon which the corresponding federal regulation is based.

18 (e) When incorporated into more than one permit, emission standards and  
19 limitations, emissions monitoring and reporting requirements, and compliance  
20 verification requirements that are generally applicable statewide or are generally  
21 applicable to individual source or facility types shall be adopted in regulation unless  
22 they have been requested by the owner and operator to whom the permit is issued.  
23 The department shall, by regulation, adopt a standard, limitation, or requirement  
24 described in the subsection as soon as its general applicability is reasonably  
25 foreseeable.

26 (f) An emission standard adopted by the department may be applicable to  
27 individual sources within a facility or to all sources within a facility. For purposes of  
28 determining compliance with applicable regulations and with permit limitations, the  
29 department may allow numerical averaging of the emissions of each air contaminant  
30 from several sources within a facility if

31 (1) requested by the owner and operator, and

1 (2) allowed under 42 U.S.C. 7401 - 7671q (Clean Air Act), as  
2 amended, and regulations adopted under those sections.

3 Sec. 46.14.015. SPECIAL PROCEDURE FOR MORE STRINGENT  
4 REGULATIONS. (a) Before the department adopts a regulation described under  
5 AS 46.14.010(b), written findings under AS 46.14.010(c) and (d) shall be made  
6 available by the department to the public at locations throughout the state that the  
7 department considers appropriate.

8 (b) If requested by an owner or operator whose facility would be affected by  
9 a regulation described in AS 46.14.010(b), the department shall submit the findings  
10 described under (a) of this section, the studies on which the findings are based, and  
11 other related data for peer review to a minimum of three separate parties who are not  
12 employees of the department and who are determined by the commissioner to be  
13 technically qualified in the subject matter under review. The commissioner shall  
14 ensure that the peer review includes an analysis of the factors considered by the  
15 commissioner to support the standards proposed to be adopted and recommendations,  
16 if any, for additional research or investigation considered appropriate. Peer review  
17 reports shall be submitted to the commissioner within 45 days after the department  
18 submits a matter for peer review unless the commissioner determines that additional  
19 time is required.

20 (c) The department shall make available to the public at least 30 days before  
21 the public hearing required under AS 46.14.010(a), at convenient locations, copies of  
22 the department's proposed regulation, the findings of the department describing the  
23 basis for adoption of the regulation, and the peer review reports, if any, submitted  
24 under (b) of this section.

25 (d) The department shall contract with persons to perform peer review under  
26 (b) of this section. All persons selected shall be selected on the basis of competitive  
27 sealed proposals under AS 36.30.200 - 36.30.270 (State Procurement Code). The  
28 commissioner may not contract with a person to perform peer review under this section  
29 if the person has a significant financial interest or other significant interest that could  
30 bias evaluation of the proposed regulation. An interest is not considered significant  
31 under this subsection if it is an interest possessed generally by the public or a large

1 class of persons or if the effect of the interest on the person's ability to be impartial  
2 is only conjectural.

3 Sec. 46.14.020. CLASSIFICATION OF FACILITIES OR SOURCES;  
4 REPORTING. (a) The department, by regulation, may classify facilities or sources  
5 that, in the department's determination, are likely to cause or contribute to air  
6 pollution, according to the levels and types of emissions and other characteristics that  
7 relate to air quality. The department may make a classification under this subsection  
8 applicable to the state as a whole or to a designated area of the state. The department  
9 shall base the classifications on consideration of health, economic, and social factors,  
10 sensitivity of the receiving environment, and physical effects on property.

11 (b) The department or a local air quality control program authorized under  
12 AS 46.14.400 may require an owner and operator of a facility or source classified  
13 under this section to report information to the department or the authorized local  
14 program concerning location, size, and height of contaminant outlets or area sources,  
15 processes employed, fuels used, the nature and time periods or duration of emissions,  
16 and other information relevant to air quality that is available or reasonably capable of  
17 being calculated and compiled.

18 Sec. 46.14.030. STATE AIR QUALITY PLAN. The department shall act for  
19 the state in any negotiations relative to the state air quality control plan developed  
20 under 42 U.S.C. 7401 - 7671q (Clean Air Act), as amended. The department may  
21 adopt regulations necessary to implement the state plan.

## 22 ARTICLE 2. EMISSION CONTROL PERMIT PROGRAM

### 23 Sec. 46.14.110. ADDITIONAL CONTAMINANT CONTROL MEASURES.

24 (a) The department may require that notice be given to it before the undertaking of  
25 the construction, installation, or establishment of particular types or classes of new air  
26 contaminant sources specified in its regulations. Within 15 days of its receipt of the  
27 notice, the department shall require, as a condition precedent to the undertaking, the  
28 submission of plans and other information it considers necessary in order to determine  
29 whether the proposed undertaking will be in accord with applicable regulations in force  
30 under this chapter.

31 (b) Within 30 days of receipt of the plans and information for a proposed

1 undertaking, the department shall either approve the undertaking and issue a permit,  
2 or if the department determines that the proposed undertaking will not meet the  
3 requirements of this chapter and applicable regulations, it shall issue a prohibition  
4 order against the undertaking.

5 (c) A person subject to a prohibition order as prescribed in (b) of this section,  
6 upon written request in accordance with regulations of the department, is entitled to  
7 a hearing on the order. Following the hearing the order may be affirmed, modified,  
8 or withdrawn.

9 (d) For the purposes of this chapter, addition to or enlargement or replacement  
10 of an air contaminant source, or a major alteration of one, shall be construed as an  
11 undertaking for the construction, installation, or establishment of a new air contaminant  
12 source.

13 (e) Features, machines, and devices constituting parts of or called for by plans  
14 or other information submitted under (a) of this section shall be maintained in good  
15 working order.

16 (f) This section does not authorize the department to require the use of  
17 machinery, devices, or equipment from a particular supplier or produced by a particular  
18 manufacturer if the required performance standards may be met by machinery, devices,  
19 or equipment available from other sources.

20 (g) The absence of or the department's failure to adopt a regulation or issue  
21 an order under this section does not relieve a person from compliance with emission  
22 control requirements or other provisions of law.

23 (h) The department may require the payment of a reasonable fee for the review  
24 of plans and information required to be submitted. A fee for a single review may not  
25 exceed \$25.

26 Sec. 46.14.120. PERMITS FOR CONSTRUCTION, MODIFICATION, OR  
27 OPERATION. (a) Before constructing, installing, modifying, reconstructing, or  
28 establishing a facility subject to AS 46.14.130(a), the owner and operator shall obtain  
29 a construction permit under this chapter.

30 (b) Except when considered to be in compliance with this chapter under a  
31 regulation adopted under AS 46.14.140(a)(11) or 46.14.220(c), the owner and operator

*add AS 46.14.275*

1 shall obtain an operating permit under this chapter before operating a facility subject  
2 to AS 46.14.130(b).

3 (c) A permittee shall comply with the terms and conditions of a permit or a  
4 modifying compliance order issued by the department under this chapter or a court  
5 order. A person operating under the application shield available under  
6 AS 46.14.140(a)(11), <sup>add AS 46.14.275</sup> shall comply with the terms and conditions of the pending  
7 application and applicable regulations.

8 (d) The department shall ensure that permits issued, modified, amended,  
9 renewed, or revoked and reissued under this chapter comply with all applicable federal,  
10 state, and local requirements.

11 (e) If the federal administrator exempts a source from the requirements of  
12 42 U.S.C. 7561a(a) (Clean Air Act, sec. 502(a)), the commissioner shall consider the  
13 factors used by the administrator in reaching that determination and, by regulation,  
14 shall issue a similar determination unless public health or air quality effects provide  
15 a reasonable basis to regulate the source.

16 **Sec. 46.14.130. FACILITIES REQUIRING PERMITS.** (a) Before  
17 constructing, installing, modifying, reconstructing, or establishing a facility, the owner  
18 and operator shall obtain a construction permit from the department if the facility is  
19 any one of the following:

20 (1) a new facility that emits or has the potential to emit 250 tons per  
21 year (TPY) or more of a regulated air contaminant;

22 (2) a new facility of a type classified under AS 46.14.020 that emits  
23 or has the potential to emit 100 TPY or more of a regulated air contaminant;

24 (3) a new facility of a type classified under AS 46.14.020

25 (A) as having the potential to violate the ambient air quality  
26 standards; or

27 (B) under a finding by the department that public health or air  
28 quality effects provide a reasonable basis to regulate the source;

29 (4) a new facility that emits or has the potential to emit 10 TPY or  
30 more of a hazardous air contaminant or 25 TPY or more, in the aggregate, of two or  
31 more hazardous air contaminants;

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(5) an existing facility for which

(A) a modification is proposed that would increase actual emissions of an air contaminant by an amount equal to or greater than the emission quantity set out in regulations adopted under AS 46.14.010, 46.14.020, or 46.14.140; or

(B) reconstruction is proposed.

(b) The owner and operator of a facility shall obtain an operating permit from the department if the facility is a facility subject to (a) of this section or a facility that

(1) emits or has the potential to emit 100 TPY or more of a regulated contaminant;

(2) emits or has the potential to emit 10 TPY or more of a hazardous air contaminant or 25 TPY or more, in the aggregate, of two or more hazardous air contaminants;

(3) contains a source subject to federal new source performance standards under 42 U.S.C. 7411 (Clean Air Act, sec. 111) or national emission standards for hazardous air pollutants issued under 42 U.S.C. 7412 (Clean Air Act, sec. 112); or

(4) contains another stationary source designated by

(A) the federal administrator by regulation; or

(B) the department under a finding that public health or air quality effects provide a reasonable basis to regulate the source.

Sec. 46.14.140. EMISSION CONTROL PERMIT PROGRAM REGULATIONS. (a) The department shall adopt regulations to address substantive and procedural elements of the emission control permit program established under this chapter that are not addressed in statute, except elements that relate only to the internal management of the department and do not affect the public or govern the way the department deals with the public. The regulations must be reasonable and adequate, and provide flexibility in the operation of a facility consistent with 42 U.S.C. 7401 - 7671q (Clean Air Act), as amended, and applicable federal regulations. The regulations must include

(1) a standard permit application form that meets the requirements of

1 federal regulations adopted under 42 U.S.C. 7661a(b) (Clean Air Act, sec. 502(b));

2 (2) procedures for preparation and submission of a monitoring,  
3 reporting, and quality assurance plan and, if required, a compliance schedule describing  
4 how a permitted facility will comply with the applicable requirements of this chapter;

5 (3) procedures for

6 (A) specifying when permit applications and renewal requests  
7 are to be submitted;

8 (B) specifying the time duration for department review of permit  
9 applications;

10 (C) processing and reviewing an application;

11 (D) providing public notice, including opportunity for public  
12 comment and hearing; and

13 (E) issuing permits, including procedures for issuing permits for  
14 temporary operations or open burn activities;

15 (4) reasonable standard permit conditions, including conditions for

16 (A) emission standards and limitations;

17 (B) monitoring, record keeping, and reporting for facilities  
18 subject to AS 46.14.130;

19 (C) inspection and entry;

20 (D) certification of corporate or other business organization

21 reports;

22 (E) annual certification of compliance;

23 (F) excess emission or process deviation reporting; and

24 (G) equipment malfunctions and emergencies;

25 (5) fees and procedures for collecting fees;

26 (6) provisions addressing late payment or nonpayment of fees, which  
27 may include assessment of penalties and interest or refusal to issue, amend, modify,  
28 or renew an air quality control permit;

29 (7) the duration of permits;

30 (8) procedures for modifying or amending a permit that provide  
31 flexibility in the operation of the facility, including procedures to allow changes to a

1 permitted facility without requiring a permit modification, consistent with the purposes  
2 of this chapter and with 42 U.S.C. 7401 - 7671q (Clean Air Act);

3 (9) reasonable provisions for renewing, reopening, revoking and  
4 reissuing, and terminating a permit consistent with the purposes of this chapter and 42  
5 U.S.C. 7401 - 7671q (Clean Air Act);

6 (10) provisions allowing for physical or operational limitations that will  
7 reduce a facility's emissions to levels below those that would make the facility subject  
8 to part or all of AS 46.14.120 and 46.14.130;

9 (11) provisions authorizing facility operation while a permit application  
10 is pending, consistent with 42 U.S.C. 7661b(d) (Clean Air Act, sec. 503(d));

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

16 (13) provisions allowing for certification of inspectors who evaluate  
17 compliance with the terms and conditions of a permit, order, regulation, or other  
18 provision of law authorized under this chapter.

19 (b) A permit issued under this chapter may not require a person to use

20 (1) machinery, devices, or equipment of a particular type, from a  
21 particular supplier, or produced by a particular manufacturer; or

22 (2) specific methods, processes, procedures, or designs for the  
23 management and operation of a facility regulated under this chapter except to the  
24 extent that the federal administrator has

25 (A) adopted a design, equipment work practice, or operational  
26 standard under 42 U.S.C. 7412(h), as amended, for the control of a hazardous  
27 air pollutant; or

28 (B) approved an alternative hazardous air pollutant standard  
29 under 42 U.S.C. 7412(h)(3), as amended.

30 (c) The absence of, or the department's failure to adopt, a regulation under this  
31 section does not relieve a person from compliance with a permit issued under this

1 chapter and with other provisions of law, including emission control requirements.

2 Sec. 46.14.150. TIME FOR SUBMISSION OF OPERATING PERMIT  
3 APPLICATIONS. (a) The owner and operator of a facility required to have an  
4 operating permit under this chapter shall submit the required application and other  
5 information required by the department by regulation no later than (1) 12 months after  
6 the date on which the facility becomes subject to AS 46.14.120(b); or (2) 60 days  
7 before beginning construction of a source if the facility containing the source is a new  
8 facility that is not required to obtain a construction permit under AS 46.14.130(a),  
9 whichever is earlier.

10 (b) The department may accept and begin processing applications filed earlier  
11 than the submission date. Applications filed earlier may be given priority for permit  
12 issuance.

13 Sec. 46.14.160. COMPLETENESS DETERMINATION. (a) The department  
14 shall review every application submitted under this chapter for completeness. To be  
15 determined complete, an application must provide the information identified by the  
16 department in regulations adopted under AS 46.14.140 and in standard application  
17 forms provided by the department under AS 46.14.140(a)(1) and must be certified true  
18 and correct by the owner and operator.

19 (b) The department shall notify the applicant in writing whether the application  
20 is complete. Unless the department notifies the applicant within 60 days of receipt of  
21 an application that the application is incomplete, the application is considered to be  
22 complete.

23 (c) If, during the processing of an application after it has been determined or  
24 considered to be complete, the department finds that additional information is  
25 necessary to evaluate or take action on that application, the information may be  
26 requested in writing from the owner and operator. A request for information under  
27 this subsection does not render the application incomplete. However, notwithstanding  
28 AS 46.14.275, an owner and operator may be found in violation of this chapter for  
29 operating without a valid permit if they fail to provide timely additional information.

30 Sec. 46.14.170. ADMINISTRATIVE ACTIONS REGARDING PERMITS. (a)  
31 Except as provided in AS 46.14.220 or in regulations adopted under

1 AS 46.14.140(a)(6), after receipt of a complete application, and after notice and  
2 opportunity for public comment and hearing, the department shall issue or deny

3 (1) a construction permit within 30 days after the close of the public  
4 comment period;

5 (2) an operating permit, other than a general operating permit or  
6 temporary operating permit, within 12 months after receipt of the complete application  
7 by the department.

8 (b) Notwithstanding (a) of this section, the department may establish a phased  
9 schedule for acting on operating permit applications submitted within 12 months  
10 following the date on which the federal administrator approves the state program under  
11 42 U.S.C. 7661a(d). A phased schedule must ensure that at least one-third of the  
12 applications submitted during the first 12 months of the state's operation of its permit  
13 program after federal approval will be acted on by the department during each of the  
14 first three 12-month periods following federal approval of the program. The  
15 department shall give priority to the issuance of permits for new facilities and  
16 modifications of existing facilities.

17 (c) Failure by the department to act within the time limits established in or  
18 under (a) or (b) of this section is considered to be a final agency action, but only for  
19 the purpose of judicial review to determine whether the court will require that action  
20 be taken by the department.

21 Sec. 46.14.180. MONITORING. Monitoring by the owner and operator of  
22 stack emissions or ambient air quality shall be required by the department only for  
23 purposes of demonstrating compliance with applicable permit program requirements.  
24 Monitoring requirements must be reasonable and based on test methods, analytical  
25 procedures, and statistical conventions approved by the federal administrator or the  
26 department or otherwise generally accepted as scientifically competent. Unless  
27 otherwise agreed to by the owner and operator and the department,

28 (1) the department may not require an owner and operator of a source  
29 to monitor emissions or ambient air quality solely for the purpose of scientific  
30 investigation or research; and

31 (2) monitoring activities must be consistent with the applicable

1 emission standards and other permit or permit application requirements.

2 Sec. 46.14.190. SINGLE PERMIT. (a) Except as provided in (b) of this  
3 section, the department shall issue only a single operating permit to a facility,  
4 regardless of whether a facility contains a single source or multiple sources.

5 (b) The department may, upon request of a facility owner or operator, issue  
6 more than one permit for a facility. Substantive and procedural requirements otherwise  
7 applicable to a facility remain applicable regardless of whether the facility owner and  
8 operator apply for one or more permits.

9 Sec. 46.14.200. REVIEW OF PERMIT ACTION. A person who has a private,  
10 substantive, legally protected interest under state law that may be adversely affected  
11 by the permit action, the owner and operator, or a person who participated in the  
12 public comment process may request an adjudicatory hearing under the department's  
13 adjudicatory hearing procedures. After the issuance of an adjudicatory hearing  
14 decision, a party to the hearing may obtain judicial review of that decision as provided  
15 in the Alaska Rules of Appellate Procedure.

16 Sec. 46.14.210. GENERAL OPERATING PERMITS. After notice and  
17 opportunity for public comment and hearing, the department may, unless the permit  
18 is disapproved by the federal administrator, establish a general operating permit that  
19 would be applicable to more than one facility determined by the department to be  
20 similar in source structure. A general operating permit must contain provisions that  
21 meet the requirements of this chapter that are applicable to operating permits. A  
22 general operating permit issued to a particular person takes effect when the person's  
23 application is determined to be complete unless the department notifies the applicant  
24 that the general permit is not applicable to the person's facility.

25 Sec. 46.14.215. TEMPORARY OPERATIONS. The department may issue a  
26 single operating permit under AS 46.14.170, authorizing a facility to operate at specific  
27 multiple locations in the state for temporary periods of time. A permit described in  
28 this section is valid only for the specific locations identified in the application and  
29 authorized by the department. The department may not issue a permit under this  
30 section unless the permit contains conditions that will ensure compliance with this  
31 chapter at each authorized location, including compliance with ambient air quality

1 standards and applicable increment or visibility requirements adopted under this  
2 chapter. A permit under this section must require the owner and operator to notify the  
3 department at least 30 days before a change in location of a facility permitted under  
4 this section.

5 Sec. 46.14.220. OBJECTION BY FEDERAL ADMINISTRATOR. (a) An  
6 operating permit may not be issued under this chapter until the federal administrator  
7 approves the permit, or until 45 days after a copy of the final draft permit has been  
8 provided by the department to the federal administrator, whichever is earlier. If,  
9 during the 45-day period, the federal administrator files an objection with the  
10 department, the department shall notify the applicant of the objection. The department  
11 may not issue the permit until the objection is resolved or the permit is revised to meet  
12 the objection of the federal administrator. Upon request of an applicant, the  
13 department shall assist the applicant in an effort to resolve promptly an objection by  
14 the federal administrator.

15 (b) Within 60 days after the close of the 45-day period under (a) of this  
16 section and in accordance with procedures established in federal regulations adopted  
17 under 42 U.S.C. 7661d(b)(2) (Clean Air Act, sec. 505(b)(2)), a person may petition the  
18 federal administrator to file an objection to the permit.

19 *deleted* (c) Regulations adopted under AS 46.14.140(a)(11) may provide that while a  
20 petition under (b) of this section is pending, compliance with an operating permit  
21 issued under (a) of this section is considered to be compliance with this chapter insofar  
22 as those sections require an operating permit.

23 Sec. 46.14.230. DURATION OF OPERATING PERMITS. (a) An operating  
24 permit under this chapter, including an operating permit that contains a compliance  
25 schedule, shall be issued for a fixed term of five years after the date of issue, except  
26 as provided for temporary operations under AS 46.14.215 or unless a shorter term is  
27 requested by the permit applicant.

28 (b) If a timely and complete application for renewal of an operating permit is  
29 submitted to the department, the existing permit issued under this chapter does not  
30 expire until the renewal permit has been issued or denied.

31 Sec. 46.14.235. FEDERAL TERMINATION, MODIFICATION, OR

1 REVOCATION AND REISSUANCE OF PERMITS. The department shall take  
2 measures practicable and otherwise lawful to avoid termination, modification, or  
3 revocation and reissuance by the federal administrator of permits issued by the  
4 department under this chapter.

5 Sec. 46.14.240. PERMIT ADMINISTRATION FEES. (a) The owner or  
6 operator of a facility who is required to apply for a permit under AS 46.14.130 shall  
7 pay to the department all assessed permit administration fees established under (b) of  
8 this section except that the person named in a permit issued under AS 46.14.170 shall  
9 pay assessed permit administration fees incurred after the date the permit is issued.

10 (b) The department shall establish by regulation a permit administration fee  
11 rate. The rate shall be set on the basis of dollars per hour of service provided for a  
12 specific permittee. The department may periodically modify a fee rate to reflect  
13 increases or decreases in the actual reasonable costs of providing the services. The  
14 department shall assess permit administration fees on a periodic basis after service is  
15 rendered, but the department may assess a retainer toward this fee at the time work  
16 commences on a permit application or at the time departmental services are requested  
17 for the development of a permit application.

18 (c) In (a) and (b) of this section, "permit administration fees" are fees assessed  
19 to recover costs incurred by the department and other state or local governmental  
20 agencies, to the extent required under 42 U.S.C. 7661a(b)(3)(A) and federal regulations  
21 implementing that provision, for the following services to a specific facility that are  
22 performed in order to implement the permit program established under this chapter:

23 (1) providing preapplication consultation, assistance, and completeness  
24 review of applications for a permit, permit amendment, permit modification, or  
25 renewal, except as provided in (d) of this section;

26 (2) reviewing or assisting in preparation of facility specific permit  
27 support documents, including on-site evaluations, except as provided in (d) of this  
28 section;

29 (3) receiving, reviewing, preparing, processing, and issuing permits,  
30 permit amendments, modifications, reopenings, renewals and revocations, and  
31 reissuance;

1 (4) preparing general operating permits under AS 46.14.210; however,  
2 costs must be allocated on an equitable basis to each facility covered by the general  
3 operating permit;

4 (5) performing facility inspections and compliance evaluations;

5 (6) reviewing, compiling, and reporting facility specific emission,  
6 ambient monitoring, or process measurement data;

7 (7) preparing, evaluating, or processing plans or documents to obtain  
8 facility compliance or rectify noncompliance with permit terms and conditions, but not  
9 including any enforcement actions; and

10 (8) assessing and collecting delinquent permit administration fees and  
11 emission fees.

12 (d) Costs incurred by the department and other state or local governmental  
13 agencies for services described in (c)(1) - (2) of this section to facilities that qualify  
14 for assistance under AS 46.14.300 - 46.14.310 shall be recovered from emission fees  
15 under AS 46.14.250(h)(2).

16 Sec. 46.14.250. EMISSION FEES. (a) A person named as permittee in a  
17 permit issued under AS 46.14.170 shall pay to the department all assessed emission  
18 fees established under this section.

19 (b) The department shall establish by regulation an emission fee rate. The rate  
20 shall be set on the basis of dollars per ton of air contaminant emitted. The department  
21 shall assess emission fees annually on or before July 1 based on a facility's estimated  
22 assessable emissions for the subsequent fiscal year. The department may allow  
23 installment payments of assessed emission fees.

24 (c) For a facility that begins operation during a fiscal year, the department  
25 shall prorate the first year's fee to cover the time period occurring before the next  
26 annual payment date. The owner or operator shall pay the initial emission fee upon  
27 commencement of lawful facility operation unless authorized to pay by installments  
28 under (b) of this section. The first year's emission fee may not duplicate a fee paid  
29 by a permittee under AS 44.46.025 for the same sources for the same time period. If  
30 the fees would otherwise be duplicative, the department shall provide a credit toward  
31 the emission fee in the amount of the unused balance of the fee collected under

1 AS 44.46.025. The unused balance to be credited shall be based on prorating the total  
2 original fee under AS 44.46.025 for the time period for which an emission fee applies.

3 (d) The department shall design the emission fee rate to distribute the total  
4 annual incurred costs described under (h) of this section in a manner so that each  
5 permittee is assessed an annual emission fee that reflects an equitable apportionment  
6 of the fees paid by each facility type, size, or category. In making an apportionment  
7 under (f)(6) of this section, the department shall consider factors such as exemptions  
8 or reduced rates for small amounts of emissions, limits upon assessable emissions,  
9 exempting small business facilities from the costs of the small business assistance  
10 program established under AS 46.14.300, air pollution prevention efforts, and other  
11 factors that may ensure fair distribution of the costs described under (h) of this section.

12 (e) The department shall set the initial fee rate for the first two years following  
13 approval of the permit program under this chapter by the federal administrator on the  
14 basis of dollars per ton of assessable emissions. In calculating assessable emissions  
15 for the purpose of this subsection, the department may not include an amount in excess  
16 of 4,000 tons per year of an air contaminant not defined as a regulated pollutant under  
17 42 U.S.C. 7661a(b)(3)(B)(ii) (Clean Air Act, sec. 502 (b)(3)(B)(ii)).

18 (f) After the two years described in (e) of this section, the department shall set  
19 the emission fee rate in regulation to implement the policy established in (d) of this  
20 section. The department shall base the regulation on the findings of a report, which  
21 the department shall make available to the public with proper notice before adoption  
22 of the regulation, that examines

- 23 (1) fees assessed;
- 24 (2) alternative fee rates or formulas;
- 25 (3) types, sizes, or categories of facilities, their respective emission  
26 quantities, and their previous or proposed fee burden;
- 27 (4) apparent inequities encountered in the initial fee rate;
- 28 (5) total costs incurred or anticipated to be incurred under (h) of this  
29 section; and
- 30 (6) other factors that ensure fair distribution of the costs described in  
31 (h) of this section.

1 (g) The department shall periodically, and at least every three years, evaluate  
2 the fee rate set under this section to determine if it is responsive to the policy  
3 established in (d) of this section and shall provide its findings in a report.

4 (h) In this section,

5 (1) "assessable emission" means the quantity of each air contaminant  
6 for which emission fees are assessed and is the lesser of

7 (A) the annual rate of emissions, in tons per year, of each air  
8 contaminant authorized by the facility's operating permit; or

9 (B) the projected annual rate of emissions, in tons per year, of  
10 each air contaminant by the facility based upon previous actual annual  
11 emissions if the permittee can demonstrate to the department its previous actual  
12 annual rate of emissions through monitoring, modelling, calculations, or other  
13 method acceptable to the department;

14 (2) "emission fees" mean fees assessed to recover costs incurred by the  
15 department and other state or local governmental agencies, to the extent required under  
16 42 U.S.C. 7661a(b)(3)(A) and federal regulations implementing that provision, for  
17 execution of the permit program established under this chapter that are generally not  
18 associated with service provided to a specific facility, including the costs incurred by  
19 the department or a local air quality program to comply with AS 46.14.010 -  
20 46.14.015; the costs may include rent, utilities, permit program management,  
21 administrative and accounting services, and other costs as identified by the department  
22 in regulations; the fees shall also be sufficient to recover the cost of the small business  
23 assistance program under AS 46.14.300 - 46.14.310.

24 Sec. 46.14.255. PENALTY AND INTEREST FOR NONPAYMENT. (a) The  
25 department shall adopt regulations that provide for the assessment and collection of a  
26 penalty of not more than five percent per month up to a maximum of 25 percent of  
27 the fee established under AS 46.14.240 and 46.14.250 against the owner and operator  
28 of a facility if the owner and operator fail to timely pay a fee lawfully imposed under  
29 this chapter. The department may also assess and collect interest against the owner  
30 and operator, computed at two percentage points higher than the prime rate existing  
31 on the day the fee was due. Interest under this subsection begins to accrue 30 days

1 after payment was due. A penalty may not be assessed under this subsection until 45  
2 days after the department, by certified mail, return receipt requested, provides written  
3 notification of nonpayment to the owner and operator.

4 (b) If the owner and operator fail to pay a fee imposed under AS 46.14.240  
5 and 46.14.250, a penalty or interest imposed under (a) of this section, or a damage  
6 award imposed under AS 46.03.760(f) or 46.03.790 for a violation of this chapter, the  
7 department may refuse to issue or renew permits requested by the owner and operator  
8 or refuse to amend or modify a permit when the amendment or modification is  
9 requested by the owner and operator.

10 (c) In (a) of this section, "prime rate" means the lowest money center prime  
11 rate of interest published in the Wall Street Journal.

12 Sec. 46.14.260. CLEAN AIR PROTECTION FUND. (a) The clean air  
13 protection fund is established. The fund consists of fees collected by the department  
14 under AS 46.14.240 and 46.14.250 and under regulations authorized by AS 46.14.140,  
15 as required by 42 U.S.C. 7661a(b)(3)(C)(iii) (Clean Air Act, sec. 502(b)(3)(C)(iii)) for  
16 state participation in the federal emission control permit program.

17 (b) The money deposited into the clean air protection fund may only be used  
18 to cover the reasonable direct and indirect costs required to support the permit program  
19 under this chapter and the activities of the small business assistance program that are  
20 directed at facilities subject to this chapter, not including court costs or other costs  
21 associated with an enforcement action.

22 Sec. 46.14.270. SPECIAL ACCOUNT. Civil or criminal penalties, fines,  
23 assessments, or damages, and interest, attorney fees, and costs collected as a result of  
24 a violation relating to this chapter and interest collected under AS 46.14.255 shall be  
25 deposited in the general fund and credited to a special account called the "clean air  
26 protection account."

27 Sec. 46.14.275. TIMELY AND COMPLETE APPLICATION AS SHIELD.  
28 If an owner and operator have submitted a timely and complete application for a  
29 permit or a permit renewal, as applicable, but final action has not been taken on the  
30 application, the owner's and operator's failure to have an operating permit is not a  
31 violation of this chapter unless the delay in final action was due to the failure of the

1 owner and operator to submit, in a timely manner, additional information required or  
2 requested to process the application. An owner and operator required to have an  
3 operating permit under this chapter are not in violation of the operating permit program  
4 established under this chapter before the date on which the owner and operator are  
5 required to submit an application under AS 46.14.150.

6 Sec. 46.14.280. TERMINATION, MODIFICATION, REOPENING, OR  
7 REVOCATION AND REISSUANCE OF PERMITS BY THE DEPARTMENT. (a)  
8 After 30 days' written notice to the permittee, the department

9 (1) may terminate, modify, or revoke and reissue a construction or  
10 operating permit if the department finds that

11 (A) the permit was obtained by misrepresentation of material  
12 fact or by failure of the owner and operator to disclose fully the facts relating  
13 to issuance of the permit;

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

17 (C) the permittee has failed to construct or modify a facility  
18 within the time period specified in a construction permit, if any, required under  
19 AS 46.14.130(a);

20 (2) may modify, or revoke and reissue a construction or operating  
21 permit if the department finds that

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

23 (B) there has been a material change in the quantity or type of  
24 air contaminant emitted from the facility; or

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

26 (A) based on a determination of the federal administrator or the  
27 department that the permit must be revised to comply with 42 U.S.C. 7401-  
28 7671q (Clean Air Act) and regulations adopted thereunder; or

29 (B) to incorporate changes in law, or to impose equivalent  
30 emission limitation, that become applicable after the permit is issued if the  
31 permit is issued to a major facility and has a remaining duration of three or

1 more years; the department shall make revisions allowed under this  
2 subparagraph as soon as practicable, but, regarding a change in law, no later  
3 than 18 months after the change in law takes effect; the department may not  
4 reopen the permit of a major facility under this subparagraph if the change in  
5 law is not effective until after the date that the permit expires.

6 (b) Reopening of a permit under (a)(3) of this section shall be treated as a  
7 permit renewal by the department if the procedural requirements for permit renewal  
8 have been met.

9 (c) Proceedings to reopen a permit under this section shall follow the same  
10 procedure as for initial permit issuance and shall affect only those parts of the permit  
11 for which the department had cause to reopen under this section.

12 Sec. 46.14.285. AMENDMENT AND MODIFICATION OF PERMIT UPON  
13 REQUEST OF PERMITTEE. (a) A permittee may request

14 (1) a permit amendment that provides for administrative changes to a  
15 permit that do not result in material changes in permit terms or conditions, such as  
16 changes in the name of the owner or operator, mailing address, registered agent, or  
17 assessable emissions;

18 (2) an expedited authorization for minor changes in permit terms and  
19 conditions that provide for flexibility in the operation of a facility consistent with 42  
20 U.S.C. 7661a(b)(10) (Clean Air Act, sec. 502(b)(10)), and regulations adopted under  
21 that paragraph; the department may adopt regulations that include procedures under  
22 which the public may participate when an amendment or modification is requested  
23 under this paragraph; or *expedited authorization*

24 (3) a modification of a permit to authorize significant changes in permit  
25 terms and conditions consistent with this chapter and regulations adopted under  
26 AS 46.14.140.

27 (b) The department shall review all requests submitted under (a) of this section  
28 and issue or deny the permit amendment or modification or otherwise authorize or  
29 deny the request consistent with this chapter and regulations adopted under this  
30 chapter.

31 Sec. 46.14.290. PERMIT AS SHIELD. (a) To the extent allowed under

1 42.U.S.C. 7661c(f) (Clean Air Act, sec. 504(f)), a permittee is considered in  
2 compliance with applicable requirements of this chapter, regulations adopted under this  
3 chapter and 42 U.S.C. 7401 - 7671q (Clean Air Act) and regulations adopted under it,  
4 if

5 (1) the applicable requirements are included and specifically identified  
6 in the owner or operator's permit; or

7 (2) the requirements are determined in writing not to be applicable to  
8 the permitted facility; a determination made under this paragraph shall be included in  
9 the permit.

10 (b) This section does not alter or affect

11 (1) the owner's and operator's obligation to comply with an emergency  
12 order issued under AS 46.03.820 or 42.U.S.C. 7603 (Clean Air Act, sec. 303);

13 (2) the liability of an owner and operator for a violation of applicable  
14 requirements of law before or at the time of permit issuance; or

15 (3) the ability of the department to obtain information from an owner  
16 or operator of a facility under AS 46.14.020(b).

17 **ARTICLE 3. SMALL BUSINESS ASSISTANCE PROGRAM.**

18 **Sec. 46.14.300. SMALL BUSINESS ASSISTANCE PROGRAM.** (a) A small  
19 business assistance program is established in the department. The department shall  
20 include the program in the state air quality control plan developed under 42 U.S.C.  
21 7401 - 7671q (Clean Air Act).

22 (b) The small business assistance program shall, by regulation, meet the  
23 requirements of 42 U.S.C. 7661f(a) (Clean Air Act, sec. 507(a)), including the  
24 requirement that a small business advocate be designated.

25 (c) Except as provided in AS 46.14.310(b), the department shall provide  
26 assistance as described in (b) of this section to a requesting facility that is not a small  
27 business concern as defined in 15 U.S.C. 631 but that is subject to the requirements  
28 of this chapter if the legislature appropriates money from the general fund for this  
29 purpose.

30 **Sec. 46.14.310. POWER TO LIMIT SMALL BUSINESS ASSISTANCE**  
31 **PROGRAM.** (a) After consultation with the federal administrator and the

1 administrator of the United States Small Business Administration and after providing  
2 notice and opportunity for public hearing, the department may exclude from the scope  
3 of the small business assistance program established in AS 46.14.300 a category or  
4 subcategory of small business facilities that the department finds to have sufficient  
5 technical and financial capabilities to meet the requirements of this chapter and federal  
6 law without the assistance provided under AS 46.14.300 - 46.14.320.

7 (b) Nothing in AS 46.14.300(c) precludes the department from excluding a  
8 business facility or category of business facilities that the department finds to have  
9 sufficient technical and financial capabilities to meet the requirements of this chapter  
10 without assistance from the department.

11 Sec. 46.14.320. COMPLIANCE ADVISORY PANEL. (a) There is  
12 established in the department a compliance advisory panel whose members shall serve  
13 staggered three-year terms. A member may not serve more than two three-year terms  
14 consecutively.

15 (b) The panel consists of

16 (1) two members who are not owners or representatives of owners of  
17 small business facilities, selected by the governor to represent the general public;

18 (2) one member selected by the commissioner to represent the  
19 department; and

20 (3) four members who are owners or representatives of owners of small  
21 business facilities, selected as follows:

22 (A) one shall be selected by the president of the senate and one  
23 shall be selected by the speaker of the house;

24 (B) if there are members of the senate who are not part of the  
25 majority caucus of the senate, the leader of the largest nonmajority group shall  
26 select a panel member; if all members of the senate are in the majority caucus,  
27 then the president of the senate shall select a second panel member in addition  
28 to the selection authorized under (A) of this paragraph;

29 (C) if there are members of the house who are not part of the  
30 majority caucus of the house, the leader of the largest nonmajority group shall  
31 select a panel member; if all members of the house are in the majority caucus,

1 then the speaker of the house shall select a second panel member in addition  
2 to the selection authorized under (A) of this paragraph.

3 (c) The panel members shall serve without compensation but are entitled to  
4 transportation expenses and per diem as authorized for members of boards and  
5 commissions under AS 39.20.180.

6 (d) The compliance advisory panel shall

7 (1) elect a chair and agree upon procedures by which the panel will  
8 function;

9 (2) meet annually and at the call of the chair and give public notice of  
10 panel meetings as required under AS 44.62.310 - 44.62.312;

11 (3) prepare advisory opinions concerning the effectiveness of the small  
12 business assistance program, difficulties encountered in making the program efficient  
13 and effective, and degree of enforcement and severity of air pollution offenses;

14 (4) make periodic reports to the administrator concerning the  
15 compliance of the small business assistance program with requirements of 44 U.S.C.  
16 3501 (Paperwork Reduction Act), 5 U.S.C. 601 (Regulatory Flexibility Act), and 5  
17 U.S.C. 504 (Equal Access to Justice Act);

18 (5) review information designed to assist small business facilities in  
19 complying with this chapter to ensure that the information is understandable by the  
20 public; and

21 (6) use the assistance of the small business advocate designated under  
22 AS 46.14.300(b) in the development and dissemination of panel reports and advisory  
23 opinions.

#### 24 ARTICLE 4. LOCAL PROGRAMS.

25 Sec. 46.14.400. LOCAL AIR QUALITY CONTROL PROGRAMS. (a) With  
26 the approval of the department, a municipality may establish and administer within its  
27 jurisdiction a local air quality control program that operates in lieu of and is consistent  
28 with all or part of the department's air quality program as established under this  
29 chapter. A first or second class borough may administer an air quality control program  
30 approved by the department under this subsection on an areawide basis and is not  
31 subject to the restrictions for acquiring additional areawide powers specified in

1 AS 29.35.300 - 29.35.350. A third class borough may administer a local air quality  
2 control program approved by the department under this subsection only in a service  
3 area formed under AS 29.35.490(b) or (c).

4 (b) With the approval of the department, two or more municipalities or other  
5 entities may create a local air quality district for the purpose of jointly administering  
6 a local air quality control program within the boundaries of the air quality district.

7 (c) If the department finds that the location, character, or extent of particular  
8 concentrations of population, air contaminant sources, the geographic, topographic, or  
9 meteorological considerations, or a combination of these factors make impracticable  
10 the maintenance of appropriate levels of air quality without an areawide air pollution  
11 control program, the department may determine the boundaries within which a local  
12 air quality control program is necessary and direct that a local air quality control  
13 program spanning those boundaries is the only acceptable alternative to direct state  
14 administration.

15 (d) A municipality or a local air quality district seeking department approval  
16 for a local air quality control program shall enter into a cooperative agreement with  
17 the department that is designed to avoid unnecessary duplication of responsibilities.  
18 The cooperative agreement must include provisions specifying

19 (1) the respective duties and authority of the department and the  
20 municipality or local air quality district in the administration of the local air quality  
21 control program;

22 (2) the authority of the municipality or the local air quality district to  
23 employ staff to administer the local air quality control program;

24 (3) duties of staff employed under (2) of this subsection;

25 (4) the procedures that must be followed by the municipality or local  
26 air quality district when requesting money from the clean air protection fund to cover  
27 the costs of implementing the municipality's or district's air quality program;

28 (5) the procedures that will be used by the department in approving a  
29 request under (4) of this subsection and submitting it to the legislature for funding;

30 (6) respective enforcement responsibilities of the department and the  
31 municipality or the local air quality district.

1 (e) A local air quality control program shall provide for the exemption of a  
2 locally registered motor vehicle from motor vehicle emission requirements adopted  
3 under AS 46.14.510 if the motor vehicle is not used within the program's jurisdiction.

4 (f) A municipality or a local air quality district administering a program under  
5 this section shall administer its local air quality control program according to this  
6 chapter, regulations adopted under those sections, and its cooperative agreement under  
7 (d) of this section. A municipality or local air quality district's program may, upon  
8 a finding by the local agency and an affirmative agreement by the department,  
9 establish a more stringent requirement than the stationary source permit program  
10 authorized under this chapter if public health or air quality effects warrant the  
11 additional or more stringent requirement and the municipality or district has used  
12 procedures <sup>NO CHANGE</sup> substantially equivalent to those required under AS 46.14.010 - 46.14.015  
13 before establishing the more stringent requirement. This subsection does not prohibit  
14 a municipality or local air quality control district from establishing a mobile source  
15 program more stringent than the state program without making findings of public  
16 health or air quality effects or using procedures substantially equivalent to those  
17 required under AS 46.14.010 - 46.14.015. *In this <sup>sub</sup>section, "mobile source" does not include tank  
vessels or other watercraft.*

18 (g) A determination, order, permit, or permit action issued under a local air  
19 quality control program is considered to be a determination, order, permit, or permit  
20 action of the department.

21 (h) Notwithstanding any other law or rule of law, the department may not  
22 delegate or enable another department or government entity to establish fee rates or  
23 collect fees under AS 46.14.240 or 46.14.250.

24 Sec. 46.14.410. INADEQUACY OF LOCAL PROGRAM. (a) If a  
25 municipality or a local air quality district has an approved local air quality control  
26 program under AS 46.14.400 and the department determines that the program is being  
27 implemented in a manner that fails to meet the terms of the cooperative agreement or  
28 is otherwise being inappropriately administered, the department shall give written  
29 notice setting out its determination to the municipality or local air quality district.  
30 Within 45 days after giving written notice, the department shall conduct a public  
31 hearing on the matter. The hearing shall be recorded by any means that ensures an

1 accurate record.

2 (b) If, after the hearing, the department upholds the determination made in the  
3 written notice, the department shall provide the municipality or local air quality district  
4 with a written finding setting out the nature of the deficiencies and a description of the  
5 necessary action to be taken to ensure that the local air quality control program  
6 prevents or controls air pollution. The department shall provide its finding to the  
7 municipality or district within 45 days after closure of the public hearing record. The  
8 department shall set a reasonable period of time for the municipality or local air  
9 quality district to take corrective action in response to the department's finding.

10 (c) If the municipality or local air quality district fails to take corrective action  
11 within the time period set by the department under (b) of this section, the department  
12 shall terminate the cooperative agreement and resume management of air quality  
13 control in the affected jurisdiction. If the municipality or the local air quality district  
14 partially remedies, to the department's satisfaction, the deficiencies found in the  
15 determination, the department shall amend the cooperative agreement to reflect a  
16 modified allocation of responsibilities between the department and municipality or the  
17 local air quality district.

18 (d) A municipality or local air quality district that has had its cooperative  
19 agreement terminated may, with the department's approval, resume a local air quality  
20 control program if the municipality or district agrees to comply with AS 46.14.400 and  
21 with any corrective action plan required by the department.

22 (e) If the department finds that control of a particular class of facility or  
23 source, because of its complexity or magnitude, is beyond the reasonable capability of  
24 the municipality or the local air quality district or may be more efficiently and  
25 economically controlled at the state level, the department may assume and retain  
26 jurisdiction over the class of facility or source. Classifications under this subsection  
27 may be based on the nature of facilities or sources involved, their size relative to the  
28 size of the communities in which they are located, or another basis established by the  
29 department.

30 ARTICLE 5. MISCELLANEOUS PROVISIONS.

31 Sec. 46.14.500. AIR POLLUTION FROM OUTER CONTINENTAL SHELF

1 ACTIVITIES. (a) The department shall seek delegation of authority from the federal  
2 administrator to implement and enforce the terms and provisions of 42 U.S.C. 7627  
3 (Clean Air Act, sec. 328) for the Pacific and Arctic Ocean areas offshore of the state.  
4 The department may adopt regulations that are necessary to acquire this delegated  
5 authority.

6 (b) In adopting regulations under this section, the department shall ensure that  
7 facilities located within 25 miles of the seaward boundary of the state are subject to  
8 the same air quality control requirements that would be applicable if the facility were  
9 located in the corresponding onshore area. For purposes of this subsection, facilities  
10 located within 25 miles of the seaward boundary of the state include a vessel servicing  
11 or associated with the facility while at the facility or en route to or from the facility  
12 and within 25 miles of the facility.

13 (c) In this section, "corresponding onshore area" means, with respect to a  
14 facility located within 25 miles of the seaward boundary of the state, the onshore  
15 attainment or nonattainment area that is closest to the facility, unless the commissioner  
16 determines that another area with more stringent requirements relating to control and  
17 abatement of air pollution may reasonably be expected to be affected by emissions  
18 from the offshore facility; this determination shall be based on the potential for air  
19 contaminants from the facility to reach the other onshore area and the potential of the  
20 air contaminants to affect the efforts of the other onshore area to attain or maintain a  
21 federal ambient air quality standard set under 42 U.S.C. 7470 - 7492 (Title I, Part C,  
22 Clean Air Act) or a state equivalent.

23 Sec. 46.14.510. MOTOR VEHICLE POLLUTION. (a) When the department  
24 determines that the state of knowledge and technology may allow or make appropriate  
25 the control of emissions from motor vehicles to further air quality control, the  
26 department may provide, by regulation, for the control of the emissions from motor  
27 vehicles. The regulations may prescribe requirements for the installation and use of  
28 equipment designed to reduce or eliminate emissions and for the proper maintenance  
29 of this equipment.

30 (b) Unless otherwise exempted by law, a person shall maintain in operating  
31 condition any element of the air pollution control system or mechanism of a motor

1 vehicle that the department, by regulation, requires to be maintained in or on the motor  
2 vehicle. Failure to maintain a required system or mechanism in operating condition  
3 subjects the motor vehicle's registration to suspension or cancellation. A motor  
4 vehicle whose registration has been suspended or canceled under this subsection is not  
5 eligible for subsequent registration until the owner or operator obtains certification  
6 from the department, based on a demonstration that the air pollution control system or  
7 mechanism is restored to operating condition.

8 (c) The department shall consult with the Department of Public Safety  
9 regarding implementation of the motor vehicle pollution control program. The  
10 Department of Public Safety shall cooperate with the department in implementing the  
11 program.

12 (d) If the department adopts regulations requiring the maintenance of air  
13 pollution control systems or mechanisms in motor vehicles to control emissions from  
14 the vehicle, a motor vehicle subject to those regulations may not be issued a certificate  
15 of inspection unless the required air pollution control system or mechanism has been  
16 inspected in accordance with the standards, testing techniques, and instructions  
17 furnished by the department and the motor vehicle has been found to meet those  
18 standards. A valid certificate of inspection for the emission control system, if required  
19 by the department, must be presented to the Department of Public Safety before that  
20 department may register a motor vehicle.

21 Sec. 46.14.515. INSPECTION. (a) An officer or employee of the department  
22 designated by the commissioner or an inspector authorized by the commissioner and  
23 certified under regulations adopted under AS 46.14.140(a)(13) may, upon presentation  
24 of credentials and at reasonable times with the consent of the owner or operator, enter  
25 upon or through any premises of a facility regulated under this chapter to

26 (1) inspect and copy any records required to be maintained;

27 (2) inspect any source, monitoring equipment, or method required to  
28 be used; or

29 (3) sample any emissions that the owner and operator of the facility is  
30 required to sample.

31 (b) During an inspection under this section, the inspector shall comply with

1 applicable health and safety standards.

2 Sec. 46.14.520. CONFIDENTIALITY OF TRADE SECRETS. Records,  
3 reports, and information, and parts of records, reports, and information, other than  
4 emission data, in the department's possession or control are considered confidential  
5 records and shall be kept confidential and in separate files if the owner and operator  
6 have certified under oath to the department or authorized local program that

7 (1) public disclosure would tend to affect adversely the owner's and  
8 operator's competitive position; and

9 (2) the records, reports, or information, or parts of the records, reports,  
10 or information, would divulge production figures, sales figures, processes, production  
11 techniques, or financial data of the owner and operator that are entitled to protection  
12 as trade secrets under AS 45.50.910 - 45.50.945 (Alaska Uniform Trade Secrets Act).

13 Sec. 46.14.525. PUBLIC RECORDS. Except as provided in AS 46.14.520,  
14 permits, permit applications, emissions and monitoring reports, compliance reports,  
15 certifications, and monitoring, reporting, and quality assurance plans in the  
16 department's possession or control are available to the public for inspection and  
17 copying.

18 Sec. 46.14.530. STATE AND FEDERAL AID. (a) A municipality or local  
19 air quality district with a local air quality control program may apply for, receive,  
20 administer, and spend state aid for the control of air emissions or the development and  
21 administration of the program if an application is first submitted to and approved by  
22 the department. Subject to available money appropriated by the legislature for the  
23 purpose of this section, the department may approve an application if it is consistent  
24 with the terms and conditions of the applicable cooperative agreement and meets the  
25 requirements of this chapter.

26 (b) A municipality or local air quality district with a local air quality control  
27 program may apply for, receive, administer, and spend federal aid for the control of  
28 air emissions or the development and administration of the program.

29 Sec. 46.14.540. AUTHORITY OF DEPARTMENT IN CASES OF  
30 EMERGENCY. (a) When the commissioner finds that an act of God, act of war, act  
31 of terrorism, or similar catastrophe necessitates emergency use of an unpermitted

1 source or emergency use of a permitted source in a manner not authorized by the  
2 permit, the commissioner may waive procedural requirements of this chapter and issue  
3 an order to authorize emergency use of the source. When acting under this section,  
4 the commissioner shall impose conditions necessary to protect life, human health,  
5 welfare, property, and the environment and may impose other conditions the  
6 commissioner finds necessary and appropriate.

7 (b) An authorization issued under this section automatically terminates within  
8 a reasonable time after abatement of the emergency, subject to a maximum of 30 days  
9 from the date of issuance. However, the commissioner may reissue an authorization,  
10 if warranted, that may remain in effect for up to another 30 days. An authorization  
11 may be reissued more than once.

12 (c) A person acting under an order issued under (a) of this section is  
13 considered to be acting in compliance with the operating permit program established  
14 in this chapter.

15 (d) The commissioner may delegate the commissioner's authority under this  
16 section to deputy commissioners and division directors in the department.

17 Sec. 46.14.550. RESPONSIBILITIES OF OWNER AND OPERATOR.  
18 Notwithstanding use of the conjunctive or disjunctive in a provision of this chapter,  
19 before issuance of a permit under AS 46.14.170 both the owner and operator of a  
20 facility are responsible for compliance with this chapter and regulations adopted under  
21 this chapter. If the owner and operator of the facility are separate persons, only one  
22 person is required to discharge a specific responsibility. After issuance of a permit  
23 under AS 46.14.170, only the permittee is responsible for permitted operations. The  
24 permittee shall have a designated agent for service of process in the state.

25 Sec. 46.14.560. UNAVOIDABLE MALFUNCTIONS AND EMERGENCIES.  
26 Excess emissions caused by an unavoidable on-site emergency, malfunction, or  
27 nonroutine repairs of a source including pollution control equipment or process  
28 equipment constitute an affirmative defense, when asserted under regulations adopted  
29 under AS 46.14.140, to an action brought for noncompliance with a technology-based  
30 emission standard. This section does not limit the department's power to enjoin the  
31 emission or require corrective action. This provision is in addition to any emergency

1 or upset provision contained in an applicable requirement.

2 ARTICLE 6. GENERAL PROVISIONS.

3 Sec. 46.14.900. LIMITATIONS. This chapter does not

4 (1) grant jurisdiction or authority with respect to air contamination  
5 existing solely within a residential dwelling or a commercial or industrial plant,  
6 workplace, or shop;

7 (2) affect the relations between employers and employees with respect  
8 to or arising out of a condition of air contamination or air pollution; or

9 (3) supersede or limit the applicability of a law or ordinance relating  
10 to sanitation, industrial health, or safety.

11 Sec. 46.14.990. DEFINITIONS. In this chapter,

12 (1) "air contaminant" means a regulated air contaminant or a hazardous  
13 air contaminant;

14 (2) "ambient air" means that portion of the atmosphere, external to  
15 buildings, to which the general public has access;

16 (3) "ambient air quality standard" means a standard, other than an  
17 emission standard, adopted under AS 46.14.010, 46.14.140, 46.14.400(f), or 42 U.S.C.  
18 7409 (Clean Air Act, sec. 109);

19 (4) "construct" or "construction" means to fabricate, erect, or install, or  
20 to make a physical change, that would result in emissions;

21 (5) "construction permit" means a permit under AS 46.14.130(a),  
22 including all relevant exhibits, addendums, transmittal letters, compliance schedules,  
23 administrative orders, emergency orders, and court orders;

24 (6) "contaminant outlet" includes exhaust stacks, flares, vents, and other  
25 openings in a facility from which an air contaminant could be emitted;

26 (7) "emission" means a release of one or more air contaminants to the  
27 atmosphere;

28 (8) "emission limitation" and "emission standard" mean a requirement  
29 established by the department or the federal administrator, other than an ambient air  
30 quality standard, that limits the quantity, rate, or concentration of emission of an air  
31 contaminant, including a requirement relating to the operation or maintenance of a

1 source to ensure sustained emission reduction, and design, equipment, work practice,  
2 or operational standard adopted under this chapter or 42 U.S.C. 7401 - 7671q (Clean  
3 Air Act);

4 (9) "facility" means

5 (A) one or more structures, buildings, installations, or properties

6 (i) that are contiguous or adjacent;

7 (ii) that are owned or operated by the same person or by  
8 persons under common control; and

9 (iii) upon which is located a source or sources, including  
10 sources on a vessel while the vessel is conducting business at the  
11 facility or servicing or being serviced by that facility to the extent  
12 required under 42 U.S.C. 7401 - 7671q (Clean Air Act) and regulations  
13 adopted under those sections, but not including sources engaged in  
14 propulsion of the vessel; or

15 (B) a vessel

16 (i) that is anchored or otherwise permanently or  
17 temporarily stationed within a locale; and

18 (ii) upon which is located a source or sources that are  
19 being used for an industrial process, not including sources engaged in  
20 propulsion of the vessel;

21 (10) "federal administrator" means the administrator of the United  
22 States Environmental Protection Agency;

23 (11) "fugitive emissions" means emissions of an air contaminant that  
24 could not reasonably be emitted from a contaminant outlet;

25 (12) "hazardous air contaminant" means a pollutant listed in or under  
26 42 U.S.C. 7412(b) (Clean Air Act, sec. 112(b));

27 (13) "local air quality control program" means a program authorized  
28 under AS 46.14.400 to implement some or all of the provisions of this chapter;

29 (14) "modification" or "modify" means to make a change or a series  
30 of changes in operation, or any physical change or addition to a facility or source, that  
31 increases the actual emissions of an air contaminant;

1 (15) "operating permit" means a permit under AS 46.14.130(b),  
2 including all relevant exhibits, addendums, transmittal letters, compliance schedules,  
3 administrative orders, emergency orders, and court orders;

4 (16) "operator" means a person or persons who direct, control, or  
5 supervise a facility or source that has the potential to emit an air contaminant to the  
6 atmosphere;

7 (17) "owner" means a person or persons with a proprietary or  
8 possessory interest in a facility or source that has the potential to emit an air  
9 contaminant to the atmosphere;

10 (18) "person" has the meaning given in AS 01.10.060 and also includes  
11 an agency of the United States, a municipality, the University of Alaska, the Alaska  
12 Railroad Corporation, and other departments, agencies, instrumentalities, units, and  
13 corporate authorities of the state;

14 (19) "potential to emit" means the maximum quantity of a release of  
15 an air contaminant, considering a facility's physical or operational design, based on  
16 continual operation of all sources within the facility for 24 hours a day, 365 days a  
17 year, reduced by the effect of pollution control equipment and approved state or  
18 federal limitations on the capacity of the facility's sources or the facility to emit an air  
19 contaminant, including limitations such as restrictions on hours or rates of operation  
20 and type or amount of material combusted, stored, or processed; "potential to emit"  
21 does not include

22 (A) a one-time, accidental release of an air contaminant; or

23 (B) the fugitive emissions specifically exempted under 42  
24 U.S.C. 7401 - 7671q (Clean Air Act);

25 (20) "reconstruct" means to replace components of a facility with new  
26 components to such an extent that the fixed capital cost of the new components  
27 exceeds 50 percent of the fixed capital cost that would be required to construct a  
28 comparable entirely new facility;

29 (21) "regulated air contaminant" means

30 (A) a material, compound, or element for which a national or  
31 state ambient air quality standard has been adopted;

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- (B) oxides of nitrogen;
- (C) a volatile organic compound;
- (D) a pollutant that is addressed by a
  - (i) standard adopted under 42 U.S.C. 7411 - 7412 (Clean Air Act, sec. 111 - 112);
  - (ii) permit authorized under 42 U.S.C. 7412(g) or (j) (Clean Air Act, sec. 112(g) or (j)); or
  - (iii) regulation adopted under AS 46.14.010(b)(3); and
- (E) a substance regulated under 42 U.S.C. 7671a (Clean Air Act, Sec. 602);

(22) "small business facility" means a facility that

- (A) is owned or operated by a person who employs 100 or fewer individuals;
- (B) is a small business concern as defined in 15 U.S.C. 631 (Small Business Act); and
- (C) emits less than 100 TPY of regulated air contaminants;

(23) "source" means a device, process, activity, or equipment that causes, or could cause, a release of an air contaminant;

(24) "TPY" means tons per year.

\* Sec. 3. AS 28.10.041(a)(10) is amended to read:

(10) the vehicle is subject to a state-approved [LOCAL] emission inspection program adopted [BY MUNICIPAL ORDINANCE] under AS 46.14.400 or 46.14.510 [AS 46.03.210], and the vehicle does not meet the standards of that program, unless the vehicle uses a fuel source that does not primarily emit carbon monoxide;

\* Sec. 4. AS 28.10.423 is amended to read:

Sec. 28.10.423. EMISSION CONTROL INSPECTION PROGRAM FEES. In addition to the annual registration fee specified in AS 28.10.421, a \$1 fee is imposed upon every vehicle required to be inspected under an emission control program established under AS 46.14.400 or 46.14.510 [AS 46.03.210]. This fee shall be collected at the same time and in the same manner as the registration fee.

1 \* Sec. 5. AS 29.10.200 is amended by adding a new paragraph to read:

2 (51) AS 29.35.055 (local air quality control program).

3 \* Sec. 6. AS 29.35 is amended by adding a new section to read:

4 Sec. 29.35.055. LOCAL AIR QUALITY CONTROL PROGRAM. A  
5 municipality may establish a local air quality control program as provided in  
6 AS 46.14.400 only if the municipality has obtained the consent of its governing body  
7 through an ordinance authorizing the participation. This section applies to home rule  
8 and general law municipalities.

9 \* Sec. 7. AS 29.35.200(b) is amended to read:

10 (b) A first class borough may by ordinance exercise the following powers on  
11 an areawide basis:

12 (1) provide transportation systems;

13 (2) provide water pollution control;

14 (3) provide air pollution control in accordance with AS 46.14.400  
15 [AS 46.03.140 - 46.03.230];

16 (4) license day care facilities;

17 (5) license, impound, and dispose of animals.

18 \* Sec. 8. AS 29.35.210(a) is amended to read:

19 (a) A second class borough may by ordinance exercise the following powers  
20 on a nonareawide basis:

21 (1) provide transportation systems;

22 (2) regulate the offering for sale, exposure for sale, sale, use, or  
23 explosion of fireworks;

24 (3) license, impound, and dispose of animals;

25 (4) subject to AS 29.35.050, provide garbage, solid waste, and septic  
26 waste collection and disposal;

27 (5) provide air pollution control under AS 46.14.400 [IN  
28 ACCORDANCE WITH AS 46.03.140 - 46.03.230];

29 (6) provide water pollution control;

30 (7) participate in federal or state loan programs for housing  
31 rehabilitation and improvement for energy conservation;

- 1 (8) provide for economic development;
- 2 (9) provide for the acquisition and construction of local service roads
- 3 and trails under AS 19.30.111 - 19.30.251;
- 4 (10) establish an emergency services communication center under
- 5 AS 29.35.130;
- 6 (11) subject to AS 28.01.010, regulate the licensing and operation of
- 7 motor vehicles and operators;
- 8 (12) engage in activities authorized under AS 29.47.460;
- 9 (13) contain, clean up, or prevent a release or threatened release of oil
- 10 or a hazardous substance, and exercise a power granted to a municipality under
- 11 AS 46.04, AS 46.08, or AS 46.09; the borough shall exercise its authority under this
- 12 paragraph in a manner that is consistent with a regional master plan prepared by the
- 13 Department of Environmental Conservation under AS 46.04.210.

14 \* Sec. 9. AS 29.35.210(b) is amended to read:

15 (b) A second class borough may by ordinance exercise the following powers

16 on an areawide basis:

- 17 (1) provide transportation systems;
- 18 (2) license, impound, and dispose of animals;
- 19 (3) provide air pollution control under AS 46.14.400 [IN
- 20 ACCORDANCE WITH AS 46.03.140 - 46.03.230];
- 21 (4) provide water pollution control;
- 22 (5) license day care facilities.

23 \* Sec. 10. AS 37.05.146(4) is amended by adding a new subparagraph to read:

24 (R) clean air protection fund (AS 46.14.260).

25 \* Sec. 11. AS 42.05.381 is amended by adding a new subsection to read:

26 (g) The commission shall allow, as a necessary and reasonable expense, all

27 payments made to the Department of Environmental Conservation under AS 46.14.240

28 - 46.14.250. The commission shall allow the public utility to recover these fees

29 through a periodic fuel surcharge rate adjustment.

30 \* Sec. 12. AS 44.46.025(a) is amended to read:

31 (a) The Department of Environmental Conservation may adopt regulations that

1 prescribe reasonable fees, and establish procedures for the collection of the fees, to  
2 cover the direct costs of the following services provided by the department:

3 (1) inspections, permit administration, plan review and approval, and  
4 other related services provided under AS 03.05, AS 17.20, and AS 18.35;

5 (2) certificates of inspection for motor vehicles under AS 46.14.400  
6 or 46.14.510 [AIR QUALITY PERMITS UNDER AS 46.03.140 AND 46.03.160];

7 (3) hazardous waste permits under AS 46.03.299 and 46.03.302;

8 (4) plan approvals and permits for sewerage system and treatment  
9 works and wastewater disposal systems, and plan approvals for drinking water systems,  
10 under AS 46.03.720;

11 (5) oil discharge financial responsibility approvals under AS 46.04.040;

12 (6) oil discharge contingency plan approvals under AS 46.04.030;

13 (7) water and wastewater operator training under AS 46.30.

14 \* Sec. 13. AS 44.46.025 is amended by adding a new subsection to read:

15 (c) The department may adopt regulations that prescribe reasonable fees to  
16 cover the direct and indirect costs of air quality permit programs under AS 46.14 and  
17 may establish procedures for the collection of those fees.

18 \* Sec. 14. AS 44.62.330(a)(44) is amended to read:

19 (44) Department of Environmental Conservation, except to the extent  
20 that AS 44.62.360 - 44.62.400 are inconsistent with the manner in which proceedings  
21 are initiated under the provisions of AS 46.03 and AS 46.14;

22 \* Sec. 15. AS 45.45.400(a) is amended to read:

23 (a) A person engaged in the business of selling used motor vehicles may not  
24 transfer or assign the owner's title or interest in the used vehicle to a person who  
25 resides in an area subject to a state-approved emission inspection [A  
26 MUNICIPALITY THAT HAS AN AIR POLLUTION CONTROL] program  
27 established under AS 46.14.400 or 46.14.510 [AS 46.03.210] and who intends to use  
28 the vehicle in that area [MUNICIPALITY], unless the vehicle has a certificate of  
29 compliance or noncompliance as required under the air pollution control requirements  
30 applicable in that area [MUNICIPALITY].

31 \* Sec. 16. AS 46.03.760(f) is amended to read:

1 (f) A person who violates or causes or permits to be violated a provision of  
2 AS 46.03.250 - 46.03.314, AS 46.14, or a regulation, a lawful order of the department,  
3 or a permit, approval, or acceptance, or term or condition of a permit, approval, or  
4 acceptance issued under AS 46.03.250 - 46.03.314 or AS 46.14 is liable, in a civil  
5 action, to the state for a sum to be assessed by the court of not less than \$500 nor  
6 more than \$100,000 for the initial violation, nor more than \$10,000 for each day after  
7 that on which the violation continues, and that shall reflect, when applicable,

8 (1) reasonable compensation in the nature of liquidated damages for  
9 any adverse environmental effects caused by the violation, that shall be determined by  
10 the court according to the toxicity, degradability and dispersal characteristics of the  
11 substance discharged, the sensitivity of the receiving environment, and the degree to  
12 which the discharge degrades existing environmental quality; for a violation relating  
13 to AS 46.14, the court, in making its determination under this paragraph, shall  
14 also consider the degree to which the discharge causes harm to persons or  
15 property; this paragraph may not be construed to limit the right of parties other  
16 than the state to recover for personal injuries or damages to their property;

17 (2) reasonable costs incurred by the state in detection, investigation, and  
18 attempted correction of the violation;

19 (3) the economic savings realized by the person in not complying with  
20 the requirement for which a violation is charged; and

21 (4) the need for an enhanced civil penalty to deter future  
22 noncompliance.

23 \* Sec. 17. AS 46.03.765 is amended to read:

24 Sec. 46.03.765. INJUNCTIONS. The superior court has jurisdiction to enjoin  
25 a violation of this chapter, AS 46.04, [OR] AS 46.09, AS 46.14, or of a regulation, a  
26 lawful order of the department, or permit, approval, or acceptance, or term or condition  
27 of a permit, approval, or acceptance issued under this chapter, AS 46.04, [OR]  
28 AS 46.09, or AS 46.14. In actions brought under this section, temporary or  
29 preliminary relief may be obtained upon a showing of an imminent threat of continued  
30 violation, and probable success on the merits, without the necessity of demonstrating  
31 physical irreparable harm. The balance of equities in actions under this section may

1 affect the timing of compliance, but not the necessity of compliance within a  
2 reasonable period of time.

3 \* Sec. 18. AS 46.03.780(a) is amended to read:

4 (a) A person who violates a provision of this chapter, AS 46.04, [OR]  
5 AS 46.09, or AS 46.14, or who fails to perform a duty imposed by this chapter,  
6 AS 46.04, [OR] AS 46.09, or AS 46.14, or violates or disregards an order, permit, or  
7 other determination of the department made under the provisions of this chapter,  
8 AS 46.04, [OR] AS 46.09, or AS 46.14, respectively, and thereby causes the death of  
9 fish, animals, or vegetation or otherwise injures or degrades the environment of the  
10 state is liable to the state for damages.

11 \* Sec. 19. AS 46.03.790(a) is amended to read:

12 (a) Except as provided in (d) of this section, a person is guilty of a class A  
13 misdemeanor if the person with criminal negligence

14 (1) violates a provision of this chapter, AS 46.04, [OR] AS 46.09, or  
15 AS 46.14, a regulation or order of the department, or a permit, approval, or acceptance,  
16 or a term or condition of a permit, approval, or acceptance issued under this chapter,  
17 AS 46.04, [OR] AS 46.09, or AS 46.14;

18 (2) fails to provide information or provides false information required  
19 by AS 46.03.755, AS 46.04, or AS 46.09, or by a regulation adopted by the  
20 department under AS 46.03.755, AS 46.04, or AS 46.09; [OR]

21 (3) makes a false statement or representation in an application, label,  
22 manifest, record, report, permit, or other document filed, maintained, or used for  
23 purposes of compliance with AS 46.03.250 - 46.03.314 applicable to hazardous wastes  
24 or a regulation adopted by the department under AS 46.03.250 - 46.03.314;

25 (4) makes a false statement, representation, or certification in an  
26 application, notice, record, report, permit, or other document filed, maintained,  
27 or used for purposes of compliance with AS 46.14 or a regulation adopted under  
28 AS 46.14; or

29 (5) renders inaccurate a monitoring device or method required to  
30 be maintained under AS 46.14, a regulation adopted under AS 46.14, or a permit  
31 issued by the department or a local air quality control program under AS 46.14.

1 \* Sec. 20. AS 46.03.790 is amended by adding a new subsection to read:

2 (h) Notwithstanding AS 12.55.035(b), upon conviction of a violation related  
3 to AS 46.14 and described in (a) of this section, a defendant who is not an  
4 organization may be sentenced to pay a fine of not more than \$10,000 for each  
5 separate violation.

6 \* Sec. 21. AS 46.03.850(a) is amended to read:

7 (a) When, in the opinion of the department, a person is violating or is about  
8 to violate a provision of this chapter, [OR] AS 46.04, or AS 46.14, or a regulation or  
9 lawful order of the department, or a permit or certificate, or a term or condition of a  
10 permit or certificate issued by the department under this chapter, [OR] AS 46.04,  
11 AS 46.14, the department may notify the person of its determination by personal  
12 service or certified mail. The determination and notice do not constitute an order under  
13 AS 46.03.820.

14 \* Sec. 22. AS 46.03.860 is amended to read:

15 Sec. 46.03.860. INSPECTION WARRANT. The department may seek search  
16 warrants for the purpose of investigating actual or suspected sources of pollution or  
17 contamination or to ascertain compliance or noncompliance with AS 46.14 or this  
18 chapter or a regulation adopted under AS 46.14 or this chapter.

19 \* Sec. 23. AS 46.03.875 is amended to read:

20 Sec. 46.03.875. REMEDIES CUMULATIVE. All remedies provided by this  
21 chapter, [OR] AS 46.04, or AS 46.14 are cumulative, and the securing of relief,  
22 whether injunctive, civil, or criminal, under a section of this chapter, [OR] AS 46.04,  
23 or AS 46.14 does not stop the state from obtaining relief under any other section of  
24 this chapter, [OR] AS 46.04, or AS 46.14.

25 \* Sec. 24. AS 46.03.890(b) is amended to read:

26 (b) Inspection and enforcement employees of the department designated by the  
27 commissioner are peace officers in the performance of their duties under this chapter,  
28 AS 46.04, [AS 46.03, AND] AS 46.09, and AS 46.14.

29 \* Sec. 25. AS 46.35.200(4)(A) is amended to read:

30 (A) emission control [AIR EMISSIONS] permit - AS 46.14  
31 [AS 46.03.150], 18 AAC 50.120;

1 \* Sec. 26. AS 46.35.200(8) is amended to read:

2 (8) "state agency" means a state department, commission, board or  
3 other agency of the state; for the purposes of this chapter "state agency" also means  
4 a local or regional air pollution control authority established under AS 46.14.400  
5 [AS 46.03.210].

6 \* Sec. 27. AS 46.03.140, 46.03.150, 46.03.160, 46.03.170, 46.03.180, 46.03.190, 46.03.210,  
7 46.03.220, 46.03.225, 46.03.230, and 46.03.245 are repealed.

8 \* Sec. 28. AS 46.14.110, enacted by sec. 2 of this Act, is repealed on the day after the day  
9 the federal administrator approves the state's program under 42 U.S.C. 7661a(d) (Clean Air  
10 Act, sec. 502(d)).

11 \* Sec. 29. COMPLIANCE ADVISORY PANEL; INITIAL TERMS. Notwithstanding  
12 AS 46.14.320, added by sec. 2 of this Act, the terms of the initial members of the compliance  
13 advisory panel shall be as follows:

14 (1) the terms of the members appointed under AS 46.14.320(b)(1) shall be one  
15 year;

16 (2) the terms of the members appointed under AS 46.14.320(b)(3)(A) shall be  
17 three years;

18 (3) the terms of the members appointed under AS 46.14.320(b)(3)(B) and (C)  
19 shall be two years.

20 \* Sec. 30. REGULATIONS. The Department of Environmental Conservation may adopt  
21 regulations as authorized by this Act, and other statutory authority, to implement changes  
22 made by this Act. Regulations adopted under this section may not take effect until the  
23 corresponding enabling statute takes effect under sec. 31 or sec. 32 of this Act.

24 \* Sec. 31. Sections 1, 3 - 30, and AS 46.14.010, 46.14.015, 46.14.020, 46.14.030,  
25 46.14.110, 46.14.120(a) and (c) - (e), 46.14.130(a)(1) - (3) and (5), 46.14.140, 46.14.170,  
26 46.14.180, 46.14.190, 46.14.200, 46.14.215, 46.14.255, 46.14.280, 46.14.300, 46.14.310,  
27 46.14.320, 46.14.400, 46.14.410, 46.14.500, 46.14.510, 46.14.515, 46.14.520, 46.14.525,  
28 46.14.530, 46.14.540, 46.14.550, 46.14.560, 46.14.900, and 46.14.990, enacted by sec. 2 of  
29 this Act, take effect immediately under AS 01.10.070(c).

30 \* Sec. 32. AS 46.14.120(b), 46.14.130(a)(4) and (b), 46.14.150, 46.14.160, 46.14.210,  
31 46.14.220, 46.14.230, 46.14.235, 46.14.240, 46.14.250, 46.14.260, 46.14.270, 46.14.275,

1 46.14.285, and 46.14.290, enacted by sec. 2 of this Act, take effect on the day after the day  
2 the federal administrator approves the state program under 42 U.S.C. 7661a(d) (Clean Air Act,  
3 sec. 502(d)). The commissioner shall immediately notify the lieutenant governor and the  
4 revisor of statutes of the day of the federal administrator's approval.



**DEPARTMENT OF  
ENVIRONMENTAL CONSERVATION**

**Air Quality Management**



**1990 AMENDMENTS to the CLEAN AIR ACT  
and their IMPACTS on ALASKA**

# EFFECTS OF 1990 AMENDMENTS

## Mobile Sources

Cold Start  
CO Standards  
Inspections



**CLEAN UP POOR  
AIR QUALITY AREAS**

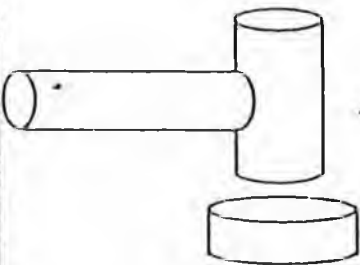
189  
HAZARDOUS  
AIR  
POLLUTANTS

## Clean Air Act Amendments

Nov. 15, 1990

## State Operating Permit Program

One Permit: All Requirements of Act  
Federal Emission Standards  
Technology to Reduce Hazardous Emissions  
Voluntary Emission Limits to Avoid Permits  
Compliance Monitoring and Reporting  
Public and EPA Review  
Administrative and Judicial Review of Actions



## Enforcement

State in Lead Role

~~ACID  
RAIN  
REDUCTIONS~~

Alaska  
Exempt

Small Business  
Assistance Program

# WHO NEEDS AIR PERMITS

## 1. FACILITIES THAT EMIT 100 TONS PER YEAR

*Of Any Criteria Air Contaminant*

*( CO, SO<sub>2</sub>, NO<sub>2</sub>, Pb, PM, O<sub>3</sub> )*

## 2. FACILITIES THAT EMIT 10 TONS PER YEAR

*Of Any Hazardous Air Contaminant*

*OR*

*25 TPY Aggregate of Multiple Contaminants*

## 3. FACILITIES SUBJECT TO FEDERAL EMISSION LIMITS

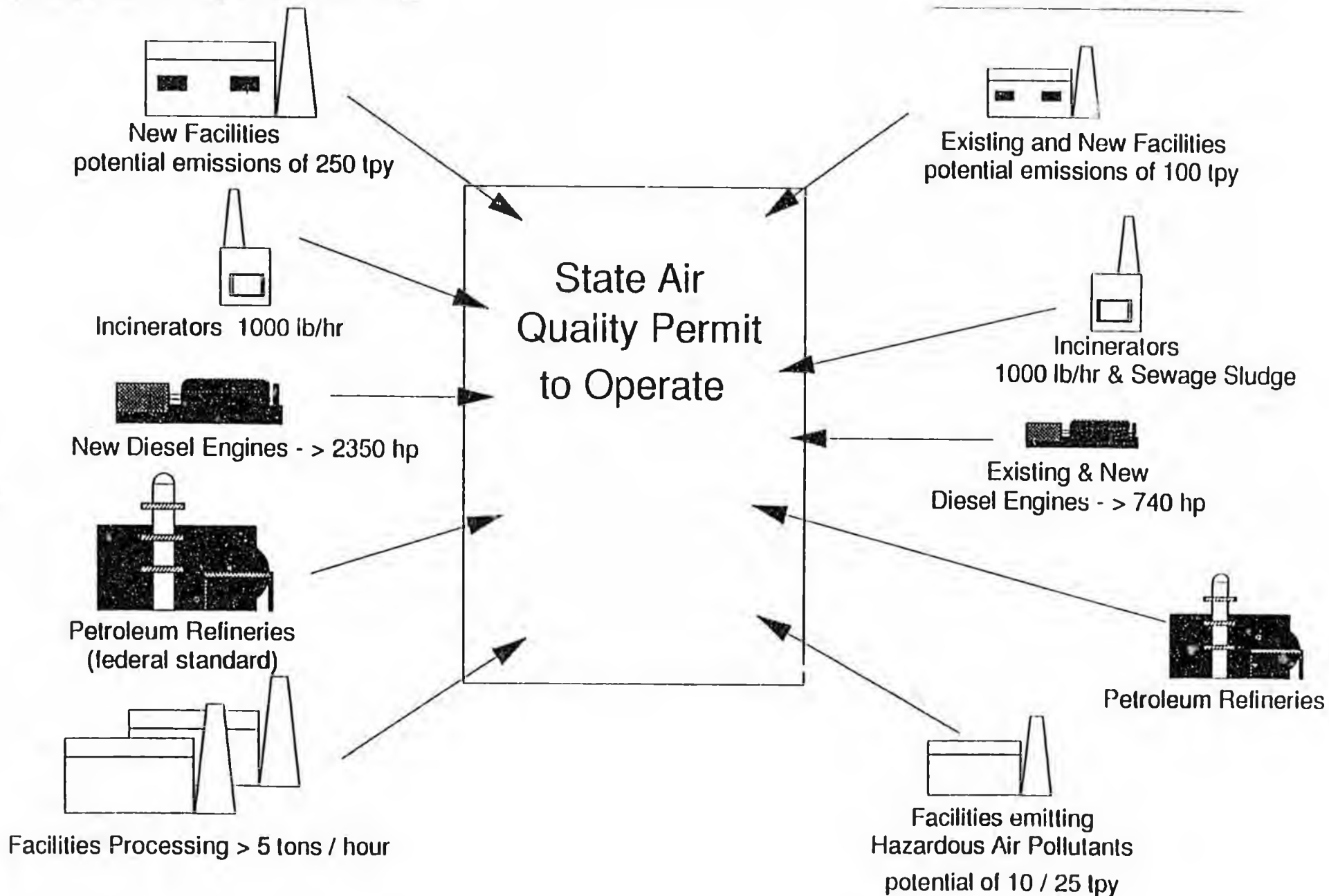
*New Source Performance Standards*

*Implementing Technology for Hazardous Emissions*

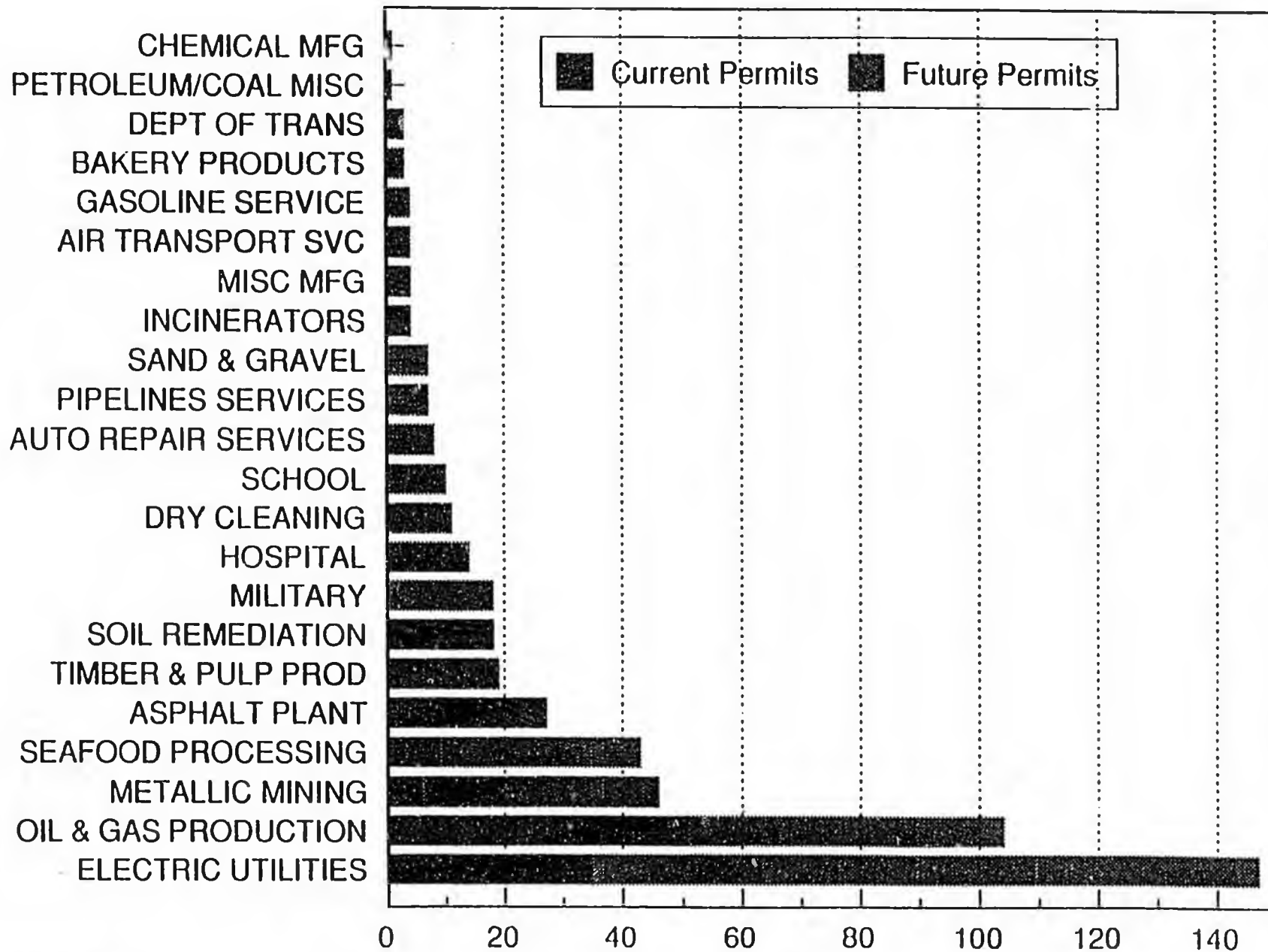
# WHO NEEDS AN AIR PERMIT ?

## EXISTING PERMIT PROGRAM

## 1990 CLEAN AIR ACT



Facilities Required to Have Air Permits  
by Facility Type



## **FOCUS OF PERMIT RESTRUCTURING**

### **- RETAIN STATE JURISDICTION -**

*Responsive to Public & Industry Needs*

*Prevent Federal Intervention*

### **- FULL SERVICE ON AIR PERMITS -**

*Single Permit \ All Requirements*

### **- DESIGNED W/ CHECKS & BALANCES -**

*Public Health Protection w/ Accountability for Good Science*

*Fee Structure that Stimulates Efficiency*

*Public Participation that's Timely & Time Certain*

*General Permits for Streamlined Issuance*

### **- KNOWLEDGE AND UNDERSTANDING OF REQUIREMENTS -**

*Explicit and Detailed Laws*

# AIR QUALITY PERMIT BILL

## ALASKA AIR STATUTES REQUIRED & ESSENTIAL FEATURES

## BILL SECTION TITLE

Exclusive Fund for Air Permit Program	Clean Air Protection Fund Special Account
Create Small Business Assistance Program Create Advisory Panel Provide Assistance to Larger Group	Small Business Assistance Program Power to Limit Program Compliance Advisory Panel
Modify Criminal Provisions and Fines	Criminal Penalties for Air Pollution
Construction Permits v. Operating Permits Agency/Operator Emission Limits to Avoid Need for Permit	Classification of Facilities or Sources; Reporting Permits for Construction, Modifications or Operations Responsibilities of Owner and Operator Facilities Requiring Permits Administrative Actions Regarding Permits Emissions Control Permit Program Regulations Air Pollution from Outer Continental Shelf Activities Authority of the Department in Cases of Emergency
General Permits	General Operating Permits
Flexibility for Permit Fee Structure	Permit Administration Fees Emission Fees
Ability to Implement New Federal Rules in Permits Reopening of Permits	Incorporated into other sections
Emission Limits Based on Health Risks or Available Technology	Incorporated into other sections
Local Governments to be Implementing Partners	Local Air Quality Control Program Inadequacy of Local Program State and Federal Aid
Administrative Penalties for Violations Deter EPA Intervention	Not in Bill
Public Involvement in Permits Public Review of Permits Appeal through Adjudication Judicial Review EPA Review Public to Petition EPA	Review of Permit Action  Objection by Federal Administration
Retain & Update Existing Statutes	

# CAA Deadlines & Sanctions

## DEADLINES

11/15/92 Submit Small Business Assistance Plan  
Submit SIP Revisions for Non-Attainment Areas

11/15/93 Submit State Operating Permit Program

## SANCTIONS

After 11/15/93 EPA may impose any of the following:

See CAAA 90 - Section 502(d)(2)(A)

Prohibition on Federal Highway Funds statewide

Require 2 to 1 offset of emissions for new sources in non-Attainment areas

Withhold any Federal Air Grant Funds

Prohibit expansion of airports in Non-Attainment areas

5/15/95 EPA must impose all of the following:

See CAAA 90 - Section 502(d)(2)(B)

Prohibition on Federal Highway Funds statewide

Require 2 to 1 offset of emissions for new sources in non-attainment areas

Withhold any Federal Air Grant Funds

Prohibit expansion of airports in Non-Attainment areas

11/15/95 EPA must implement Federal Permit Program

See CAAA 90 - Section 502(d)(3)

EPA Operating permits -

Little consideration for Alaska-specific Concerns

Federal program offers less operational flexibility

Federal program has more facility reporting requirements

No General Permits

Will take longer to issue than State permit

EPA collects permit fees -

Collected fees go to Federal government, not Alaska

Federal Permit Fees likely to be higher than State Permit Fees

Federal Permit Fees will not reduce program support from State General Funds

# PERMIT FEE DESIGN

## - " PERMIT ADMINISTRATION FEE " - \$ / hour

*Pay for Direct Services Provided*

*Low Demand - Low Costs / High Demand - High Costs*

*Agency Accountability w/ Evident Billings*

*Fee Rate Projected to be \$ 78 / hour*

## - " EMISSION FEES " - \$ / emission

*Pay for Intangible Benefits of Program*

*- reconcile fed laws to Alaska situations*

*- management control for consistency*

*- rent, utilities, accounting etc.*

*Policy Directive to Achieve " Equitable Apportionment "*

*between facility types & sizes*

*Interim Rate w/ Mandate for Further Research*

*Fee Rate Projected to be \$ 5 / Ton of Emission*

**AIR QUALITY LEGISLATIVE WORKING COMMITTEE**

**COMMITTEE MEMBERS**

1/28/93

NAME	AFFILIATION	REPRESENTING	CONTACT NO.
Lee Browning	Municipality of Anchorage	Alaska Municipal League	Phone 343-4928 Fax 343-6740
Steven Taylor	British Petroleum Exploration Inc.	Alaska Oil & Gas Assoc.	Phone 564-4037 Fax 564-5020
Harry Noah Gene Andrews (alternate)	Consultant	Council of Alaska Producers (mining trade assoc.)	Phone 265-3100 or 452-4653 Fax 265-3180 or 451-4305
John Iani Rick Lauber (alternate)	Pacific Seafood Processors Assoc.	Pacific Seafood Processors	Phone (206) 281-1667 or 586-6366 Fax (206) 283-2387 (Both) 463-5298
Linda Dianne Rabb	Rural Alaska Power Assoc.	Rural Electric Utilities	Phone 345-5771 Fax 345-5878
Carl Harmon	Chugach Electric Association	Large Electric Utilities for Alaska Rural Electric Cooperative Assoc. (ARECA)	Phone 762-4739 Fax 562-0027
Larry Opperman	U.S. Air Force	U.S. Air Force	Phone 552-7753 Fax 552-1533
Aimee Boulanger	Alaska Center for the Environment	Environmental Advocacy Groups for the Alaska Environmental Lobby	Phone 274-3621 Fax 274-4145
Eric Myers	Self	General Public	Phone 272-3034 Fax 272-7122
Tom Chapple	Alaska Dept. of Environmental Conservation (ADEC)	ADEC	Phone 465-5100 Fax 465-5129

# SUMMARY of the 1990 CLEAN AIR ACT

Prepared  
September 16, 1992  
by  
Alaska Department of Environmental Conservation

On November 15, 1990, President Bush signed into law amendments to the federal Clean Air Act (Act). The revised law initiated sweeping changes in air quality management throughout the nation. The summary below will provide you with some basic information on this complex law.

## TITLE I - AIR POLLUTION PREVENTION AND CONTROL

*Section 109 of the Act provides for the establishment of National Ambient Air Quality Standards. Primary standards are designed to "...protect public health with an adequate margin of safety." Secondary standards "...protect the public welfare from any known or anticipated adverse effects associated with the presence of such air pollutants in the ambient air." To date, National Ambient Air Quality Standards exist for ozone, carbon monoxide, nitrogen dioxide, sulfur dioxide, particulate matter, and lead.*

*Section 110 of the Act requires states to submit a plan to EPA "...which provides for implementation, maintenance, and enforcement..." of the ambient air quality standards. This plan is often referred to as the State Implementation Plan (SIP). In Alaska, this information is contained in the State Air Quality Control Plan and the Alaska Air Quality Control Regulations.*

*Section 111 of the Act provides for the establishment of Standards of Performance for New Stationary Sources (NSPS). These standards establish emission limitations for specific air pollution sources, or categories of sources, based upon the use of feasible technology. Each source category standard is updated every few years to reflect technological advances.*

*Section 112 of the Act (Title III of the 1990 Amendments) provides for the establishment of National Emissions Standards for Hazardous Air Pollutants (NESHAPS). Prior to 1990, this provision of law regulated specific industrial processes which emitted any of eight hazardous air pollutants. As part of the 1990 Act, 189 hazardous air pollutants were established by Congress. EPA is required to develop a list of categories of stationary sources that emit the listed pollutants. In developing this list, EPA must consider the*

quantity of pollution typically emitted and the potential danger to public health. The Act then requires EPA to establish maximum achievable control technology (MACT) emission or work practice standards for these selected source categories over a period of twelve years. EPA is also establishing "area source" categories which will be required to apply generally available control technology (GACT) to reduce emissions. The list of hazardous air pollutants may be revised by EPA. In addition, any person may petition EPA to modify the list of hazardous air pollutants.

Section 113 of the Act gives EPA federal enforcement authority when the provisions of a permit or applicable implementation plan are violated and states fail to adequately initiate enforcement. EPA's authority varies depending upon the violations, but generally includes: issuing orders, assessing administrative penalties, and bringing civil or criminal action.

Part C of Title I maintains the previously established program for the Prevention of Significant Deterioration (PSD). This program is intended to prevent long term degradation of air quality in regions where the air quality is currently good. This will be achieved through a permit program that requires new industry sources to install Best Available Control Technology (BACT) to reduce out of stack emissions and sets a "cap" on ground level pollution increases. A permit can not be issued to a project if it causes a violation of either the National Ambient Air Quality Standards or the air quality increment caps.

Part D of Title I contains the requirements for implementation plans for regions not in attainment with the National Ambient Air Quality Standards. It sets the groundwork to help nonattainment regions reach attainment with the air quality standards. Part D also contains a requirement for the review of new or modified major stationary sources such as power plants and oil refineries. Both pre-construction permits and operating permits are required for major sources located within nonattainment areas. In Alaska, Anchorage and Fairbanks are nonattainment for carbon monoxide, with Eagle River and the Mendenhall Valley of Juneau being nonattainment for airborne particulate matter.

## **TITLE II - NATIONAL EMISSION STANDARDS ACT**

### **Part A - Motor Vehicle Emission Standards**

Section 202 of the Act provides for the establishment of emission standards for automobiles and light duty trucks. The standards become progressively more stringent with the newer model vehicles. In the future, Alaska will be affected by cold weather carbon monoxide standards for new vehicles. Tailpipe standards can only be set by the federal government (California excepted) and can potentially address other mobile sources, including airplanes and ships.

Section 207 of the Act provides for the establishment of an Inspection and Maintenance (I & M) program in carbon monoxide nonattainment areas to assure proper maintenance

*of vehicular pollution control equipment. Automobiles, trucks, and vehicles up to 12,000 pounds laden weight in Anchorage and Fairbanks are subject to section 202 and are required to pass an emission inspection every year.*

*Section 211 of the Act provides for the regulation of fuels. Reformulated fuel programs, such as oxygenated gasoline (Oxy-Fuels) and low sulfur diesel fuel, are intended to reduce tailpipe emissions through more complete combustion of the fuel (oxy-fuel) or by reducing the contaminant pollutant in the fuel (sulfur). The Oxy-Fuels program currently being implemented in Anchorage and Fairbanks should bring these areas into attainment with the national and state ambient air quality standard for carbon monoxide.*

*Part B provides for the establishment of aircraft emission standards and enforcement. Section 231 provides for: the analysis of the effect of aircraft emissions on air quality, "...the technological feasibility of controlling such emissions"; and . provides for the development of aircraft emission standards.*

*Part C establishes clean fuel vehicle programs which encourages alternative fuels, such as propane or compressed natural gas, and flexible-fuel and dual-fuel vehicles.*

### **TITLE III - GENERAL**

*Title III provides for the general administration of the Act, including Emergency Powers (section 303), Citizen Suits (section 304), Judicial Review (section 307), and Economic Impact Analysis and Assessment (sections 312 & 317, respectively).*

### **TITLE IV - ACID DEPOSITION CONTROL**

*Title IV establishes a program to reduce acid rain deposition. Emission of sulfur dioxide and oxides of nitrogen, mostly from large fossil fuel fired electric utilities, will be controlled during the implementation of a two phase emission reduction program. Title IV does not apply to Alaska, Hawaii, Guam, or Samoa because of the physical distance of these states from the problem areas of New England, Eastern Canada and selected western mountain regions.*

### **TITLE V - PERMITS**

*Sections 502, 503, & 504 of the Act provide for the establishment of uniform, nationwide air pollution permitting programs directed by the states. All major sources of air pollution will be required to obtain air permits under the new program.*

*A major source is either: a facility which has the potential to emit 100 tons per year or more of a criteria air pollutant (sulfur dioxide, carbon monoxide, nitrogen oxides, lead, particulate matter or ozone via hydrocarbon emissions); a facility which has the potential*

*to emit 10 tons per year or more of any hazardous air pollutant, or 25 tons per year or more of any combination of hazardous air pollutants; or a facility for which federal emissions standards exist under the New Source Performance Standards provision of the Act.*

*States must develop an air pollution permitting program complying with the provisions of Title V, or risk losing jurisdiction of their air quality resources. Alaska is currently in the process of developing an air quality statutory bill. New statutory authority is necessary before compliance with Title V can be achieved.*

*Section 507 provides for the establishment of a Small Business Stationary Source Technical and Environmental Compliance Assistance Program. The small business assistance program (SBAP) is envisioned to take a pro-active role in helping small businesses understand and comply with the complex provisions of the Act.*

## **TITLE VI - STRATOSPHERIC OZONE PROTECTION**

*Title VI provides the framework for reducing emissions of ozone depleting chemicals, such as refrigerants, consistent with the Montreal Protocol.*

*Section 602 of the Act lists Class I and Class II substances. Class I substances include many of the chlorofluorocarbons (CFC's), halons, carbon tetrachloride, and methyl chloroform. Class II substances include many of the hydrochlorofluorocarbons (HCFC's).*

*Section 604 details the scheduled phase-out of production and consumption of Class I substances, while section 605 details the scheduled phase-out of production and consumption of Class II substances. Section 608 prohibits any person from knowingly venting refrigerants to the atmosphere. It also mandates the regulation of servicing and disposal of refrigeration and air conditioning units. Section 609 provides for regulating the service of automotive air conditioners. Other portions of Title VI require regulation of nonessential uses of products containing Class I substances, and provide for the identification of alternatives to the use of ozone depleting substances.*

# HB 167 / AIR QUALITY PERMITS

## SECTIONAL ANALYSIS

CS HB 167(FIN)

April 21, 1993

### Section 1.

**POLICY AND PURPOSES** - The section describes the intent of the Alaska Legislature for enacting this bill.

### Section 2.

**AS 46.14.010. EMISSION CONTROL REGULATIONS** - Subsection (a) provides authority for the department to establish ambient air quality (public health) standards and emission (out-of-stack) standards.

Subsection (b) identifies a specific subset of standards (standards which go beyond those required by federal law) that may only be adopted following completion of staff investigations, a determination of findings to support the action and completion of independent review of the findings.

Subsection (c) describes the type of findings that must be made prior to considering the adoption of a standard described in (b).

Subsection (d) describes a specific type of finding that must be made when the proposed standard is more stringent than a comparable federal standard.

Subsection (e) requires that certain performance requirements incorporated in permits are to be adopted in regulations. This will assure due process and generally assist in creating a permit program that is overt in having all general requirements published in regulation for the public and the regulated community to be aware of.

Subsection (f) provides for setting facility-wide emission standards in lieu of individual exhaust stack emission standards.

**AS 46.14.015. SPECIAL PROCEDURES FOR MORE STRINGENT REGULATIONS** - The section describes the details of how the department is to secure independent peer review of its findings prior to proposing adoption of a standard that fits the criteria of AS 46.14.010(b). Peer review is performed by at least three separate parties outside the agency who have particular expertise in the subject matter under review. The department then takes the original findings and the peer review reports to public review prior to considering the adoption of a standard. Peer review services are secured by professional service contracts. Peer review is optional at the request of any potentially affected regulated party for cost containment reasons, because the cost of the permit program (and peer review) must be borne by the permit holders. However, the cost of peer review is not borne directly by the party(s) that may be regulated by the proposed action.

**AS 46.14.020. CLASSIFICATION OF FACILITIES OR SOURCES; REPORTING** - This section serves two purposes. First, it enables the language in the bill to be succinct by allowing certain facility types identified in federal law to be classified and listed in regulation rather than statute. Secondly, it enables the department to request information from any generator of air pollution in order to assess whether that activity potentially endangers public health or air resource standards.

**AS 46.14.030. STATE AIR QUALITY PLAN** - The purpose of this section is to delegate authority from the Governor to the commissioner for actions related to the state plan. The operating permit program will be only incidentally related to the state plan under the new Clean Air Act.

**AS 46.14.110. ADDITIONAL CONTAMINANT CONTROL MEASURES** - This section brings forward existing law in AS 46.03.160 into the newly created chapter. The statute is the principal authority used now to issue air quality permits. The section is repealed on the date that the federal administrator approves the revised permit program which is described throughout the chapter.

**AS 46.14.120. PERMITS FOR CONSTRUCTION, MODIFICATION, OR OPERATION** - The section contains the basic authority to require construction and operating permits for subject facilities.

Subsection (b) allows a facility to begin operation even while its application is still pending provided that an application was timely submitted. This is commonly referred to as the "application shield" which will be especially important during program start-up.

Subsection (e) describes under what conditions a source or facility may be exempted from the permit program. Under federal law there is a very small set of sources that may be considered for exemption. This language provides that if the federal administrator exempts a source or facility, the commissioner of ADEC, after "considering the factors used by the administrator ..... shall issue a similar determination unless public health or air quality effects provide a reasonable basis to regulate the source. This reasonable basis standard (term of art established by the courts relating to the integrity of the evidence) exists in other sections of the bill to provide for the potential event that future knowledge may support that additional regulatory action is justifiable and prudent for protecting public health. Additional criteria necessary to support adoption of this type of regulation is delineated in AS 46.14.010 & 46.14.015.

**AS 46.14.130. FACILITIES REQUIRING PERMITS** - The purpose of this section is to delineate which facilities need either construction permits or operating permits. To keep the text of this section brief, the section calls upon the authority of another section (AS 46.03.020) to enable classification or grouping of facility types that are either unique relative to the need to acquire a permit under state or federal law or must be subject to a specific type of review under federal law as part of the permit review.

In general, whether or not a facility needs a permit is based upon the quantity of air pollution that the facility has the **potential** to emit. Other provisions in the bill (AS 46.14.140) allow the department to recognize the **actual** rate of emissions in determining whether a permit is needed.

**AS 46.14.140. EMISSION CONTROL PERMIT PROGRAM REGULATIONS** - In this section, authority is established to adopt regulations to implement the permit program. The essential elements of the regulations and permits are listed and certain criteria are set for those regulations. The language "The regulations must be reasonable and adequate, and provide flexibility in the operation of a facility..." is established as a performance criteria for the regulations.

**AS 46.14.150. TIME FOR SUBMISSION OF OPERATING PERMIT APPLICATIONS** - The section identifies when operating permit applications are due. In most cases the due date is within twelve months after the permit program is first approved by EPA or twelve months after a facility becomes regulated (begins to operate).

**AS 46.14.160. COMPLETENESS DETERMINATION** - Permit applications are to be reviewed within 60 days after submittal, with the applicant being informed if the application is either complete or incomplete. If no written response is made within the 60 days the application is deemed complete. Subsection (c) allows the department to request additional information after completeness, provided the information is required to evaluate or act on the application. This is the second of three sections required for the application shield.

**AS 46.14.170. ADMINISTRATIVE ACTIONS REGARDING PERMITS** - The language in this section specifies the timeliness for permit decisions. General permits and temporary operating permits will be issued in shorter time periods than other operating permits.

**AS 46.14.180. MONITORING** - The section describes that air monitoring required by the department must be associated with compliance assessment for the facility's regulated air emissions.

**AS 46.14.190. SINGLE PERMIT** - The section specifies that only a single operating permit is required for each facility. However, a facility operator may request that more than one permit be issued to assist in internal management of the air pollution generating equipment at the facility.

**AS 46.14.200. REVIEW OF PERMIT ACTION** - This section describes that any person or party may obtain an adjudicatory hearing and then a judicial review if that party 1) participated in the public comment process or 2) is otherwise a person who has a private, substantive and legally protected interest under state law.

**AS 46.14.210. GENERAL OPERATING PERMITS** - Many general or "master" permits will be developed, each tailored to fit a number of individual but similar equipment installations. Once developed, each separate general permit can be issued very quickly. Issuance of general permits is one of the key elements in enabling the revised permit program to be efficient. The individual costs of obtaining a general permit will be comparatively low since the development costs will be shared among all projected users.

**AS 46.14.215. TEMPORARY OPERATIONS** - This section is to provide flexibility to transportable facilities that relocate based on short term projects. The permit will authorize facility operation at a number of preset locations.

**AS 46.14.220. OBJECTION BY FEDERAL ADMINISTRATOR** - This language indicates that the Environmental Protection Agency has review authority on each and every operating permit and may stop permit issuance based upon specific legal inadequacies of a drafted permit. This is a mandatory provision if the state is to receive federal approval of the permit program. This feature only applies to operating permits, not construction permits.

**AS 46.14.230. DURATION OF OPERATING PERMITS** - The language specifies that all operating permits, except temporary operating permits, are to be issued for a fixed term of five years.

**AS 46.14.235. FEDERAL TERMINATION, MODIFICATION, OR REVOCATION AND REISSUANCE OF PERMITS** - This directs the department to take actions to avoid federal intervention on a permit.

**AS 46.14.240. PERMIT ADMINISTRATION FEES** - The language is developed on the policy premise that a cost generator is to be a cost bearer. By setting this fee rate on a basis of dollars per hour of agency service provided, accountability for cost control within government and the regulated community will provide a strong motivation for program efficiency. The permit administration fees are to recover the costs incurred by the agency in reviewing, issuing and maintaining the permit. The services listed in the section are the only services for which permit administration fees will be assessed.

Facility owners that qualify for the small business assistance program will receive assistance for some of the services identified in this section under that program at no direct cost to the owner.

**AS 46.14.250. EMISSION FEES** - In addition to the permit administration fee, each permittee is assessed an annual emission fee based upon the quantity of air contaminants emitted that year. The purpose of the emission fee is to distribute the costs of performing those functions of the permit program that benefit or assist all permit holders, yet are not directly attributable to any single facility. In short, these are the indirect costs of the program and include costs such as rent, utilities, accounting, the small business assistance program and working with EPA to assure that new federal laws are reasonable for Alaska situations.

The initial fee is temporary. ADEC must research factors that will lead to fee equitability and revise the fee prior to third year based upon its research published in a report. Thereafter, the agency must revisit the fee structure at least every three years.

**AS 46.14.255. PENALTY AND INTEREST FOR NONPAYMENT** - This section allows the department to assess interest for late payment of permit fees based upon the rate of two percentage points above the prime interest rate. Interest begins to accrue 30 days after payment is due.

A penalty may be assessed for nonpayment, but only 45 days after a separate notice is issued indicating that the fee is past due. A maximum penalty is five percent per month up to 25 percent of the total fee due.

**AS 46.14.260. CLEAN AIR PROTECTION FUND** - This section creates the necessary fund to receive the permit fees. A dedicated fund is required for federal approval of the permit program to assure that the monies are secured for the sole use of the air permit program.

**AS 46.14.270. SPECIAL ACCOUNT** - An account is established within the general fund to receive civil or criminal penalties, interest and penalties, late fee payments, fines, assessments, damages, interest and attorney fees related to violations of air quality control laws.

**AS 46.14.275. TIMELY AND COMPLETE APPLICATION AS SHIELD** - The section creates the so called "application shield". The application shield becomes effective for a permit applicant once a complete application has been submitted in a timely manner. The section is the third of three necessary sections to create the application shield and associated issuance mechanism. Application shields are of critical importance during the initial phase of the permit program.

**AS 46.14.280. TERMINATION, MODIFICATION, REOPENING, OR REVOCATION AND REISSUANCE OF PERMITS BY THE DEPARTMENT** - The section has three subparts; one which describes the conditions under which the department may terminate, modify or revoke and reissue (revoke-reissue is one action) a permit. Other conditions describe the grounds for permit modification or revocation and reissuance, and subsection(c) describes the events under which a permit is reopened to incorporate changes in federal law.

**AS 46.14.285. AMENDMENT AND MODIFICATION OF PERMIT UPON REQUEST OF PERMITTEE** - The section delineates the various types of permit changes that can be accomplished upon request of a permittee. The language is directly linked to similar changes that are elaborated upon in federal regulations.

**AS 46.14.290. PERMIT AS SHIELD** - The section provides for a shield from litigation by third parties provided that the permittee complies with the terms of the permit. There are some limitations in federal law regarding activities that can be "shielded". The permit shield is optional, but considered important by the regulated community.

**AS 46.14.300. SMALL BUSINESS ASSISTANCE PROGRAM** - The small business assistance program is established as required by Section 507 of the Clean Air Act to assist affected small businesses in understanding and complying with the requirements of the Act. This language provides the ability to expand the program to other entities that do not meet the federal definition of a small business, but may need assistance.

The program is funded from revenues generated by emission fees with the exception of that part of the program that assists businesses that do not meet the federal definition of small business.

**AS 46.14.310. POWER TO LIMIT SMALL BUSINESS ASSISTANCE PROGRAM** - The section allows the department to exclude a business facility or category of facilities from the assistance program if it is determined that they have sufficient technical or financial capabilities to meet the requirements of the Act. This language follows similar federal statute.

**AS 46.14.320. COMPLIANCE ADVISORY PANEL** - As required by the Act, a seven member panel is selected by the Governor, the Commissioner, and the Legislature. The panel meets at least annually and provides general direction to the small business assistance program while also fulfilling a federal function of reporting on the effectiveness of the assistance program and meeting requirements of other federal laws.

**AS 46.14.400. LOCAL AIR QUALITY CONTROL PROGRAMS** - This section establishes that local programs are approved by the department through a cooperative agreement which delineates the responsibilities of both agencies. With affirmative agreement of the department, a municipality or local air quality district may establish more stringent requirements than the state if the local agency makes a finding that public health or air quality effects warrant the action. This provision does not apply to mobile source pollution control program of the local agency. Language in subsection (h) precludes local governments from collecting air permit fees.

In a state - local cooperative program, all permit fees would be collected by the state, but financial assistance to support the work performed by the local staff would be provided from the state clean air protection fund after legislative approval.

**AS 46.14.410. INADEQUACY OF LOCAL PROGRAMS** - This section specifies the process for identifying and rectifying deficiencies in executing the terms of the interagency cooperative agreement.

**AS 46.14.500. AIR POLLUTION FROM OUTER CONTINENTAL SHELF ACTIVITIES** - This section would provide the ability for the department to regulate mineral and oil & gas extraction activities located between the coast and 25 miles seaward. State authority is normally limited to that area within three miles of the coast. Section 328 of the Clean Air Act provides a mechanism to obtain delegation of federal authority and thereby extend the geographic range of authority for certain activities.

**AS 46.14.510. MOTOR VEHICLE POLLUTION** - The section brings language currently contained in AS 46.03.190 into the new Chapter 14.

**AS 46.14.515. INSPECTION** - The language specifies who may enter a facility and what that person may inspect or examine.

**AS 46.14.520. CONFIDENTIALITY OF TRADE SECRETS** - The language specifies the criteria that information must meet in order to be classified as trade secrets and allow it to be protected from disclosure.

**AS 46.14.525. PUBLIC RECORDS** - This section specifies that documents associated with the permit program are public records unless specifically protected as trade secrets.

**AS 46.14.530. STATE AND FEDERAL AID** - The language in this section is the principal authority for local programs to receive air permit funds collected by the state to support the staff and other expenditures of executing a permit program at the local level. The language also allows local programs to receive federal funds without approval of the department. Federal grant funds are expected to diminish as permit programs become self funded to meet the requirements of the Act.

**AS 46.14.540. AUTHORITY OF DEPARTMENT IN CASES OF EMERGENCY** - This section provides a mechanism for the Commissioner of ADEC to authorize the immediate operation of a source or facility either without a permit or in contravention with the terms of a permit when such actions are deemed necessary in a natural emergency event.

**AS 46.14.550. RESPONSIBILITIES OF OWNERS AND OPERATORS** - This section delineates that prior to permit issuance both the owner and the operator are responsible for compliance with air quality control requirements. Following permit issuance, only the facility operator is legally responsible.

**AS 46.14.560. UNAVOIDABLE MALFUNCTIONS AND EMERGENCIES** - This language provides that emissions in excess of allowable out-of-stack standards may not be subject to enforcement as a violation of the permit if the event was caused by an on-site emergency, malfunction or non-routine repair at a facility and the operator has taken certain actions to certify that the event was unavoidable.

Federal law prohibits advanced approval for this type of variance if the emission limit is a standard used to safeguard public health. Consequently, this provision is limited to "technology" based standards which set a performance level for the equipment.

**AS 46.14.900. LIMITATIONS** - This language brings forward existing law in AS 46.03.245 into the newly created Chapter 14.

**AS 46.14.990. DEFINITIONS** - Twenty four definition of terms are created for use in this act.

### **Sections 3 through 10.**

Conforms existing statute to new citations created by this act.

### **Section 11.**

Amends existing statute to enable public utilities to adjust their electrical rate structure to recover the costs of permit fees under this chapter as part of the monthly fuel surcharge.

### **Sections 12 through 15.**

Conforms existing statute to new citations created by this act.

**Section 16.**

Accomplishes the federally required civil prosecution penalties by amending existing state law. The language clarifies that the court could also allow civil recovery of damages to persons or property under this chapter.

**Sections 17 and 18.**

Conforms existing statute to new citations created by this act.

**Sections 19 and 20.**

These sections accomplish federally required changes which identify actions that are potentially subject to criminal prosecution and the potential penalties if found guilty in such prosecutions.

**Sections 21 through 26.**

Amends existing statute to conform to provisions and citations in this act.

**Section 27.**

Repeals existing statutes that are replaced or no longer required.

**Section 28.**

Repeals the existing statute authority to issue air quality permits, on the day following the day that new permit issuance authority is approved by the federal administrator.

**Section 29.**

**COMPLIANCE ADVISORY PANEL; INITIAL TERMS** - The section initiates the advisory panel of the small business assistance program with various term durations so as to accomplished staggered terms for panel members to retain "corporate" memory during periods of reappointments.

**Section 30.**

**REGULATIONS** - Regulations may not take effect until the corresponding enabling statutes take effect.

**Section 31.**

Identifies those provisions of this act that take effect immediately.

**Section 32.**

Identifies those provisions of this act that take effect the day after the day the federal administrator approves the permit program. Delayed effectiveness is desired to allow the department and the regulated community time to prepare for the new program.

# FISCAL NOTE

STATE OF ALASKA

BILL NO. CS HB 167 (FIN)

Revision Date: 19-Apr-93  
 Title: Alaska Air Permit Statutes  
 Sponsor: Representative Mark Hanley  
 Requestor: House Finance Committee

Department Affected: Environmental Conservation  
 BRU: Environmental Quality  
 Component: Air Quality Management

COMPONENT SERIAL NO. 1428

**EXPENDITURES/REVENUES:**

(Thousands of Dollars)

OPERATING	FY 94(Note 1)	FY 95(Note 2)	FY 96	FY 97	FY 98	FY 99
PERSONAL SERVICES	(707.1) 259.7	3,125.2	3,125.2	3,125.2	3,083.1	3,083.1
TRAVEL	(103.4) 48.0	284.6	287.9	291.2	334.2	334.2
CONTRACTUAL	(182.6) 135.1	106.8	495.1	726.5	259.6	259.6
SUPPLIES	(50.5) 0.0	73.7	75.4	77.2	65.8	65.8
EQUIPMENT	(50.7) 0.0	156.8	0.0	0.0	0.0	0.0
LAND&STRUCTURES	0.0	0.0	0.0	0.0	0.0	0.0
GRANTS, CLAIMS	0.0	0.0	0.0	0.0	0.0	0.0
MISCELLANEOUS	0.0	0.0	0.0	0.0	0.0	0.0
<b>TOTAL OPERATING</b>	<b>(1094.3) 442.8</b>	<b>3747.1</b>	<b>3983.6</b>	<b>4220.1</b>	<b>3742.7</b>	<b>3742.7</b>

<b>CAPITAL</b>						
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<b>REVENUE</b>						
<b>FUND SOURCE: 1005</b>	(1094.3) 442.8	3747.1	3983.6	4220.1	3742.6	3742.6

**FUNDING:**

1002 FEDERAL RECEIPTS						
1003 GF MATCH						
1004 GF						
1005 GF/PROGRAM RECPT	(1094.3) 442.8	3747.1	3983.6	4220.1	3742.7	3742.7
1006 GF/MHTIA						
OTHER						
<b>TOTAL</b>	<b>(1094.3) 442.8</b>	<b>3747.1</b>	<b>3983.6</b>	<b>4220.1</b>	<b>3742.7</b>	<b>3742.7</b>

**POSITIONS:**

FULL-TIME	(Note 3)	4.0	22.4	22.4	22.4	21.7	21.7
PART-TIME							
TEMPORARY							

Estimate of current year (FY93) impact: \$ 0

**ANALYSIS:** (See attachment)

- Note 1: Indicates FY 94 funding authorization required above legislative approved FY 94 operating budget to implement this Act. Values in ( ) indicate permit program cost increases relative to FY 93 budget.  
 Note 2: For FY 95 and beyond, federal law requires the permit program be 100% funded by program receipts.  
 Note 3: Indicates net increase in positions relative to authorized FY 94 operating budget.

Prepared by: Leonard D. Verrelli, Chief  
Environmental Quality, Air Quality Management

Phone: 465-5100

Date: 4/19/93

Approved by Commissioner: Janice Adair, Assistant Commissioner

Agency: Department of Environmental Conservation

Date: 4-19-93

Distribution (by preparer): Legislative Finance, Legislative Sponsor, Requestor, OMB, & Impacted Agency(ies).

**1993 AIR PERMIT BILL FISCAL NOTE  
SUPPLEMENTARY EXPLANATION**

Title V of the 1990 Clean Air Act (the Act) requires each state to develop and implement a permit program under the approval and direction of the U.S. Environmental Protection Agency. **Though Alaska currently maintains an air quality permit program, the mandates imposed by the Act are expected to result in a substantially increased workload for ADEC.** The Act also mandated that each state collect fees from permittees necessary to fund the total direct and indirect costs of the permit program.

ADEC performed a comprehensive analysis during the fall of 1992 for the purpose of estimating the staff and budget increases over FY 93 due to implementing an approvable Title V permit program. The findings of this analysis are presented in a document entitled "Proposed Permit Program - Estimated Budget and Staffing," a copy of which is available from the Air Quality Management Section at ADEC. This analysis also provides estimates of fees which will be charged to permittees for the purpose of funding an approvable program. The enclosed spreadsheets on page 4 and 5 reflect the findings of this analysis and document the assumptions used to calculate the entries in the Air Permit Bill's Fiscal Note.

**ADEC expects that the number of permitted facilities will increase from the current of 175 to 450.** The Act requires that each state permit all facilities within three years of starting a permit program. ADEC plans to distribute the permitting workload equally over the first three years, so that a stable number of permitting engineers are required. In the fourth year of the permit program, the permitting workload will decrease since all existing facilities should be permitted. The inspection workload will increase as more facilities are permitted, and is expected to stabilize in year four when all facilities are permitted. ADEC plans to reassign staff, who no longer will be needed in permitting, to inspection duties. In addition, ADEC plans to contract some inspection work to private consultants. These measures are intended to avoid hiring personnel on a temporary basis; therefore stabilizing the number of personnel employed in the permit program.

The line item entries in the Operating block of the Fiscal Note reflect the total costs of the Title V air permit program for FY 95 and beyond. The budget line item allocations for ADEC's FY 93 permit program are listed at the top of page 4. **ADEC's current permit program employs 21.5 FTE (full-time equivalents) at a total cost of \$1.922 million in FY 93.** The existing program is funded by federal grant, state matching monies and program receipts. **New federal law requires that the permit program be 100 % funded by program receipts managed in a dedicated fund.** Following federal approval of the new program, current federal grant and state matching monies will not be used to support the permit program portion of the entire budget for the air quality management section.

Since the permit program established pursuant to this bill is not expected to be implemented until FY 95, no new costs are to be incurred in FY 94. In FY 95, an additional 22.4 FTE over the FY 93 will be required for implementation of the permit program. The majority of the staff will be involved with permit issuance tasks. This is the only year ADEC expects to hire employees for this permit program.

The following comments apply to the operating line items for FY 95 to FY 99.

- a. Travel costs are estimated from historical records and projections based upon the number of permittees who will be subject to the permit program. Travel cost increase from FY 95 to 98, since both the number of permittees and the number of required inspections increase as ADEC issues permits to facilities which are not currently permitted. Travel costs stabilize in FY 98 when the program enters the continuation phase.
- b. Contractual costs increase from FY 95 to FY 97 because ADEC plans to secure contracts with consultants to perform some of the required facility inspections. Contracting this excess inspection workload will avoid the need to hire state employees on a temporary basis. Inspection contracting may cease in FY 98 when the number of employees involved in permitting will decline and these employees will be shifted to the inspection group.
- c. Supply costs increase from FY 95 to FY 97 due to the increase in costs associated with permitting such as public hearings and advertisement, and supplies needed for the increased number of facilities to be inspected. The costs stabilize in FY 98 as the program enters the continuation phase.
- d. Equipment costs are incurred in FY 95 when ADEC employs the additional staff needed to implement the permit program. Costs are necessary to purchase employee workstations and are figured at \$7000 per employee. No employees are expected to be hired in other fiscal years.

1993 AIR BILL FISCAL NOTE BACK-UP

**FY 93 TOTAL PERMIT PROGRAM COSTS**

Pers. Services	Travel	Contractual	Supplies	Equipment	FTE
1390.4	130.9	294.3	49.5	57.2	21.5

FY 93 TOTAL 1922.3

**FY 95 TOTAL PERMIT PROGRAM COSTS**

Group	Pers. Services	Travel	Contractual	Supplies	Equipment	FTE
Per Ton Services	917.0	89.7	31.0	21.3	N/A	12.7
Permits	1558.5	50.0	54.2	29.0	N/A	22.3
Compliance	536.1	124.8	18.2	9.8	N/A	7.5
Monitoring	113.5	20.1	3.4	13.6	N/A	1.4
Totals	3125.2	284.6	106.8	73.7	156.8	43.9

FY 95 TOTAL 3747.1

**FY 96 TOTAL PERMIT PROGRAM COSTS**

Group	Pers. Services	Travel	Contractual	Supplies	Equipment	FTE
Per Ton Services	917.0	89.7	76.5	21.3	0.0	12.7
Permits	1558.5	50.0	133.9	29.0	0.0	22.3
Compliance	536.1	124.8	276.4	9.8	0.0	7.5
Monitoring	113.5	23.4	8.4	15.3	0.0	1.4
Totals	3125.2	287.9	495.1	75.4	0.0	43.9

FY 96 TOTAL 3983.6

1993 AIR BILL FISCAL NOTE BACK-UP

**FY 97 TOTAL PERMIT PROGRAM COSTS**

Group	Pers. Services	Travel	Contractual	Supplies	Equipment	FTE
Per Ton Services	917.0	89.7	76.5	21.3	0.0	12.7
Permits	1558.5	50.0	133.9	29.0	0.0	22.3
Compliance	536.1	124.8	507.8	9.8	0.0	7.5
Monitoring	113.5	26.7	8.4	17.1	0.0	1.4
Totals	3125.2	291.2	726.5	77.2	0.0	43.9

**FY 97 TOTAL 4220.1**

**FY 98 TOTAL PERMIT PROGRAM COSTS**

Group	Pers. Services	Travel	Contractual	Supplies	Equipment	FTE
Per Ton Services	917.0	89.7	76.5	21.3	0.0	12.7
Permits	931.1	35.0	78.6	13.2	0.0	13.1
Compliance	1121.5	179.5	96.1	12.5	0.0	16.0
Monitoring	113.5	30.0	8.4	18.8	0.0	1.4
Totals	3083.1	334.2	259.6	65.0	0.0	43.2

**FY 98 TOTAL 3742.6**

**FY 99 TOTAL PERMIT PROGRAM COSTS**

Group	Pers. Services	Travel	Contractual	Supplies	Equipment	FTE
Per Ton Services	917.0	89.7	76.5	21.3	0.0	12.7
Permits	931.1	35.0	78.6	13.2	0.0	13.1
Compliance	1121.5	179.5	96.1	12.5	0.0	16.0
Monitoring	113.5	30.0	8.4	18.8	0.0	1.4
Totals	3083.1	334.2	259.6	65.8	0.0	43.2

**FY 99 TOTAL 3742.6**

Position Title Environmental Engineering Associate		No. of Positions 11	Range / Step 18A	Barg. Unit GG
Time Status Full Time	Staff Months 132	Location Various		Election District Various
<b>TYPE OF EXPENDITURE</b>		Amount	Justification	
Salary		\$461.9	<p>The new Clean Air Act of 1990 requires all states to establish a completely new operating permit program which takes into account small sources never permitted before, includes greater public participation in the permit process, and requires the collection of fees to completely offset all costs for the review, issuance, and maintenance of the permit program. The Act also requires states to establish a Small Business Assistance Program which aids small businesses in permit process, provides technical and compliance assistance, and provides information about pollution prevention methods.</p> <p>The Environmental Engineering Associate will assist senior staff to:</p> <ol style="list-style-type: none"> <li>1. develop revised regulations and procedures, recognizing small business concerns;</li> <li>2. develop standardized permit applications;</li> <li>3. identify and assist new permittees;</li> <li>4. provide assistance and information to permit applicants;</li> <li>5. review permit applications;</li> <li>6. prepare draft permits;</li> <li>7. develop the small business and pollution prevention programs;</li> <li>8. train regional and district permit liaisons;</li> <li>9. conduct inspections and compliance certifications;</li> </ol> <p>and</p> <ol style="list-style-type: none"> <li>10. establish a quality control/quality assurance audit program.</li> </ol>	
Benefits		\$181.2		
Premium Pay		\$0.0		
Other	19% Administrative	\$122.2		
Total Personal Services		\$765.3		
Travel	\$ 4,150 / FTE	\$45.8		
Contractual *	\$ 6,000 / FTE	(\$16.0)		
Commodities	\$ 1,500 / FTE	\$16.5		
Equipment	\$ 7,000 / FTE	\$77.0		
Other				
Total Cost		\$888.6		
<b>FUNDING SOURCE FOR TOTAL COST</b>				
Federal Receipts	1002			
G. F. Match	1003			
General Fund	1004			
I-A Receipts	1007			
CIP Receipts	1061			
Other	Program Receipts	\$888.6		
* EPA IPA position shifted from contractual to salary line item				

AGENCY Environmental Conservation

BRU Environmental Quality

COMPONENT Air Quality Management

FY 95

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Revised Date: 2/1/93

**Request For  
New Position**

Position Title Environmental Engineer II		No. of Positions 3	Range / Step 20A	Barg Unit GG
Time Status Full Time	Staff Months 36	Location Various		Election District Various
<b>TYPE OF EXPENDITURE</b>		Amount	Justification	
Salary		\$144.2	<p>The new Clean Air Act of 1990 requires all states to establish a completely new operating permit program which takes into account small sources never permitted before, includes greater public participation in the permit process, and requires the collection of fees to completely offset all costs for the review, issuance, and maintenance of the permit program. The Act also requires states to establish a Small Business Assistance Program which aids small businesses in permit process, provides technical and compliance assistance, and provides information about pollution prevention methods.</p> <p>The Environmental Engineer II will:</p> <ol style="list-style-type: none"> <li>1. supervise and evaluate the activities of the permitting and compliance assurance staff;</li> <li>2. develop and implement procedures to accomplish permitting and compliance assurance tasks;</li> <li>3. review the technical and economic feasibility of methods to maintain the ambient air quality standards;</li> <li>4. provide statewide technical support to other agencies and the private sector;</li> <li>5. make presentations on the status of compliance efforts;</li> <li>6. make recommendations for changes to department policy, procedures and regulations;</li> <li>7. assure uniform implementation of State and Federal air quality regulations.</li> </ol>	
Benefits		\$54.3		
Premium Pay		\$0.0		
Other	19% Administrative	\$37.7		
Total Personal Services		\$236.2		
Travel	\$ 4,000 / FTE	\$12.0		
Contractual	\$ 6,000 / FTE	\$18.0		
Commodities	\$ 1,500 / FTE	\$4.5		
Equipment	\$ 7,000 / FTE	\$21.0		
Other				
Total Cost		\$291.7		
<b>FUNDING SOURCE FOR TOTAL COST</b>				
Federal Receipts	1002			
G.F. Match	1003			
General Fund	1004			
I-A Receipts	1007			
CAF Receipts	1061			
Other	Program Receipts	\$291.7		

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BRU Environmental Quality

COMPONENT Air Quality Management

**FY 95**

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Revised Date: 2/1/93

**Request For  
New Position**

Position Title Environmental Manager I (Small Business Advocate)		No. of Positions 1	Range / Step 20A	Barg Unit Supervisory
Time Status Full Time	Staff Months 12	Location Anchorage		Election District Anchorage
<b>TYPE OF EXPENDITURE</b>		Amount	<b>Justification</b>  The new Clean Air Act of 1990 requires all states to establish a completely new operating permit program which takes into account small sources never permitted before, includes greater public participation in the permit process, and requires the collection of fees to completely offset all costs for the review, issuance, and maintenance of the permit program. The Act also requires states to establish a Small Business Assistance Program which aids small businesses in permit process, provides technical and compliance assistance, and provides information about pollution prevention methods.  The Environmental Manager I (Small Business Advocate) will: <ol style="list-style-type: none"> <li>1. develop revised regulations, recognizing small business concerns;</li> <li>2. identify and assist small business permittees;</li> <li>3. develop standardized permit applications;</li> <li>4. prepare pollution prevention assistance programs;</li> <li>5. provide assistance and information to permit applicants;</li> <li>6. supervise the small business program;</li> <li>7. train regional and district small business liaisons;</li> </ol> and <ol style="list-style-type: none"> <li>8. report to the Small Business Compliance Advisory Panel</li> </ol>	
Salary		\$48.4		
Benefits		\$18.1		
Premium Pay		\$0.0		
Other	10% Administrative	\$12.6		
Total Personal Services		\$79.1		
Travel		\$40.3		
Contractual	\$ 6,000 / FTE	\$6.0		
Commodities	\$ 1,500 / FTE	\$1.5		
Equipment	\$ 7,000 / FTE	\$7.0		
Other	Compliance Advisory Panel Costs	\$25.4		
Total Cost		\$159.3		
<b>FUNDING SOURCE FOR TOTAL COST</b>				
Federal Receipts	1002			
G.F. Match	1003			
General Fund	1004			
I-A Receipts	1007			
CIP Receipts	1051			
Other	Program Receipts	\$159.3		

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Revised Date: 2/1/93

**Request For  
New Position**

Position Title <b>Attorney III</b>		No. of Positions <b>1</b>	Range / Step <b>22A</b>	Barg. Unit <b>Partially Exempt</b>
Time Status <b>Full Time</b>	Staff Months <b>6</b>	Location <b>Juneau</b>		Election District <b>Juneau</b>
<b>TYPE OF EXPENDITURE</b>		Amount	Justification  The new Clean Air Act of 1990 requires all states to establish a completely new operating permit program which takes into account small sources never permitted before, includes greater public participation in the permit process, and requires the collection of fees to completely offset all costs for the review, issuance, and maintenance of the permit program. The Act also requires states to establish a Small Business Assistance Program which aids small businesses in permit process, provides technical and compliance assistance, and provides information about pollution prevention methods.  The Attorney III will: 1. issue opinions to interpret and apply legislation, regulations or other legal instruments; 2. draft enabling statutory authority; 3. perform comprehensive studies of legal questions where development of all background material is required; 4. advise and assist state agencies in conducting hearings and conferences and in preparing findings of fact, conclusions of law and decisions; 5. provide assistance to program staff on statutory procedures; 6. review State Implementation Plan revisions prior to submission to USEPA, and 7. review regulations prior to submission to Department of Law.	
Salary		\$26.7		
Benefits		\$9.7		
Premium Pay		\$0.0		
Other	19% Administrative	\$6.9		
Total Personal Services		\$43.3		
Travel	\$ 4,000 / FTE	\$2.0		
Contractual	\$ 6,000 / FTE	\$3.0		
Commodities	\$ 1,500 / FTE	\$0.8		
Equipment	\$ 7,000 / FTE	\$3.5		
Other				
Total Cost		\$52.6		
<b>FUNDING SOURCE FOR TOTAL COST</b>				
Federal Receipts	1002			
G. F. Match	1003			
General Fund	1004			
I-A Receipts	1007			
CIP Receipts	1061			
Other	Program Receipts	\$52.6		

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Revised Date: 2/1/93

**Request For  
New Position**

Position Title <b>Analyst Programmer III</b>		No. of Positions <b>1</b>	Range / Step <b>17A</b>	Barg Unit <b>GG</b>
Time Status <b>Full Time</b>	Staff Months <b>11</b>	Location <b>Juneau</b>		Election District <b>Juneau</b>
<b>TYPE OF EXPENDITURE</b>		Amount	Justification	
Salary		\$35.1	<p>The new Clean Air Act of 1990 requires all states to establish a completely new operating permit program which takes into account small sources never permitted before, includes greater public participation in the permit process, and requires the collection of fees to completely offset all costs for the review, issuance, and maintenance of the permit program. The Act also requires states to establish a Small Business Assistance Program which aids small businesses in permit process, provides technical and compliance assistance, and provides information about pollution prevention methods.</p> <p>The Analyst Programmer III will:</p> <ol style="list-style-type: none"> <li>1. develop and maintain the air permit database system;</li> <li>2. develop and maintain a permit fee analysis and collection system;</li> <li>3. perform the duties of the LAN administrator, including routine system backups;</li> <li>4. write general instructions for using network programs;</li> <li>5. guide and advise less-informed colleagues on an informal basis in the use of programming languages and data processing techniques;</li> <li>6. research and respond to complaints regarding the permit application system; and</li> <li>7. train users in the use and application of user friendly data processing systems.</li> </ol>	
Benefits		\$14.1		
Premium Pay		\$0.0		
Other	<b>19% Administrative</b>	\$9.3		
Total Personal Services		\$58.5		
Travel		\$0.0		
Contractual	<b>\$ 6,000 / FTE</b>	\$5.5		
Commodities	<b>\$ 1,500 / FTE</b>	\$1.4		
Equipment	<b>\$ 7,000 / FTE</b>	\$6.3		
Other				
Total Cost		\$71.7		
<b>FUNDING SOURCE FOR TOTAL COST</b>				
Federal Receipts	1002			
G.F. Match	1003			
General Fund	1004			
I-A Receipts	1007			
CIP Receipts	1061			
Other	Program Receipts	\$71.7		

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BRU Environmental Quality

COMPONENT Air Quality Management

Revised Date: 2/1/93

**Request For  
New Position**

Position Title Paralegal Assistant II		No. of Positions 1	Range / Step 16A	Barg Unit GG
Time Status Full Time	Staff Months 11	Location Juneau		Election District Juneau
<b>TYPE OF EXPENDITURE</b>		Amount	<b>Justification</b>  The new Clean Air Act of 1990 requires all states to establish a completely new operating permit program which takes into account small sources never permitted before, includes greater public participation in the permit process, and requires the collection of fees to completely offset all costs for the review, issuance, and maintenance of the permit program. The Act also requires states to establish a Small Business Assistance Program which aids small businesses in permit process, provides technical and compliance assistance, and provides information about pollution prevention methods.  The Paralegal Assistant II will: 1. assist in drafting enabling statutory authority, 2. assist in developing comprehensive and understandable regulations, 3. draft procedures for public participation in the permit process, 4. prepare draft regulations for pollution prevention; 5. provide assistance to program staff on regulatory procedures; 6. assist in developing the State Implementation Plan; 7. prepare program authority certifications to USEPA; 8. develop enhanced administrative review procedures; and 9. coordinate with established judicial review procedures.	
Salary		\$32.8		
Benefits		\$13.5		
Premium Pay		\$0.0		
Other	19% Administrative	\$9.8		
Total Personal Services		\$55.1		
Travel	\$ 4,000 / FTE	\$3.6		
Contractual	\$ 6,000 / FTE	\$5.5		
Commodities	\$ 1,500 / FTE	\$1.4		
Equipment	\$ 7,000 / FTE	\$6.3		
Other				
Total Cost		\$71.9		
<b>FUNDING SOURCE FOR TOTAL COST</b>				
Federal Receipts	1002			
G.F. Match	1003			
General Fund	1004			
IA Receipts	1007			
CIP Receipts	1061			
Other	Program Receipts	\$71.9		

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BRU Environmental Quality

COMPONENT Air Quality Management

Revised Date: 2/1/93

**Request For  
New Position**

Position Title <b>Administrative Assistant II</b>		No. of Positions <b>1</b>	Range / Step <b>14A</b>	Barg. Unit <b>GG</b>
Time Status <b>Full Time</b>	Staff Months <b>10</b>	Location <b>Juneau</b>		Election District <b>Juneau</b>
<b>TYPE OF EXPENDITURE</b>		Amount	<b>Justification</b>  The new Clean Air Act of 1990 requires all states to establish a completely new operating permit program which takes into account small sources never permitted before, includes greater public participation in the permit process, and requires the collection of fees to completely offset all costs for the review, issuance, and maintenance of the permit program. The Act also requires states to establish a Small Business Assistance Program which aids small businesses in permit process, provides technical and compliance assistance, and provides information about pollution prevention methods.  The Administrative Assistant II will: 1. provide assistance and information to permit applicants; 2. issue standardized permit applications; 3. supervise procedures to track permit applications and fees; 4. implement reporting and auditing procedures; 5. supervise and audit permit documentation procedures; 6. assure uniform accounting procedures for permit fees; 7. coordinate program support functions; and 8. provide standardized managerial summaries of program activity.	
Salary		\$25.4		
Benefits		\$11.0		
Premium Pay		\$0.0		
Other	<b>19% Administrative</b>	\$6.9		
<b>Total Personal Services</b>		<b>\$43.3</b>		
Travel		\$0.0		
Contractual	<b>\$ 6,000 / FTE</b>	\$5.0		
Commodities	<b>\$ 1,500 / FTE</b>	\$1.3		
Equipment	<b>\$ 7,000 / FTE</b>	\$5.6		
Other				
<b>Total Cost</b>		<b>\$55.2</b>		
<b>FUNDING SOURCE FOR TOTAL COST</b>				
Federal Receipts	1002			
G.F. Match	1003			
General Fund	1004			
I-A Receipts	1007			
CIP Receipts	1061			
Other	<b>rogram Receipts</b>	<b>\$55.2</b>		

AGENCY Environmental Conservation

FY 95

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BRU Environmental Quality

COMPONENT Air Quality Management

Revised Date: 2/1/93

**Request For  
New Position**

Position Title Data Processing Clerk II		No. of Positions 1	Range / Step 09A	Barg. Unit GG
Time Status Full Time	Staff Months 11	Location Juneau		Election District Juneau
<b>TYPE OF EXPENDITURE</b>		Amount	Justification  The new Clean Air Act of 1990 requires all states to establish a completely new operating permit program which takes into account small sources never permitted before, includes greater public participation in the permit process, and requires the collection of fees to completely offset all costs for the review, issuance, and maintenance of the permit program. The Act also requires states to establish a Small Business Assistance Program which aids small businesses in permit process, provides technical and compliance assistance, and provides information about pollution prevention methods.  The Data Processing Clerk II will: 1. verify document entry sheets for correctness; 2. key enter data via computer terminal; 3. access and provide specified data information; 4. prepare diskettes for data entry; 5. prepare information packets for potential permittees; 6. prepare permit documentation and correspondence; 7. implement reporting and auditing procedures; and 8. develop standardized managerial summaries of fund activity.	
Salary		\$21.0		
Benefits		\$10.3		
Premium Pay		\$0.0		
Other	19% Administrative	\$5.9		
Total Personal Services		\$37.2		
Travel		\$0.0		
Contractual	\$ 6,000 / FTE	\$5.5		
Commodities	\$ 1,500 / FTE	\$1.4		
Equipment	\$ 7,000 / FTE	\$6.3		
Other				
Total Cost		\$50.4		
<b>FUNDING SOURCE FOR TOTAL COST</b>				
Federal Receipts	1002			
G.F. Match	1003			
General Fund	1004			
I-A Receipts	1007			
CIP Receipts	1081			
Other	Program Receipts	\$50.4		

AGENCY Environmental Conservation

BRU Environmental Quality

COMPONENT Air Quality Management

FY 95

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Revised Date: 2/1/93

**Request For  
New Position**

Position Title Clerk Typist III		No. of Positions 35	Range / Step 08A	Barg. Unit GG
Time Status Full Time*	Staff Months 41	Location Various		Election District Various
<b>TYPE OF EXPENDITURE</b>		Amount	<b>Justification</b>  The new Clean Air Act of 1990 requires all states to establish a completely new operating permit program which takes into account small sources never permitted before, includes greater public participation in the permit process, and requires the collection of fees to completely offset all costs for the review, issuance, and maintenance of the permit program. The Act also requires states to establish a Small Business Assistance Program which aids small businesses in permit process, provides technical and compliance assistance, and provides information about pollution prevention methods.  The Clerk Typist III will assist senior staff to: 1. prepare information packets for permittees; 2. provide assistance and information to permit applicants; 3. operate small businesses and pollution prevention hotlines; 4. issue and receive standardized permit applications; 5. develop procedures to track permit applications; 6. prepare permit documentation and correspondence; 7. develop correspondence tracking systems; and 8. develop and maintain application and permit files.	
Salary		\$74.8		
Benefits		\$37.8		
Premium Pay		\$0.0		
Other 19% Administrative		\$21.4		
Total Personal Services		\$134.0		
Travel		\$0.0		
Contractual \$ 6,000 / FTE		\$20.5		
Commodities \$ 1,500 / FTE		\$5.1		
Equipment \$ 7,000 / FTE		\$23.8		
Other				
Total Cost		\$183.4		
<b>FUNDING SOURCE FOR TOTAL COST</b>				
Federal Receipts	1002			
G.F. Match	1003			
General Fund	1004			
I-A Receipts	1007			
CIP Receipts	1061			
Other Program Receipts		\$183.4		
* 3 Full Time 1 Half Time				

AGENCY Environmental Conservation

BRU Environmental Quality

COMPONENT Air Quality Management

**FY 95**

Page 9 of 9

Revised Date: 2/1/93

**Request For  
New Position**

FISCAL NOTE

STATE OF ALASKA  
1993 LEGISLATIVE SESSION

BILL NO. CSHB 167 (JUD)

Revision Date: April 15, 1993  
Title: "An Act relating to air quality, and the prevention, abatement, and control of air pollution..."  
Sponsor: Representative Hanley  
Requestor: Governor's Office/OMB

Department Affected: Law  
BRU: Legal Services  
Component: Operations  
COMPONENT SERIAL NO. 0093

EXPENDITURES/REVENUES:

OPERATING	FY 94	FY 95	FY 96	FY 97	FY 98	FY 99
PERSONAL						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND &						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	xxxxx	xxxxx	xxxxx	xxxxx	xxxxx	xxxxx

CAPITAL						
---------	--	--	--	--	--	--

REVENUE						
FUND SOURCE:						

FUNDING:

1002 Federal						
1003 GF Match						
1004 GF						
1005 GF/Program						
1006 GF/MHTIA						
OTHER						
TOTAL	xxxxx	xxxxx	xxxxx	xxxxx	xxxxx	xxxxx

POSITIONS:

FULL-TIME	xxxxx	xxxxx	xxxxx	xxxxx	xxxxx	xxxxx
PART-TIME						
TEMPORARY						

Estimate of current year (FY93) impact: \_\_\_\_\_

ANALYSIS: (Attach a separate page if necessary.)

Please see attached analysis.

Prepared by: Richard I. Peques, Director  
Division: Administrative Services Division  
Approved by Commissioner: Charles E. Cole, Attorney General  
Agency: Department of Law

Phone: 465-3672  
Date: April 15, 1993  
Date: April 15, 1993

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FISCAL NOTE

STATE OF ALASKA  
1993 LEGISLATIVE SESSION

BILL NO. CSHB 167 (TUD)

ANALYSIS: (continued)

This bill amends AS 46 by adding a new chapter that would establish a comprehensive state regulatory program to prevent, abate, control, and identify air pollution that complies with the Clean Air Act. The bill makes numerous changes in state law, which are designed to allow the state to continue to have primary management of air quality in the state and to retain federal approval of the state's air quality control program. The bill would provide authority to the Department of Environmental Conservation to regulate emissions or contaminants not currently regulated in federal law, and the bill would provide specific authority to require a permit for a facility or source not regulated in federal law.

The Department of Law is concerned about provisions in Section 2 that set the standards for the adoption of emission control regulations, in proposed AS 46.14.010 and AS 46.14.015, which could cause a significant undetermined cost for our department. Specifically, the bill requires that before adopting air quality control regulations, the Department of Environmental Conservation shall demonstrate that the proposed standard or emission limitation is technologically and economically feasible. This requires that the Department of Environmental Conservation provide written findings that regulations proposed to be adopted are necessary to protect human health and the environment and that the proposed standard or emission limitation meets the feasibility requirement. Normally, state regulations are adopted based on the standard set forth in AS 44.62.030, which requires that a regulation be consistent with a statute and reasonably necessary to carry out the purposes of the statute.

Because of the bill's higher standard for the adoption of regulations, the department believes that considerable attorney time will be required to help the Department of Environmental Conservation develop the facts and findings that will be necessary each time a regulation is adopted. Furthermore, because regulations adopted under this higher standard can be site and emission specific to a particular permit, there is a high potential for litigation challenging regulations and permits adopted under the new standards. Consequently, the Department of Law's cost for defending air quality regulations adopted in accordance with these provisions could be equally high. At this time, we cannot accurately predict what these costs will be without knowing the specifics of regulations that may be adopted under the bill. However, there could be a significant additional cost for the Department of Law in the future.

FISCAL NOTE

STATE OF ALASKA  
1993 LEGISLATIVE SESSION

BILL NO. WORK DRAFT - CSHB 167 (FIN)

Revision Date: April 19, 1993  
 Title: "An Act relating to air quality, and the prevention, abatement, and control of air pollution..."  
 Sponsor: Representative Hanley  
 Requestor: Governor's Office/OMB

Department Affected: Law  
 BRU: Legal Services  
 Component: Operations  
 COMPONENT SERIAL NO. 0093

EXPENDITURES/REVENUES:

OPERATING	FY 94	FY 95	FY 96	FY 97	FY 98	FY 99
PERSONAL						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND &						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	xxxxx	xxxxx	xxxxx	xxxxx	xxxxx	xxxxx

CAPITAL						
---------	--	--	--	--	--	--

REVENUE FUND SOURCE:						
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FUNDING:

1002 Federal						
1003 GF Match						
1004 GF						
1005 GF/Program						
1006 GF/MHTIA						
C THER						
TOTAL	xxxxx	xxxxx	xxxxx	xxxxx	xxxxx	xxxxx

POSITIONS:

FULL-TIME	xxxxx	xxxxx	xxxxx	xxxxx	xxxxx	xxxxx
PART-TIME						
TEMPORARY						

Estimate of current year (FY93) impact: \_\_\_\_\_

ANALYSIS: (Attach a separate page if necessary.)

Please see attached analysis.

Prepared by: Richard I. Peques, Director Phone: 465-3672  
 Division: Administrative Services Division Date: April 19, 1993

Approved by Commissioner: Charles E. Cole, Attorney General  
 Agency: Department of Law Date: April 19, 1993

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FISCAL NOTE

STATE OF ALASKA  
1993 LEGISLATIVE SESSION

BILL NO. WORK DRAFT - CSHB 167 (FIN)

ANALYSIS: (continued)

The work draft version for CSHB 167 (FIN) lowers the regulations adoption standard that would have required that the Department of Environmental Conservation demonstrate that air quality emission limitations be economically feasible. The bill now requires that the DEC provide a written analysis of the economic feasibility of proposed emission standards. This version of the bill does require that the DEC prepare written findings that meteorological conditions or source characteristics reasonably require the adoption of an air quality or emission standard to protect human health and welfare or the environment. Written findings would also be required to show that the proposed standard or emission limitation is technologically feasible. Because the bill still sets a higher standard for the adoption of air quality or emission regulations than is required for the adoption of other state regulations, we still anticipate challenges to these regulations. However, the potential for challenges will be lessened because the requirement that the DEC demonstrate that proposed regulations are economically feasible has been dropped. Consequently, the bill will still have a fiscal impact (although probably reduced) for the Department of Law.

# HOUSE COMMITTEE REPORT

4/7

(7)

Date Referred: February 19, 1993

FURTHER REFERRALS:

Finance

Date of Committee Action: 4-6-93

HB 167

The JUDICIARY Committee considered:  
HOUSE BILL NO. 167

AIR QUALITY CONTROL PROGRAM

"An Act relating to air quality control and the prevention, abatement, and control of air pollution; relating to civil and criminal penalties, damages, and other remedies for air quality control violations; clarifying the definition of 'hazardous substance' to include releases and threatened releases to the atmosphere; amending the lien provisions relating to the oil and hazardous substance release response fund; relating to inspection and enforcement powers of the Department of Environmental Conservation; and providing for an effective date."

RECOMMENDATIONS:

be replaced with CS HB 167 (JUD)  the same title  a new title

have attached amendments(s)

do pass

do not pass

no recommendations

individual recommendations

additional referral to the \_\_\_\_\_ Committee

ADOPTS: \_\_\_\_\_ letter of Intent

ATTACHES NEW FISCAL NOTE(S): (Dept) \_\_\_\_\_

APPROVES PREVIOUS: (Dept/Date) \_\_\_\_\_

fiscal impact DEC

fiscal note(s) \_\_\_\_\_

zero fiscal note \_\_\_\_\_

zero fiscal note(s) \_\_\_\_\_

SIGNING DO PASS	DP	OTHER RECOMMENDATIONS	DNP	NR	AM
<i>Pete Post</i> <small>Kott</small>	2	<i>Green</i>			✓
<i>Gail Phillips</i> <small>Phillips</small>	✓	<i>Davidson</i>			✓
<i>Janette James</i> <small>James</small>	✓	<i>Davidson</i>			✓
<i>Brian Porter</i> <small>Porter</small>	✓				

*Brian Porter* Porter  
CHAIRMAN'S SIGNATURE

# HOUSE COMMITTEE REPORT

(11)

Date Referred: April 7, 1993

FURTHER REFERRALS:

Date of Committee Action: 4/20/93

The FINANCE Committee considered:  
HOUSE BILL NO. 167

HB 167

AIR QUALITY CONTROL PROGRAM

"An Act relating to air quality control and the prevention, abatement, and control of air pollution; relating to civil and criminal penalties, damages, and other remedies for air quality control violations; clarifying the definition of 'hazardous substance' to include releases and threatened releases to the atmosphere; amending the lien provisions relating to the oil and hazardous substance release response fund; relating to inspection and enforcement powers of the Department of Environmental Conservation; and providing for an effective date."

RECOMMENDATIONS:

be replaced with CSHB 167 (FIN)  the same title  a new title

have attached amendments(s)

do pass

do not pass

no recommendations

individual recommendations

additional referral to the \_\_\_\_\_ Committee

ADOPTS: \_\_\_\_\_ letter of Intent

ATTACHES NEW FISCAL NOTE(s): \_\_\_\_\_ (Dept)

APPROVES PREVIOUS: \_\_\_\_\_ (Dept/Date)

fiscal impact DE, LAW

fiscal note(s) \_\_\_\_\_

zero fiscal note \_\_\_\_\_

zero fiscal note(s) \_\_\_\_\_

SIGNING DO PASS	DP	OTHER RECOMMENDATIONS	DNP	NR	AM
Eileen P. Maclean					
Bruce Larson	X	Bruce Hoffman			
Terry Martin	X	Mike Navarre			
Scott Parnell	X	Kay Brown			
Mark Stanley	X				
James Grussendorf	X				
Richard Foster	X				

  
 CHAIRMAN'S SIGNATURE