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State NPDES Authority Statutes:

Alaska



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State NPDES Authority Statutes: Alaska

[AK ST § 44.46.025](#)

[AK ST § 46.03.020](#)

[AK ST § 46.03.100](#)

[AK ST § 46.03.120](#)

Current through the 2022 legislative session.

§ 44.46.025. Fees for Services.

(a) Except as otherwise provided in AS 37.10.050--37.10.056, the Department of Environmental Conservation may adopt regulations that prescribe reasonable fees, and establish procedures for the collection of those fees, to cover the applicable direct costs, not including travel except in the case of a designated regulatory service, as that term is defined in AS 37.10.058, of inspections, permit preparation and administration, plan review and approval, and other services provided by the department relating to

- (1) animals and animal products under AS 03.05; food, drugs, and cosmetics under AS 17.20; and public accommodations and facilities under AS 18.35;
- (2) certificates of inspection for motor vehicles under AS 46.14.400 or 46.14.510;
- (3) drinking water systems under AS 46.03.720;
- (4) water and wastewater operator training under AS 46.30;
- (5) waste management and disposal authorizations under AS 46.03.100;
- (6) certification of laboratories conducting environmental analyses of public drinking water systems or of oil or hazardous substances, or conducting other analyses required by the department;
- (7) certification of federal permits or authorizations under 33 U.S.C. 1341 (sec. 401, Clean Water Act);
- (8) regulation of point source discharges of pollutants under the program authorized by AS 46.03.020(12);
- (9) regulation of pesticides and broadcast chemicals registered under AS 46.03.320(a)(4), with a reasonable fee not to exceed \$120;



(10) licensing of pesticide applicators under AS 46.03.320(b), with a reasonable fee not to exceed \$25.

(b) The department may not charge a fee for a service that is provided by a municipality under a delegation by the department to the municipality.

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

(d) Notwithstanding (a) of this section, the department may not charge a fee for inspection, permit preparation and administration, plan review and approval, or other services provided by the department under AS 03.05 or AS 44.46.020(5) to a school. In this subsection, "school" means a public school or private school for children of school age, as defined in AS 14.03.070, or a head start center that receives federal financial assistance under 42 U.S.C. 9835.

(e) In (a)(9) and (10) of this section, "reasonable fee" means a fee that does not unduly interfere in the conduct of commerce in the state.

§ 46.03.020. Powers of the Department.

The department may

(1) enter into contracts and compliance agreements necessary or convenient to carry out the functions, powers, and duties of the department;

(2) review and appraise programs and activities of state departments and agencies in light of the policy set out in AS 46.03.010 for the purpose of determining the extent to which the programs and activities are contributing to the achievement of that policy and to make recommendations to the departments and agencies, including environmental guidelines;

(3) consult with and cooperate with

(A) officials and representatives of any nonprofit corporation or organization in the state;

(B) persons, organizations, and groups, public and private, using, served by, interested in, or concerned with the environment of the state;

(4) appear and participate in proceedings before any state or federal regulatory agency involving or affecting the purposes of the department;

(5) undertake studies, inquiries, surveys, or analyses it may consider essential to the accomplishment of the purposes of the department; these activities may be carried out by the personnel of the department or in cooperation with public or private agencies, including educational, civic, and research organizations, colleges, universities, institutes, and foundations;



(6) at reasonable times, enter and inspect with the consent of the owner or occupier any property or premises to investigate either actual or suspected sources of pollution or contamination or to ascertain compliance or noncompliance with a regulation that may be adopted under AS 46.03.020--46.03.040; information relating to secret processes or methods of manufacture discovered during investigation is confidential;

(7) conduct investigations and hold hearings and compel the attendance of witnesses and the production of accounts, books, and documents by the issuance of a subpoena;

(8) advise and cooperate with municipal, regional, and other local agencies and officials in the state, to carry out the purposes of this chapter;

(9) act as the official agency of the state in all matters affecting the purposes of the department under federal laws now or hereafter enacted;

(10) adopt regulations necessary to carry out the purposes of this chapter, including regulations providing for

(A) control, prevention, and abatement of air, water, or land or subsurface land pollution;

(B) safeguard standards for petroleum and natural gas pipeline construction, operation, modification, or alteration;

(C) protection of public water supplies by establishing minimum drinking water standards, and standards for the construction, improvement, and maintenance of public water supply systems;

(D) collection and disposal of sewage and industrial waste;

(E) collection and disposal of garbage, refuse, and other discarded solid materials from industrial, commercial, agricultural, and community activities or operations;

(F) control of pesticides;

(G) other purposes as may be required for the implementation of the policy declared in AS 46.03.010;

(H) handling, transportation, treatment, storage, and disposal of hazardous wastes;

(11) inspect the premises of sellers and suppliers of paint, vessels, and marine and boating supplies, and take other actions necessary to enforce AS 46.03.715;

(12) notwithstanding any other provision of law, take all actions necessary to receive authorization from the administrator of the United States Environmental Protection Agency to administer and enforce a National Pollutant Discharge Elimination System program in accordance with 33 U.S.C. 1342 (sec. 402, Clean Water Act), 33 U.S.C. 1345 (sec. 405, Clean Water Act), 40 C.F.R. Part 1231, and 40 C.F.R. Part 4032, as amended;



(13) require the owner or operator of a facility to undertake monitoring, sampling, and reporting activities described in 33 U.S.C. 1318 (sec. 308, Clean Water Act);

(14) notwithstanding any other provision of law, take all actions necessary to receive federal authorization of a state program for the department and the Department of Natural Resources to administer and enforce a dredge and fill permitting program allowed under 33 U.S.C. 1344 (sec. 404, Clean Water Act) and to implement the program, if authorized.

§ 46.03.100. Waste Management, Disposal, and Discharge Authorization.

(a) A person may not construct, modify, or operate a sewerage system or treatment works or take any action that results in the disposal or discharge of solid or liquid waste material or heated process or cooling water into the waters or onto the land of the state without prior authorization from the department.

(b) Prior authorization may be provided by the department, in its discretion, through one or a combination of the following:

(1) an individual permit issued for a specific facility or disposal activity;

(2) a general permit issued on a statewide, regional, or other geographical basis for a category of disposal activities that the commissioner, using information available when the permit is developed, determines are similar in nature and will comply with applicable environmental quality standards established under this title;

(3) regulations adopted by the department authorizing a category of disposal without requiring a permit and establishing specific siting or operational requirements, discharge limits, or best management practices for the disposal category;

(4) designation and approval of a plan as described under (c) of this section;

(5) an integrated waste management and disposal authorization as described in (d) of this section.

(c) The department may require the submission of plans for review and written approval before construction, extension, installation, modification, or operation of a publicly or privately owned or operated sewerage system or treatment works. If the sewerage system or treatment works is designed to prevent disposal from the system or works outside of containment under normal operating conditions, the department may designate that the plan approval constitutes the authorization required under (a) of this section.

(d) The department may issue an integrated waste management and disposal authorization covering multiple related or unrelated waste management or disposal activities to be conducted at a facility, including generation, treatment, storage, and disposal of solid or liquid waste. An integrated waste management and disposal authorization may include the authorizations in (b) and (c) of this section and a water-quality-related certification required by 33 U.S.C. 1341 for the discharge of dredged or fill materials or of pollutants to surface waters from point sources.



(e) This section does not apply to

(1) a person discharging only domestic sewage into a publicly owned treatment works;

(2) disposals subject to regulation under AS 31.05.030(e)(2);

(3) injection projects permitted under AS 31.05.030(h);

(4) discharges of solid or liquid waste material or water discharges from the following activities if the discharge is incidental to the activity and the activity does not produce a discharge from a point source, as that term is defined in regulations adopted under this chapter, into any waters of the United States:

(A) mineral drilling, trenching, ditching, and similar activities;

(B) landscaping;

(C) water well drilling and geophysical drilling; or

(D) drilling, ditching, trenching, and similar activities associated with facility construction and maintenance or with road or other transportation facility construction and maintenance; however, the exemption provided by this subparagraph does not relieve a person from obtaining a prior authorization under this section if the drilling, ditching, trenching, or similar activity will involve the removal of the groundwater, stormwater, or wastewater runoff that has accumulated and is present at an excavation site for facility, road, or other transportation construction or maintenance and a prior authorization is otherwise required by this section;

(5) bilge pumping, unless the bilge product pumped may be expected to yield an oily sludge, emulsion, or sheen on the surface of any water of the state;

(6) cooling water discharges from a boat or vessel into any surface water of the state; or

(7) the firing or other use of munitions in training activities conducted on active ranges, including active ranges operated by the United States Department of Defense or a United States military agency or service, unless otherwise regulated under 33 U.S.C. 1251--1376 (Federal Water Pollution Control Act), as amended.

(f) A person who applies for an authorization to operate a solid waste disposal facility that accepts hazardous waste or a mining waste disposal facility for an operation that chemically processes ores or has the potential to generate acid shall furnish to the department proof of financial responsibility to manage and close the facility in a manner that the department finds will control or minimize the risk of the release of unauthorized levels of pollutants from the facility to waters. The department may require that a municipal solid waste disposal facility furnish proof of financial responsibility. Proof of financial responsibility may be demonstrated by self-insurance, insurance, surety bond, corporate guarantee, letter of credit, certificate of deposit, or other proof of financial responsibility approved by the department, under regulations adopted by the department. Regulations adopted under this subsection must set financial tests for the acceptance of corporate guarantees and other forms of financial responsibility that the department determines would be required for an independent



showing of financial capability. For a mining waste disposal facility, the department may accept as adequate to satisfy the requirement of this subsection financial assurance for reclamation provided to a state or federal land management agency if it otherwise meets the requirements of this subsection. The department's acceptance of proof of financial responsibility under this subsection expires

(1) one year after its issuance for self-insurance, unless the department accepts a renewal of the same self-insurance demonstration after a financial review under regulations adopted by the department;

(2) on the effective date of a change in the insurance agreement, surety bond, corporate guarantee, letter of credit, or certificate of deposit;

(3) on the expiration or cancellation of the insurance agreement, surety bond, corporate guarantee, letter of credit, or certificate of deposit.

(g) A person who applies for a solid waste disposal authorization under this section, except for an authorization under (b)(2) of this section or an authorization to dispose of municipal solid waste, shall demonstrate to the satisfaction of the department that the applicant has reasonably considered all solid waste management options and that the authorization would be consistent with the practices and priorities established under AS 46.06.021.

(h) The program developed to issue permits by the department to authorize discharge of pollutants into surface waters and submitted to the United States Environmental Protection Agency for approval under 33 U.S.C. 1342 (sec. 402, Clean Water Act) shall include the monitoring and reporting requirements included in the permits, limited to those requirements authorized by law, including 33 U.S.C. 1318 (sec. 308, Clean Water Act), and any legal settlements, and those necessary to ascertain compliance with the effluent limitations contained in the permit and with state water quality standards.

(i) A person who applies for a permit under the program may review and provide comments and amendments to a draft permit and discuss the draft permit with the staff of the department before that draft permit undergoes public notice and comment under AS 46.03.110.

(j) A person who applies for a permit under the program has the opportunity to review a proposed final permit and discuss it with the staff of the department before the department issues the permit.

(k) A permit issued under the program is not automatically stayed by the filing of a request for an adjudicatory hearing on the permit; a request to stay a permit issued under the program shall be decided by the commissioner or the commissioner's designee.

(l) Permits issued under this section shall be issued as expeditiously as possible.

(m) For purposes of the permit program authorized by the United States Environmental Protection Agency under 33 U.S.C. 1342 (sec. 402, Clean Water Act), "waste material" includes pollutants, as defined in 33 U.S.C. 1362(6) (sec. 502(6), Clean Water Act).



§ 46.03.120. Termination or Modification of Waste Management and Disposal Authorization.

(a) The department may terminate a permit or other authorization issued under AS 46.03.100 or may rescind a person's authority to dispose of waste in accordance with regulations adopted under AS 46.03.100(b)(3) upon 30 days' written notice if the department finds

- (1) that the permit or other authorization was procured by misrepresentation of material fact or by failure of the applicant to disclose fully the facts relating to its issuance;
- (2) that there has been a violation of the conditions of the permit or other authorization;
- (3) that there has been a material change in the quantity or type of waste disposed of; or
- (4) for a permit issued under a federally approved program under 33 U.S.C. 1342 (sec. 402, Clean Water Act), that
 - (A) a change in any condition of the receiving environment or the quality of discharge requires either a temporary or permanent reduction of the authorization or elimination of the authorized discharge; or
 - (B) the permittee had made a material misrepresentation of fact to the department relevant to the authorized activity at any time.

(b) The department may modify a permit or other authorization issued under AS 46.03.100, or may rescind a person's authority to dispose of waste in accordance with regulations adopted under AS 46.03.100(b)(3),

- (1) for any of the causes for termination listed in (a) of this section;
- (2) if the department finds that a material change in the quality or classification of the waters of the state has occurred; or
- (3) in the case of a permit issued under a federally approved program under 33 U.S.C. 1342 (sec. 402, Clean Water Act), as provided in regulations adopted under AS 46.03.020(12).

(c) Nothing in this section limits the authority of the department to terminate or modify a permit or plan approval under other circumstances if requested to do so by the permittee or plan holder.

