

**HB**

**160**

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STATE OF ALASKA  
OFFICE OF THE GOVERNOR  
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HB160  
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March 5, 2003

The Honorable Pete Kott  
Speaker of the House  
Alaska State Legislature  
State Capitol, Room 208  
Juneau, AK 99801-1182

Dear Speaker Kott:

Under Authority of article III, section 18, of the Alaska Constitution, I am transmitting a bill related to the state's air quality control program.

The State of Alaska has responsibility for management of air quality and recognizes that air permits are necessary to maintain Alaska's excellent air quality. The bill achieves protection of air quality while reforming the permit review process to make permitting predictable, reliable and rational. Specifically, the bill will:

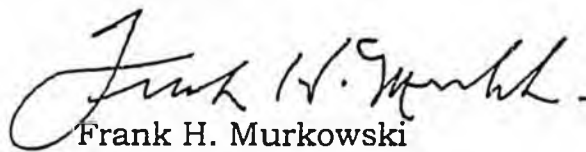
- Allow DEC's program to reflect national precedents, court decisions, and incorporate best practices from other states into our permits.
- Differentiate major source from minor source permits.
- Regulate minor sources based on standardized permit conditions that incorporate best management practices.
- Exempt sources based on standardized permit conditions that incorporate best management practices.
- Exempt sources from permitting to the extent allowed under federal law.
- Achieve efficiency through adopting federal rules by reference.

The Honorable Pete Kott  
March 5, 2003  
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In the end, the reform that this bill initiates will result in more efficient review of permits and more "hard-hat time" for field inspectors working to make sure standards are protective and permits are enforced.

I urge your prompt and favorable consideration of this important legislation.

Sincerely,



Frank H. Murkowski  
Governor

Section	What it does	Why it does it
1	Adds air permitting to AS 37.05	Authorizes change to flat fees
2	Adds air permitting to AS 37.10	Authorizes change to flat fees
3	Replaces state terminology with federal terminology and updates cross reference to minor source program	
4	Replaces state terminology with federal terminology	
5	Replaces state terminology with federal terminology	
6	Replaces state terminology with federal terminology	
7	Replaces state terminology with federal terminology	
8	Replaces state terminology with federal terminology	
9	Replaces state terminology with federal terminology	
10	Replaces state terminology with federal terminology	
11	Replaces state terminology with federal terminology	
12	Adds the requirement to get a minor permit and adds ability to exempt sources from operating permits to the extent allowed by federal law.	Needed to establish the minor permitting program, and existing law restricts department ability to exempt source if EPA has not explicitly exempted them.
13	Eliminates the requirement to obtain a construction permit or operating permit for minor sources.	Allows a clearer distinction between major and minor source permitting by reserving construction and operating permits for major sources.
14	Uses the categories removed from major source permitting to establish the category of minor permits, and continues the enforceability of existing permits while the minor permits are pending.	Allows a clearer distinction between major and minor source permitting by establishing a separate category of permit for minor sources.
15	Adds phrase to exempt the minor permit program from the itemized list of required regulations.	Allows the department to adopt only those regulations necessary for the minor permit program
16	Replaces state terminology with federal terminology	

Section	What it does	Why it does it
17	Eliminates the operating permit deadline for a facility which needs an operating permit but no construction permit.	Deadline is unnecessary and creates compliance issues without environmental benefit.
18	Replaces state terminology with federal terminology	
19	Adds cross reference for minor source permit program	
20	Add deadline for minor source permit actions	
21	Replaces state terminology with federal terminology	
22	Replaces state terminology with federal terminology	
23	Add phrase which acknowledges that a public comment period may not be required for minor permits.	
24	Replaces state terminology with federal terminology	
25	Establishes the authority and rules for general minor permits.	Current general permit authority is based on Title V requirements and contains restrictions that may not be appropriate for minor sources.
26	Limits the applicability of temporary permits section to operating permits.	Existing section is required for Title V permits. New minor permit program may establish temporary permits which deviate from these title v restrictions.
27	Replaces state terminology with federal terminology	
28	Substitutes permit fees under AS 37.010 for the current hourly fees, while maintaining the small business fee aspect required by Title V	Authorizes change to flat fees
29	Replaces state terminology with federal terminology	
30	Maintains certain permit administration work as free to the individual small business	Required by Title V

Section	What it does	Why it does it
31	Makes fee review every four years instead of every three, and changes assessable emissions to be based on potential to emit rather than emissions authorized by permit.	Review schedule change makes this regulation consistent with AS 37.010. Change to assessable emissions is needed for clarity.
32	Clarifies that sources which have minor or construction permits also must pay emission fees	Existing statute requires emission fees from facilities subject to the operating permits program. The bill proposes to change who needs an operating permit; therefore, this section ensures that regulated source must still pay emission fees.
33	Replaces state terminology with federal terminology	
34	Establishes receipt account for non-Title V fees	Needed to collect non-title V revenue outside of dedicated CAPF
35	Makes the new minor permits subject to the department's termination, modification, and reopening authority.	
36	Replaces state terminology with federal terminology	
37	Replaces state terminology with federal terminology	
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47	Replaces state terminology with federal terminology	

Section	What it does	Why it does it
48	Changes definitions	Makes terminology consistent with Federal law
49	Changes definitions	Makes terminology consistent with Federal law
50	Changes definitions	Makes terminology consistent with Federal law
51	Changes definitions	Makes terminology consistent with Federal law
52	Changes definitions	Makes terminology consistent with Federal law
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56	Changes definitions	Makes terminology consistent with Federal law
57	Changes definitions	Makes terminology consistent with Federal law
58	Changes definitions	Makes terminology consistent with Federal law
59	Adds new federal definitions	Makes terminology consistent with Federal law
60	Repeals Definitions no longer used	
61	Session law to maintain current permit compliance until new minor permits are issued	Allows time for the department to establish new minor source permit regulations and issue permits while maintaining environmental protection afforded by existing permits.
62	Session law to allow regulations to be adopted but not be effective prior to effective date of statutory sections.	
63	Session law to apply definition changes to currently adopted regulations until those regulations can be changed.	
64	Makes statutory changes, except for those relating to fees, effective immediately.	

Section	What it does	Why it does it
65	Makes statutory changes relating to fees effective January 1, 2005	Allows time for the department to determine budgetary requirements, appropriate flat fees, and to adopt necessary regulations to implement.
66	Establishes effective date for new receipts account consistent with the start of fiscal year 2006	Allows time to develop needed budget documents to implement the separation of construction permit fees from the Title V fees.

## **Air Permit Reform Bill - 2003**

Notes by DEC 3/3/03

### **What Does the Bill Accomplish?**

The bill achieves protection of air quality while reforming the permit review process to make permitting predictable, reliable and rational. Specifically, the bill will:

- Allow DEC's program to reflect national precedents, court case decisions, and permit best practices in review.
- Differentiate major source from minor source permits.
- Regulate minor sources in a simpler way, with reliance on standardized permit conditions that incorporate best management practices.
- Exempt sources from permitting to the extent allowed under federal law.
- Achieve efficiency through adopting federal rules by reference.
- Change the permit fee structure to make costs predictable and reliable for permittees

In the end, the reform that this bill initiates will result in more efficient review of permits and more "hard-hat time" for field inspectors working to make sure standards are protective and permits are enforced.

### **Who was Involved in Shaping the Bill?**

DEC and the Department of Law prepared the bill. It was drafted to fulfill the recommendations of the Air Permit Work Group, a stakeholder group convened by DEC in the fall 2002.

Member entities and representatives on the Work Group were:

- Producers Council of Alaska, Charlotte MacCay (works for Teck Cominco)
- Alaska Oil and Gas Association, Jordan Jacobsen (works for Alyeska Pipeline Co.)
- Alaska Rural Electric Cooperative, Carl Harmon (works for Chugach Electric)
- Cook Inlet Regional Citizens Advisory Council, Mike Munger
- Prince William Sound Regional Citizens Advisory Council, Tom Kuckertz
- U.S. Department of Defense, Kate Siftar (works for the U.S. Army)
- DEC, Tom Chapple and John Kuterbach

Pacific Seafood Processors Assoc., Stephanie Madsen – participated in some of the meetings, but did not in the concluding meetings or drafting the final report.

Facilitator: Brian Rogers of Infoinsights facilitated the Work Group meetings

# FISCAL NOTE

**STATE OF ALASKA**  
**2003 LEGISLATIVE SESSION**

Fiscal Note Number: 1  
 Bill Version: HB 160  
 (H) Publish Date: 3/5/03

Revision Date/Time (Note if correction): \_\_\_\_\_ Dept. Affected: EC  
 Title Air Permits Bill BRU Air & Water Quality  
 Component Air Quality  
 Sponsor Rules Committee  
 Requester Governor Component No. 2061

**Expenditures/Revenues** (Thousands of Dollars)

Note: Amounts do not include inflation unless otherwise noted below.

OPERATING EXPENDITURES	FY 2004	FY 2005	FY 2006	FY 2007	FY 2008	FY 2009
Personal Services	507.3	507.3	507.3	507.3	507.3	507.3
Travel	33.7	33.7	33.7	33.7	33.7	33.7
Contractual	311.0	311.0	311.0	311.0	311.0	311.0
Supplies	4.0	4.0	4.0	4.0	4.0	4.0
Equipment	21.7	21.7	21.7	21.7	21.7	21.7
Land & Structures						
Grants & Claims						
Miscellaneous						
<b>TOTAL OPERATING</b>	<b>877.7</b>	<b>877.7</b>	<b>877.7</b>	<b>877.7</b>	<b>877.7</b>	<b>877.7</b>

<b>CAPITAL EXPENDITURES</b>						
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<b>CHANGE IN REVENUES ( )</b>						
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**FUND SOURCE** (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1037 GF/Mental Health						
1093 Clean Air Protection Fund	877.7	877.7	877.7	877.7	877.7	877.7
<b>TOTAL</b>	<b>877.7</b>	<b>877.7</b>	<b>877.7</b>	<b>877.7</b>	<b>877.7</b>	<b>877.7</b>

Estimate of any current year (FY2003) cost: 0.0  
 Mark this box (X) if funding for this bill is included in the Governor's FY 2004 budget proposal:

**POSITIONS**

Full-time	7	7	7	7	7	7
Part-time						
Temporary						

**ANALYSIS:** (Attach a separate page if necessary)  
 The Governor's operating budget contains support of the above reform to the air permit program. This bill achieves protection of air quality while reforming the permit review process to make permitting predictable, reliable and rational. Specifically, the bill will allow:

- DEC's program to reflect national precedents, court case decisions, and permit best practices.
- Differentiate major source from minor source permits.
- Regulate minor sources in a simpler way, with reliance on standardized permit conditions that incorporate best management practices.
- Exempt sources from permitting to the extent allowed under federal law.
- Achieve efficiency through adopting federal rules by reference.
- Change the permit fee structure to make costs predictable and reliable for permittees.

Prepared by: John Kuterbach Phone 465-5103  
 Division: Air & Water Quality Date/Time 3/3/03 1:53 PM  
 Approved by: Kurt Fredriksson - Deputy Commissioner Date 3/3/2003  
 Agency: Department of Environmental Conservation

## Personal Services New Position Detail

### Department of Environmental Conservation

Scenario: All Fiscal Notes - DEC FY2004 (3085)

Component: Air Quality (2061)

BRU Name: Air and Water Quality (206)

PCN	Job Class Title	Time Status	Retire Code	Barg Unit	Location	Salary Sched	Range & Steps	Budgeted Months	Split / Annual Count	Annual Salary	COLA	Premium Pay	Annual Benefits	Total Costs
18-#006	Analyst/Programmer III	FT	A	GP	Juneau	2A	18B	12.0		47,316	0	0	16,153	63,469

**Justification:**

The analyst programmer will provide the support to develop and maintain the database system for the interactive, electronic internet based on-line permit application system for the air permits section. In addition this position will develop new electronic tools to accomplish air permitting more efficiently and faster.

**Funding Detail:**

1093	Clean Air Protection Fund	100.00%	63,469
<b>Total Funding:</b>		100.00%	63,469

18-#007	Engineering Associate	FT	A	GP	Anchorage	2A	20B	12.0		54,240	0	0	17,394	71,634
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**Justification:**

The environmental engineer associate position will perform field work to provide technical assistance as well as increase on-site inspections which provide facility operators verification of their compliance. This position will also identify where environmental impacts differ significantly from the original project plans. This will improve permitting by focusing permit conditions on operations which demonstrate problems rather than over-regulating all operations to prevent problems at a few sites.

**Funding Detail:**

1093	Clean Air Protection Fund	100.00%	71,634
<b>Total Funding:</b>		100.00%	71,634

18-#008	Environmental Spec IV	FT	A	SS	Juneau	2A	20B	12.0		55,164	0	0	17,583	72,747
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**Justification:**

The environmental specialist will provide additional program development resources to accomplish permit streamlining regulation changes. This position will analyze necessary changes, draft regulation changes and manage the public process of adopting the changes. This position will also develop internal procedures and guidance to improve service delivery.

**Funding Detail:**

1093	Clean Air Protection Fund	100.00%	72,747
<b>Total Funding:</b>		100.00%	72,747

Note: If a position is split, an asterisk (\*) will appear in the Split/Count column. If the split position is also counted in the component, two asterisks (\*\*) will appear in this column.

## Personal Services New Position Detail

### Department of Environmental Conservation

Scenario: All Fiscal Notes - DEC FY2004 (3085)

Component: Air Quality (2061)

BRU Name: Air and Water Quality (206)

PCN	Job Class Title	Time Status	Retire Code	Barg Unit	Location	Salary Sched	Range & Steps	Budgeted Months	Split / Annual Count	Annual Salary	COLA	Premium Pay	Annual Benefits	Total Costs
18-#009	Environmental Spec IV	FT	A	GP	Anchorage	2A	20B	12.0		54,240	0	0	17,394	71,634

**Justification:**

The environmental specialist will lead the development of a minor source permit program which will allow DEC to address pollution from minor sources in the most cost effective and responsible manner. Currently many minor sources must go through much of the same permitting process as major sources simply because there is no mechanism to address them. A minor source permit program will direct DEC's efforts to those minor sources that truly have the potential to harm public health and welfare. This position will also work with the analyst programmer on the development of new permitting tools and on the management of contracting tools.

**Funding Detail:**

1093	Clean Air Protection Fund	100.00%	71,634
<b>Total Funding:</b>		100.00%	71,634

18-#010	Engineering Associate	FT	A	GP	Fairbanks	2B	20B	12.0		56,412	0	0	17,783	74,195
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**Justification:**

The environmental engineer associate will perform field work to provide technical assistance as well as increase on-site inspections which provide facility operators verification of their compliance. This position will also identify where environmental impacts differ significantly from the original project plans. This will improve permitting by focusing permit conditions on operations which demonstrate problems rather than over-regulating all operations to prevent problems at a few sites.

**Funding Detail:**

1093	Clean Air Protection Fund	100.00%	74,195
<b>Total Funding:</b>		100.00%	74,195

18-#011	Environmental Spec IV	FT	A	GP	Anchorage	2A	20B	12.0		54,240	0	0	17,394	71,634
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**Justification:**

The environmental specialist will conduct the internal audits for the air permits quality management system. This will reduce variability and provide useful metrics for judging the progress towards meeting performance measures and provide guidance for continual improvement of the program.

**Funding Detail:**

1093	Clean Air Protection Fund	100.00%	71,634
<b>Total Funding:</b>		100.00%	71,634

Note: If a position is split, an asterisk (\*) will appear in the Split/Count column. If the split position is also counted in the component, two asterisks (\*\*) will appear in this column.

**Personal Services New Position Detail**

Department of Environmental Conservation

Scenario: All Fiscal Notes - DEC FY2004 (3085)

Component: Air Quality (2061)

BRU Name: Air and Water Quality (206)

PCN	Job Class Title	Time Status	Retire Code	Barg Unit	Location	Salary Sched	Range & Steps	Budgeted Months	Split / Annual Count	Annual Salary	COLA	Premium Pay	Annual Benefits	Total Costs
18-#012	Environ Conserv Mgr II	FT	A	SS	Anchorage	2A	22B	12.0		62,908	0	0	18,985	81,973

**Justification:**

The environmental conservation manager will lead the design and implementation of **Component Summary** stem to reduce variability in permits. This responsibility will cover both the operation and the construction permits.  
**Total New Positions:** 7

**Funding Detail:**

1093	Clean Air Protection Fund	100.00%	81,973
<b>Total Funding:</b>		100.00%	81,973

Fund Description	Fund Percent	Fund Amount
1093 Clean Air Protection Fund	100.00%	507,286
<b>Total Funding:</b>	100.00%	507,286

Note: If a position is split, an asterisk (\*) will appear in the Split/Count column. If the split position is also counted in the component, two asterisks (\*\*) will appear in this column.